SENATE—*Monday, December 10, 1973*

The Senate met at 11 a.m. and was called to order by the Vice President.

PRAYER

Rev. Edward G. Latch, D.D., Chaplain, U.S. House of Representatives, offered the following prayer:

As we continue our journey toward Christmas—grant unto us, O Lord, the royalty of an inward happiness and the serenity of mind which comes from living close to Thee. Daily renew in us the sense of joy and let Thine eternal spirit dwell in us, filling every corner of our hearts with light and grace, so that, bearing about with us the infection of a good courage, we may be diffusers of life and may meet all ills and accidents with a gallant and high-hearted happiness, giving Thee thanks for all things; through Jesus Christ our Lord. Amen.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its secretaries, announced that the House had passed the bill (H.R. 9107) to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes, in which it requests the concurrence of the Senate.

The message also announced that the Speaker had appointed Mr. ECKHARDT as a manager on the part of the House in the conference on the disagreeing votes of the two Houses thereon to the bill (H.R. 11324) to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise, vice Mr. STUCKEY, excused.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma;

H.R. 11459. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and

H.R. 11710. An act 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.

The enrolled bills were subsequently signed by the Vice President.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. MCINTYRE) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, December 7, 1973, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

PRESIDENT NIXON'S FINANCIAL DISCLOSURES

Mr. GRIFFIN. Mr. President, this morning, on the NBC "Today Show," Frank McGee, in conducting an interview with Washington news correspondents, suggested that there are many people who feel that no matter what the President does "he is not going to be able to satisfy these wolves in the Washington press corps who are forever at his door." Mr. McGee was referring to the release by the President over the weekend of details concerning his personal finances.

Frankly, I was surprised by Mr. McGee's use of the term "wolves" in referring to some in the Washington press corps. Certainly, no one in public office would dare refer to the press in those terms.

But the statement by Mr. McGee does serve to point up a difficulty that President Nixon has.

If his critics wanted full disclosure, surely it seems to me that they have gotten it with respect to President Nixon's personal finances. In so doing, President Nixon has made clear that some of the charges which were so widely publicized are obviously false.

I refer, for example, to the widely publicized charge that his daughter, Tricia, did not pay a tax on a capital gain involving the sale of some real estate.

I would hope that instead of nitpicking, we would now see some credit given to President Nixon for taking this unprecedented step. Certainly no President in history has ever bared his financial life to the extent that this President has.

This unprecedented step should help significantly to shore up needed public confidence—and that would be good, I suggest, not only for the President but also for the country.

Mr. President, I ask unanimous consent that a copy of the text of a statement made by the President in connection with the release of his finances be printed in the RECORD.

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

STATEMENT BY THE PRESIDENT

With the documents and papers released today, I am making a full disclosure of my financial affairs as President of the United States. No previous President, to my knowledge, has ever made so comprehensive and exhaustive a disclosure as I am making today, with regard to assets and liabilities, expenses and income, during his tenure of office.

The purpose of my release of these papers is to answer questions that have arisen, to remove doubts that have been raised and to correct misinformation that currently exists about what I have earned, and what I own.

To the open-minded, the papers and documents provided today, the facts they contain and the figures they reveal, will lay to rest such false rumors as that campaign contributions were converted to my personal use, that campaign funds were used in the purchase of my home in San Clemente, that I have hidden away a secret $1 million investment portfolio, that I sheltered the income on which my daughter, Tricia, should have paid taxes, and that $10 million in Federal funds was spent on my homes in Key Biscayne and San Clemente.

In conducting my private affairs in public office, I have proceeded in a manner I thought both prudent and in the best interests of my family. And even though both American law and tradition protect the privacy of the papers I am releasing today, these documents are being made public—because the confidentiality of my private finances is far less important to me than the confidence of the American people in the integrity of the President.

Questions and controversies may continue as a consequence of those disclosures. Even the men who have advised me in these matters and who have prepared my financial records, statements, and tax returns have disagreements of professional opinion among themselves. But most of the questions outstanding in the public mind today should be put to rest with the publication of these documents.

With regard to my tax returns—the contents of which will be made public today—the accountants who prepared them listed all of the deductions to which they believe I was entitled, and only those deductions—as any accountant would and should do on behalf of his client.

The following are among the papers being released today:

The figures from the Federal income tax returns which my wife and I filed for the years 1969, 1970, 1971 and 1972.

An independent audit of my private financial affairs, since January 1, 1969, conducted by one of the nation's largest and most re-

spected accounting firms, Coopers & Lybrand of New York City.

The significant documents relating to the major financial transactions since my first Inauguration, including the purchase of my home in San Clemente, and the sale of stock and real estate owned at the time I became President.

TAX REVIEW BY CONGRESSIONAL COMMITTEE

Even with these disclosures, there may continue to be public questions about the tax consequences of two of the transactions shown. One is the gift of my papers to the United States Government in 1969. As permitted by the Internal Revenue Code, I have taken tax deductions for the value of that gift, but some have asked whether the procedures used to make the donation met the technical requirements of the gift law. The second transaction was the sale in 1970 of a large portion of the beneficial interest my wife and I held in our property at San Clemente. No capital gain was declared on that sale for tax purposes, and there has been speculation in the press that the transaction was inaccurately reported.

The tax lawyers and accountants who assisted me in the preparation of my Federal Income tax returns advised me that both of these items were correctly reported to the Internal Revenue Service. My tax attorneys today are giving me similar advice. Furthermore, when it conducted an examination of my tax returns for 1971 and 1972, the Internal Revenue Service reviewed both items and advised me that they were correctly reported.

Nevertheless, questions will continue on these matters and because they are complex transactions, it will not be easy to resolve public doubts without an independent review. For that reason, I have asked the members of the Joint Congressional Committee on Internal Revenue Taxation to examine the procedures relating to both matters and to decide whether, in their judgment, my tax returns should have shown different results. I will abide by the Committee's judgment.

GOVERNMENT SPENDING AT SAN CLEMENTE

Another concern of mine has been the degree of public misunderstanding about Government expenditures at my home in San Clemente.

The perception is now widespread that the Government spent anywhere from $6 million to $10 million on improvements at my home. One myth breeds another, so many observers also believe that the Government improvements have vastly enriched me personally.

Those views are grossly inaccurate. More than 20,000 manhours have now been expended by the General Services Administration to track down every penny of spending. Their findings establish three points:

Total GSA spending on my San Clemente home was $68,000. That money was spent almost entirely on fire and smoke detection systems, interior electrical systems for protection and security, and the installation of an electric heating system that the Secret Service thought necessary for safety purposes.

The GSA spent approximately $635,000 on the grounds surrounding my home. That work consisted largely of the installation of lighting and alarm systems for security purposes, construction of walls and guard posts, and extensive re-landscaping to restore areas torn up when the protective devices were installed.

By comparison, almost $6 million has been spent by the military services to construct and maintain the Western White House Office complex. That complex is not on my property, but on Government property, and when it is not in use for the White House staff, it is frequently employed as a conference center for public and civic groups.

Unfortunately, the American people have been misled into believing that the funds for the office complex were spent on my home. The fact that the total spent on my home was $68,000 has been ignored; the fact that my wife and I spent ourselves three times as much as that, $187,977 out of our own funds, for real improvements to our homes, has been lost altogether. I trust that with the release of these documents the impressions can be erased and the truth of this matter firmly established.

FUTURE OF THE WESTERN WHITE HOUSE

As public misunderstandings over San Clemente expenditures pass away in the future, we should recognize that the Western White House complex will continue to be a valuable asset for the Nation.

I have always been concerned that over the course of a single man's eight years in office, the country probably will not derive from that complex benefits proportional to the Government investment there. The office facility would, of course, remain available for public use after my term ends, but the usefulness of San Clemente as a conference center, guest facility for visiting foreign dignitaries, and working base for future Presidents would be far greater in the coming decades if what is now my private residence, La Casa Pacifica, could also be part of that complex.

Accordingly, at the time of my death or that of my wife, which ever is later, we intend to make a gift to the people of the United States of my home at San Clemente.

I have directed my attorneys to take the necessary steps to accomplish this, so that future Administrations and future generations can take advantage of this beautiful Western setting to help maintain a truly national perspective for the Presidency.

Mr. MANSFIELD. Mr. President, I was interested in the remarks just made by the distinguished acting Republican leader. The release of the President's statement is unprecedented, and I commend him for laying all the facts before the press and the public. As far as I am concerned, it is my belief that what he has done in the payment of his taxes to the Federal Government has been legal. But I think questions will be raised on the basis of appearances relative to the amount of taxes which the President paid during the last 3 years, and there will also be questions about the lack of payment of income taxes to California, Florida, or the District of Columbia. I would assume they would be called State income taxes. But those questions are bound to be raised, and it is well to lay them on the record.

I have every confidence that the Joint Committee on Internal Revenue Taxation will go into this matter, as was requested by the President; that they will conduct a thorough survey; and that they will come up with a conclusion which should lay all doubts, at this time apparent, at that time at rest.

ORDER OF BUSINESS

The VICE PRESIDENT. Does the Senator from Montana wish to reserve the remainder of his 15 minutes?

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

The VICE PRESIDENT. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, the Senator from Oklahoma (Mr. BARTLETT) is on his way to the floor of the Senate. When he arrives, I will yield to him such portion of my time as he may require. In the meantime, I suggest the absence of a quorum, with the time to be charged against my time.

Mr. President, the majority leader suggests that the time be charged to the time that was available to him.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may have returned to me the time previously allotted to me, which was turned back.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield 5 minutes to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

WASTE OF GASOLINE TO BUS SCHOOLCHILDREN

Mr. HARRY F. BYRD, JR. Mr. President, the Richmond Times-Dispatch of Tuesday, December 4, published a most interesting article captioned "No Buses, No School." The editorial points out that 530,000 gallons of gasoline a year will be required to bus schoolchildren from one end of the city to the other. This is a part of the compulsory busing of children to achieve an artificial racial balance.

In view of the serious situation in this country in regard to the consumption of gasoline, here is a complete waste of 530,000 gallons of gasoline in this one city of our Nation.

I think it is unfortunate that the Senate did not adopt the proposal offered by the distinguished Senator from North Carolina (Mr. HELMS) as an amendment to the energy bill which was before the Senate recently. That proposal would have done away with the compulsory busing of schoolchildren for the purpose of creating an artificial racial balance.

This editorial goes on to point out that if the gasoline is not available in the city of Richmond, the problem that the city will be faced with will be to close down the schools, rather than to go back to the old system, or the system that existed until just recently, whereby the children in those communities could walk to their closest neighborhood schools.

It seems to me that this is a very foolish program, this compulsory busing, and I am disappointed that the Senate has refused—that Congress has refused—to take action to eliminate it.

Mr. President, I ask unanimous consent that the editorial in the Richmond Times-Dispatch be printed in the RECORD.

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

(From the Richmond Times-Dispatch, Dec. 4, 1973]

NO BUSES, NO SCHOOL?

In the face of this nation's worst fuel shortage since World War II, those perspicacious people who run the Richmond public

schools believe they have no alternative but to continue to burn 530,000 gallons of gasoline a year to bus schoolchildren from one end of the city to the other.

And if all those yellow buses guzzle all their gasoline and can get no more, what then? Why, the city would just have to close down its public schools, a ranking administrator has said.

Such nonsense! Prior to 1970, the city managed to make public schooling available to all without the aid of a costly bus fleet or 55,000 gallons of gasoline a month. Most students walked to their neighborhood schools and the remainder rode Virginia Transit Co. buses. Even a moderate snowfall usually failed to close the city schools in the walk-in days. Remember? To assert now that the school system would have to lock its doors for lack of fuel for buses is to exhibit either an acute case of tunnel vision or amnesia.

But why consume all that fuel in the first place? Citizens are being asked to exert extra effort and make personal sacrifices to conserve gasoline and oil in order to protect jobs and the economy. At a minimum, the Richmond School Board ought to be able to bestir itself sufficiently to walk down to U.S. District Court and ask Judge Robert R. Merhige Jr. to release the system from its busing plan. Adoption of a new pupil assignment system minimizing busing ought to be done now, in time for the start of the second semester in January.

It will be said that to transfer pupils in the middle of a school year would be "disruptive," and there would be problems no doubt. But can anyone honestly argue that returning to neighborhood schools would be more disruptive than continuing a plan that (a) has chased some 10,000 pupils from the city schools and substantially resegregated the system, and (b) every day drains thousands of gallons of gasoline that could otherwise be used for critical enterprises?

The school board cannot defy a federal court order. However, the board's contention that it has no choice but to continue large-scale busing until the tanks run dry is unpersuasive, because the board has not even tried to have the court order dropped or modified. And the argument that a return to neighborhood schools is unfeasible because some schools could not accommodate all the children in their neighborhoods is baseless. Where crowding did occur, students could go to the next closest school. Some might still have to have transportation. But the net gasoline savings nevertheless would be substantial.

Busing isn't working for its intended purpose—creating racial balances—in the first place. But when citizens are being asked to shiver in their homes and offices and to leave their automobiles in the driveway, the frivolous busing of thousands of children who could walk to school becomes doubly absurd.

QUORUM CALL

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRIFFIN. Mr. President, while continuing to reserve whatever time may remain under the special order for the distinguished majority leader, I ask unanimous consent at this time that I may yield such part of my special order as he may require to the distinguished Senator from Oklahoma.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Michigan for making the time available.

REMOVAL OF PRICE CONTROLS ON NATURAL GAS AND CRUDE OIL

Mr. BARTLETT. Mr. President, on October 5, I asked both integrated and independent companies engaged in the production of domestic oil and gas to answer the following question:

Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from the removal of existing price controls on natural gas or crude oil or both, would you invest in the exploration for and development of new domestic petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries, and domestic natural gas processing plants?

I requested that the responses to this question be sent to me and the appropriate committees of Congress and to the appropriate departments of the Cabinet.

I promised that I would make the data submitted to me available to all my colleagues and that I would insert a summary of the data into the RECORD for all to see.

Mr. President, as I said in my remarks of October 5, 1973, I have spoken freely many times concerning our Nation's energy situation. I have given more than a dozen and a half speeches on energy on the Senate floor, and have spoken about energy on numerous other occasions before interested groups. In most of those speeches, in the interest of achieving adequate domestic supplies of energy, I have urged that all price controls on natural gas and crude oil be removed. I have said specifically that there needs to be increased economic incentive, that there must be considerably more capital available, and that the consumers must assume part of the responsibility by paying higher prices if adequate supplies of energy are to be developed.

Most people agree that a free market will increase our supplies more rapidly than a controlled market—even a controlled market which provides for price increases for natural gas and crude oil.

But many wonder if the petroleum industry would invest the increased cash flow resulting from decontrol of prices into areas that will help to solve our domestic energy shortage.

Even though I have no doubts that the great majority of increased profits will be used to increase the supplies of domestic energy, I thought that the question deserved a response to clear the doubts raised by some individuals. The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it—and today I will summarize the replies of those petroleum companies and independent producers of petroleum in America to show that it will be worth it.

I asked over 400 integrated and independent companies engaged in the production of domestic oil and gas to answer the question I read earlier.

My office has received replies from 115 integrated and independent companies. Not one of those replies gave any indication that a large portion of the additional cash flow resulting from the removal of existing price controls would not be used to increase domestic energy capabilities.

On the contrary, 93 of the companies responded by saying that "virtually all or 100 percent of their increased cash flow would be so utilized." The remaining few companies, although they did not say that they would reinvest virtually all the additional cash flow, did imply that they would reinvest significant amounts such as "90 percent, a minimum of 90 percent, or a minimum of 75 percent."

It makes sense that these companies, as they have indicated to me, would continue to invest in that industry which they know best, especially when the opportunity for a reasonable rate of return is improved by price decontrol.

Mr. President, it was interesting to note that all of the 8 largest major oil companies replied to the question and 16 of the top 20 producing companies responded.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart showing a breakdown of the 115 companies based on 1972 oil production.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Without objection it is so ordered.

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

THE FOLLOWING IS A BREAKDOWN OF THE 115 COMPANIES BASED ON 1972 OIL PRODUCTION

1972 daily average oil production (barrels per day)	Number of companies responding	Total oil production (barrels per day)	Total gas production (million cubic feet per day)
1,000 or less	22	9,430	86,452
1,000 to 10,000	47	161,071	1,380,121
10,000 to 55,000	12	352,944	2,281,592
55,000 and up	16	6,556,535	28,751,662
Letters without production figures	18		
Total	115	7,079,980	32,499,827

Mr. BARTLETT. Mr. President, the replies received represent 7,079,980 barbels per day of crude oil and natural gas liquids and 32,499,827 million cubic feet of natural gas per day. That is 60 percent of 1972's daily average crude oil and natural gas liquids production and over 50 percent of the daily average gas production.

The small fellow—the independent producer—almost without exception said unequivocally that he would invest all additional profits back into the petroleum industry.

Common phrases used by the small producers were—

I would expect to invest every additional dollar of cash flow generated in new domestic oil and gas exploration.

And—

Any additional monies received because of decontrol of above products would likewise be

invested in exploration for new energy reserves.

And—

Any increase in our cash flow resulting from higher crude oil and gas prices would be immediately reinvested in a search for, and development of, more reserves.

Exxon Co., U.S.A., the largest domestic producer with 1,114,000 barrels per day of crude oil and natural gas liquids in 1972 and 5,952,000 million cubic feet of natural gas per day stated—

We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in the domestic energy operations after providing for royalties, taxes and dividends.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of the letter from Exxon Co., U.S.A., to which I have just referred and also copies of the letters to which I will make further reference.

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

(See exhibit 1.)

Mr. BARTLETT. Mr. President, Texaco, Inc., pointed out the difficulty encountered when a major oil company tries to forecast investments under hypothetical circumstances. Texaco said—

While the exact amount of increase in cash flow which would result from lifting of controls is impossible to quantify, we believe, nevertheless, that Texaco's investment performance in the past provides a realistic view of how our company would employ any additional cash flow resulting from deregulation.

Texaco also said—

You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping to meet the enormous capital investment required for the exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities.

Gulf Oil Corp. directed attention to its capital expenditures in relation to net income. In no year from 1968 thru 1972 did Gulf have as much income as it had capital expenditures. Gulf said:

To help finance these programs, corporate debt increased almost 50 percent, or from 1.31 billion dollars to 1.94 billion dollars. The increasing need to resort to debt financing put a restraint on these programs.

Shell Oil Co., in its response said—

A unique answer to your question depends on difficult estimates, including the method of timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as availability of steel and other materials. . . . We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, ship yards, and steel.

Mr. President, I would like to call attention to my statements on this floor of November 29 and December 3, 1973, addressing these problems to which Shell has referred.

Standard Oil Co. of California estimated that about "90 percent of any additional cash would be so reinvested."

Atlantic Richfield Co., proposed that—

Not only would essentially all such increases be reinvested in the domestic oil industry, except for that portion of the after-tax book profit that is generally distributed in the form of dividends to the millions of company stockholders.

But also that—

Increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

This is an important point that should not be forgotten—that increased cash flow increases the ability of companies to obtain additional financing.

Standard Oil Co. (Indiana) demonstrated the effects of the 1969 decrease in the depletion allowance in their investments. They said:

Our exploratory expenditures in 1969 were 56% above 1968, but in 1970 exploratory spending was reduced 68% below 1969. This significant decrease clearly was related to the cut in the depletion allowance of 1969.

And to show further the effect of higher prices Standard Oil Co. (Indiana) said:

In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973, due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Mobil Oil Corp., pointed out that much of the additional spending by the petroleum industry has been paid to the Federal Government. Mobil said:

Over the last five years Mobil has been consistently increasing its domestic capital in exploration expenses as a percentage of its total net income. I should point out, however, much of the increase in spending levels have resulted from higher lease bonuses paid, principally to the Federal Government. To this extent, the increased spending flows directly back to the consumer through the Federal government.

Mobil's chairman of the board, Rawleigh Warner, Jr., made an important observation when he said:

To the extent that prices of new supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming.

Getty Oil Co. noted that it anticipated that a smaller part of its future discretionary corporate cash flow will be invested in domestic programs than historically. The reasons:

This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements.

Mr. President, this statement by Getty Oil Co. serves to indicate the need to remove the "present pricing restrictions."

Sun Oil Co., in its response, made an important observation as to why it is difficult for a company to quantify the percentage of additional cash flow that would be reinvested for the purposes that I had indicated in my question. Sun said:

Investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee the future levels of supply, demand, price, cost of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that open unexpected provinces, etc. Attempts to calculate additional cash flow are hypothetical.

Marathon Oil Co.'s reply carried the competitive spirit of the oil industry when it said:

It is marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the Nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

Continental Oil Co. anticipated that—

Conoco would invest 100% of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco would probably secure additional financing, either debt or equity, and likewise invest these funds.

Phillips Petroleum Co., as background for the decontrol of prices, called attention to the fact that:

In 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. The rate of return in 1972 on this investment was 6.3%, which reflects a decline from 7.9% in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on oil-wide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the Nation's consumers.

Phillips went on to point out that—

When compared with rates of return in excess of 8% authorized to relative risk-free interstate transmission companies by the Federal Power Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions our investment in domestic oil and gas activities at present price levels is far from a bonanza.

Cities Service Co. itemized important limitations that must be removed if new supplies of energy are to be forthcoming within the United States. Cities Service said:

Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future: (1) That new prospective exploration acreage is available and that sites for building new processing facilities can be located in economically advantageous areas. (2) That the market place will be free of direct Government intervention in the form of price controls and allocations affecting supply and demand of alternative energy forms. (3) That a prospective rate of return on the resources so dedicated will be sufficient to justify the risk. (4) That sufficient numbers of qualified geologists, engineers, and other technicians will be available to get the job done. (5) That a healthy and vigorous infrastructure will be available upon which

the industry counts heavily for: supply of materials; the design and construction of facilities; providing trained rig crews; financial market to provide both equity and borrowed funds, etc.

Skelly Oil Co. replied that—

If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five year period. In other words, a substantial increase in the selling prices is necessary to justify this increased investment we are planning. We believe that with the proper incentive from higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

The Louisiana Land and Exploration Co., in response to my question said:

The answer is emphatically "yes" provided that prospective areas which can be reasonably expected to produce are available in the U.S. In the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalists will permit us to do so.

Mr. President, these short excerpts which I have just read are from the responses received from 16 of the largest 20 producing companies in the United States. They represented 6,556,535 barrels per day of crude oil and natural gas liquids production in 1972. They represented 28,751,662 million cubic feet of natural gas production per day in 1972. That amounts to approximately half of the total domestic production in both instances.

Mr. President, I submit that these major companies and a large number of smaller companies are unquestionably willing to invest all or a major portion of any additional cash flow that might accrue because of the deregulation of the price paid for natural gas and crude oil into the domestic petroleum industry—to make our domestic energy industry stronger.

It makes no sense to me to pay American dollars to foreigners for additional foreign oil—if and when this foreign oil is available—instead of paying American dollars to Americans to help the American economy, to give Americans jobs, to improve America's national security, to increase American energy supplies so that the American people will not have to sacrifice because the Federal Government for several sessions of Congress and through several administrations has failed to recognize the importance of the free market's ability to solicit ample energy supplies.

Higher prices of conventional fuels will not only encourage producers to increase their output of these fuels but also to use other techniques as they become commercial—such as degasification and liquifaction of coal and extracting of oil from shale and tar sands—and further to undertake research on geothermal, solar, nuclear fusion, and other sources of energy.

Mr. President, the obstacles and uncertainties created by Government regulation must be minimized and eliminated in all those areas where the free market can operate effectively to increase energy supplies.

EXHIBIT 1

EXXON CO.,
Houston, Tex., November 28, 1973.

Hon. DEWEY F. BARTLETT,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5, 1973, to Mr. J. K. Jamieson, was referred to Exxon Company, U.S.A. because we are the principal domestic operating affiliate of Exxon Corporation.

You questioned what percent of the incremental cash flow arising from the removal of price controls would be invested in domestic petroleum exploration, production, gas plants, refineries and pipelines. We would anticipate investing all of the incremental cash flow resulting from decontrol of prices in domestic energy operations after providing for royalties, taxes and dividends. This assumes state or federal regulations or environmental restrictions do not impede our investment activities.

In our view, allowing oil and gas prices to reflect their true commodity value is necessary if the industry is to make its planned investments, maintain a reasonable financial equity position, and provide an adequate return to the stockholders. Studies indicate that, even if the incremental cash flow resulting from price decontrol is available, our Company, as well as the rest of the industry, will require substantial outside borrowing or new equity offerings to meet investment plans.

In answer to your second question, Exxon Company, U.S.A.'s average gross daily production of crude oil and natural gas liquids for 1972 was 1,114,000 barrels. Our natural gas sales were 5,952 million cubic feet daily.

We appreciate your interest and constructive action in assisting the domestic petroleum industry in its efforts to serve the energy needs of the United States.

Sincerely,

———— ————.

TEXACO INC., *October 30, 1973.*

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5, 1973 requested that Texaco furnish you with its average daily domestic oil and gas production rates for 1972, and that it reply to the following question:

"Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what per cent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves, including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?"

You may be assured that the lifting of price controls on oil and natural gas would be of significant assistance in helping meet the enormous capital investment required for exploration and development of additional domestic petroleum and natural gas reserves and associated downstream facilities. Huge capital expenditures of the past must be increased even to maintain present levels of production. Removal of price controls imposed by the Government would provide a portion of the additional capital required for the massive effort needed to improve our domestic supplies.

While the exact amount of increase in cash flow which would result from the lifting of controls is impossible to quantify, we believe, nevertheless, that Texaco's investment performance in the past provides a realistic view of how our Company would employ any additional cash flow resulting from deregulation.

During the past five years, capital and exploratory expenditures for Texaco and its subsidiaries on a worldwide basis averaged more than $1 billion per year. These annual expenditures represented, on average, about 81% of Texaco's annual cash flow. For 1972 these expenditures were equivalent to more than 90% of cash flow. Historically, more than 60% of all Texaco's capital and exploratory expenditures, world-wide, have been made for producing operations; and during the last three years approximately 75% of such expenditures made in producing operations have been for domestic producing operations.

Texaco's domestic gross production during 1972 averaged 916,000 barrels per day of crude oil and natural gas liquids and natural gas sales volumes averaged 4,453 MMCFD.

We solicit and urge your continued efforts toward passage of deregulation legislation which will permit the most rapid and complete return to the free marketplace.

As you requested, I have forwarded a copy of this letter to all those indicated on your list.

Sincerely yours,

MAURICE F. GRANVILLE.

GULF OIL CORP.,
October 26, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Thanks for your inquiry concerning the possible effect of removal of price controls on natural gas and crude oil on Gulf's investment plans and programs.

The most accurate answer that we can give in reply to your question is that a very high percentage of any increased income accruing to Gulf through the removal of price controls would be reinvested in the exploration for, production of and processing of fuels. Actually, the resulting increase in such expenditures on the part of Gulf could well exceed the increase in income.

Tabulated below are the corporate capital expenditures and income after tax but before extraordinary deductions, for the past five years. These capital expenditures were made chiefly for the exploration and production of oil, gas, uranium and coal, in facilities for processing those materials to usable fuels, and in facilities for their transport.

[In millions of dollars]

	1972	1971	1970	1969	1968
Capital expenditures	718	983	958	1,033	936
Income	447	561	550	611	626

To help finance these programs, corporate debt increased almost 50%, or from $1.31 billion to $1.94 billion. The increasing need to resort to debt financing put a restraint on these programs. The declining profitability of the industry and Gulf (Gulf's return on shareholders' equity, before extraordinary item, fell from 13.7% in 1968 to 8.2% in 1972) also put a restraint on these programs.

Today, uncertainty in regard to future foreign supplies is an additional and growing hindrance. Environmental restrictions are not only holding up domestic development but are siphoning funds (however well intentioned) from the available investment pool.

The profitability of the industry has improved in 1973, but this profitability is fragile because of rapidly increasing raw material, operating and investment costs. Further, the industry is facing unprecedented needs for capital to find and refine new domestic crude oil supplies and to develop shale oil, coal gasification and coal liquefaction on a significant commercial scale.

In the long run, freedom from price restraints is the surest means for bringing about the efficient use of energy through conservation and of allocating limited energy supplies to the most desired use.

You are correct in your assessment that increased profitability and a climate of confidence in the industry must be restored if the industry is to attract the funds required to meet our nation's energy requirements.

A copy of Gulf's energy statement is attached. It covers many of the above points, but in greater detail.

Very truly yours,

GULF OIL CORP.,
W. L. HENRY.

SHELL OIL CO.,
Washington, D.C., November 16, 1973.

Hon. DEWEY F. BARTLETT,
U. S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: This letter is in response to your inquiry of October 5, 1973, which Mr. G. A. Wagner forwarded to us for reply. We regret the delay, however, we have been engaged in a concerted effort to derive a specific, quantified answer. Unfortunately, we have been unsuccessful and I would like to explain why we have been unable to be as specific as we would like.

A unique answer depends on difficult estimates, including the method and timing of new acreage awards, the fraction of increased revenue actually available for investment, and the effects of many constraints, such as the availability of steel and other materials.

Conventional exploration and production activities are most expandable in Alaska and the offshore of the conterminus 48 states where it is likely that large, but undetermined, portions of the increased revenue would revert to State and Federal governments in the form of increased lease bids, royalties, and production and income taxes.

We also believe that greatly expanded offerings of acreage could result in logistical problems in such areas as exploration and drilling equipment, shipyards, and steel. It could take a number of years to scale up these activities to the required level.

Despite our concern with the foregoing uncertainties which would make any quantified forecast more of a guess than an estimate, we can assure you that our highest priority for future investments will continue to be given to conventional domestic opportunities. If these opportunities are not sufficient to absorb an increased income, then investments would be increased in domestc nonconventional energy activities and foreign ventures. Such domestic, nonconventional activities are the development of coal, oil shale, and geothermal sources of energy.

Once again, we are sorry we could not be more specific in replying to your inquiry. However, we hope that these observations are of some value.

Sincerely,

J. CARTER PERKINS.

STANDARD OIL CO. OF CALIFORNIA,
San Francisco, Calif., October 18, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Thank you for your letter of October 5, 1973 concerning decontrol of natural gas and crude oil prices. This is of vital importance to our nation and our industry, and I appreciate the opportunity to answer your two quetsions.

Your first question has to do with the percentage of any additional cash flow resulting from removal of price controls that would be reinvested in exploration for and development of new reserves and production, transportation, processing, and marketing facilities. Based on an analysis of our past and anticipated capital and exploratory expenditure requirements, we estimate that about 90% of any additional cash would be so reinvested.

As to the second question, our 1972 net production was 462,000 barrels per day of domestic crude oil and natural gas liquids and 1,454,000 MCF per day of domestic natural gas.

Your interest in this very critical problem is greatly appreciated.

Sincerely,

O. N. MILLER.

LITCHFIELD CO.,
Los Angeles, Calif., November 2, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: In your letter of October 5 to Mr. Robert O. Anderson, you asked what percentage of additional cash flow resulting from removal of existing price controls on natural gas or crude oil would Atlantic Richfield invest in exploration for and development of additional new petroleum and natural gas reserves, including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants. It would be quite difficult to answer your specific question directly because it would require a mutual understanding of future world energy prices and tanker rates. Let me answer your question in an indirect but hopefully satisfactory manner.

Judging from our most recent five year plan review, I would say that essentially all such increases would be reinvested in the domestic oil industry except for that portion of the after tax book profit that is generally distributed in the form of dividends to the millions of company stockholders. The dividend payment percentage is likely to reduce versus historical payment ratios due to capital requirements facing the oil industry, particularly if attractive investment opportunities are available in the petroleum industry. Increased profits have a multiplying effect on the borrowing capacity of the company. This generates additional funds for investment in the domestic industry.

For the purposes of our five year plan, we assumed fairly quick decontrol of new natural gas prices and no Federal government control on crude oil prices. With these assumptions and the then existing price and cost expectations, our company was looking at net outside financing requirements of well over $1.5 billion for domestic energy development through 1977 when we expect Prudhoe Bay to come on production. These financing requirements would be fulfilled by both direct and indirect financing arrangements. As you well know, oil and gas prices have recently been increased rapidly spurred on by foreign crude oil price increases, but at the same time it has become apparent that many of our costs will be substantially greater than previously anticipated, such as the recent announcement by Atlantic Richfield that the trans-Alaska pipeline total cost would be $500 million to $1 billion more in cost than anticipated only several months ago.

In view of these factors and our determination to be leaders in the exploration for conventional reserves as new areas are opened and the development of synthetic oil and gas from tar sands, shale oil and coal, we have little doubt that any additional revenue received from price increases can be effectively plowed back into our business which is developing energy resources for the country.

In your letter you also requested Atlantic Richfield's average daily production of domestic oil and gas in 1972. The net domestic crude oil and NGL production was 400,569 barrels per day. The gas produced and sold was 1,945,744 thousands of cubic feet.

We appreciate your efforts on behalf of the consuming public to increase the supply of domestic energy. If we can be of further help, please do not hesitate to call upon us.

Sincerely,

E. M. BENSON, Jr.

STANDARD OIL CO. OF INDIANA,
Chicago, Ill., October 16, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5 solicited comments and advice regarding the extent to which any additional cash flow accruing to Standard of Indiana from decontrol of oil and/or gas prices would be invested in exploratory efforts to increase oil and gas reserves. I am pleased to offer the remarks hereafter in response to your inquiry.

I concur fully with your belief that greater economic incentive through free market activity is needed before oil and gas producers will intensify their efforts to find new reserves of domestic oil and gas. As you know, burdensome price restrictions imposed for many years on the industry have prevented natural gas prices from attaining levels commensurate with that commodity's true worth in the energy market. The extent of the damage from excessive control of gas prices is illustrated by a recent FPC report that domestic gas reserves committed to interstate pipelines have declined for the fifth consecutive year.

The industry knows that there must be a substantial improvement in economic incentives through higher gas prices before a reversal will occur in the gas discovery record. It is not unreasonable, however, for the consuming public to question whether higher oil and gas prices would be translated into greater exploratory effort so that the nation's petroleum supply would be increased.

While it is not possible to indicate precisely the amount of any incremental funds that would be channeled into the joint search for new oil and gas, we are aware in Standard of Indiana that our past budgets for exploration usually have reflected both favorable and unfavorable changes which affected earnings. For example, our exploratory expenditures in 1959 were 56 percent above 1968, but in 1970 exploratory spending was reduced 68 percent below 1969. This significant decrease clearly was related to the cut in the depletion allowance in 1969. In contrast, our exploration budget for 1974 will be increased by a substantial margin over 1973, due principally to higher oil and gas prices that will justify exploratory activities previously judged to be uneconomic.

Our company will always channel maximum available funds into exploration for oil and gas whenever an adequate return is foreseen. Certain high risk areas such as in the Arctic, deep water offshore operations, or very deep onshore penetrations, especially require adequate incentives or exploration cannot be attempted. Similarly, higher prices are needed to increase drilling activity in marginal areas which otherwise would be unattractive, e.g., the Anadarko Basin in Oklahoma, and the Hugoton gas field in Kansas and Oklahoma.

When we consider the fact that oil and gas production historically has offered a higher rate of return, on average, than the other phases of petroleum operations, it follows that any cash flow increase resulting from better prices will be directed into exploration and development work. This has been the experience in Standard of Indiana, and historical data show that exploratory activity by the industry likewise corresponds closely to the long term trends of oil and gas prices. Such a correlation between prices and exploratory drilling activity is well illustrated on the attached graph prepared by the independent Petroleum Association of America. If data were available to extend the graph to include 1973, a significant upturn in exploration would accompany the

higher oil and gas prices of that year. Such a turnabout is suggested by API statistics which show that during the first six months of this year total gas well completions were up 29.6 percent over the like period in 1972, while exploratory gas wells alone increased 21.7 percent

Certain groups express concern that increased funds resulting from higher oil and gas prices will be diverted into foreign activities or chemical operations to the exclusion of domestic exploration, thereby failing to add anything to U.S. reserves. Such diversion will not occur with Standard of Indiana, as we are well able to finance our requirements for foreign capital with foreign-source funds, while our chemical activities are of a self-sustaining nature.

Your letter also asked for our daily production of domestic oil and gas in 1972. Crude oil and natural gas liquids production in the U.S. for Standard of Indiana was 487,000 barrels daily in 1972, while natural gas production was 3,118 million cubic feet per day.

I trust that the information above will respond adequately to your questions. At your request a copy of this letter is being sent to interested Congressmen and officials in the government.

Sincerely yours,

J. E. SWEARINGEN.

MOBIL OIL CORP.,
October 18, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR BARTLETT: In response to your letter of October 5, I am attaching a schedule showing average daily production of domestic oil and gas in 1972 and the previous four years.

The question you pose regarding the amount of new exploration which could be attributed to higher gas and oil prices is a difficult one to quantify. As I am sure you know, our decision to invest in new exploration activity depends not only on available cash, but upon the relative attractiveness of the prospects we have available to us. While the opening of large areas presently unexplored in the United States (particularly offshore) would certainly enhance the attractiveness of the prospects available to us, it is exceedingly difficult to forecast the particular mix of expenditures that would result as we try to select the best projects among those available. Moreover, no one can, with certainty, predict the success level that is likely to result from an expanded program, except to say that expanded exploration in new areas has the potential for very substantial new discoveries. By the same token, expanded exploration in the mature areas onshore will result in somewhat higher dry hole ratios as we drill higher risk prospects.

Over the last five years Mobil has been consistently increasing its domestic capital and exploration expense as a percentage of its total net income. I should point out, however, that much of the increase in spending levels has resulted from higher lease bonuses paid, principally to the federal government. To this extent, the increased spending flows directly back to the consumer through the federal government.

In your remarks on the floor of the Senate you said, "The people and the Government have a right to be informed and need to be assured that the price of decontrol is worth it." In this connection, I would say that to the extent that prices of *new* supplies of natural gas are decontrolled we will have a direct test of the value of such action, since the higher price will not be paid unless the new supplies are forthcoming. While I would certainly not want to imply any endorsement of the past inequities in the pricing of natural gas, I do not think it is worthwhile for any of us to engage in fruitless speculation as to the effect on exploration expenditures of decontrolling presently flowing gas. To the extent that such a debate would delay the decontrol of new quantities, we clearly will have worked a disservice to the nation. The inequities of the past must inevitably be eliminated, but I for one would prefer that that question be examined separately, with an eye to eliminating those inequities rather than on the basis of a promise—which I think no responsible explorationist can give—that decontrol of presently flowing quantities will inevitably result in some stated increase in future exploration activity.

With respect to the decontrol of crude oil prices; we are faced with the need to deal with the realities of the supply situation while, at the same time, respecting the efficacy of the free enterprise system to direct the economy in the most efficient use of our resources. So long as we continue to experience a tightness or shortage of worldwide crude oil supply in relation to demand, I do not believe it is practical to contemplate the total decontrol of wholesale and consumer prices of petroleum products. If you agree with me on that premise, it seems then to follow that we must temper our enthusiasm for the free working of the market place in respect of crude oil prices.

Clearly, there must be adequate profitability at all levels of the industry if we are to have the necessary investment in refinery and distribution facilities. It seems to me that the U.S. consumer should appropriately pay world market values for the crude oil. So long as present tight supply conditions continue, I do not believe he should pay more than that amount. Under the present circumstances of spot shortages in this country, there are already situations in which so-called "new" oil is moving very substantially above world market prices levels. Consequently, in fairness both to the producer and the consumer during this—hopefully—temporary time of shortage, we must be prepared to accept some control over crude oil prices both for presently flowing quantities and for quantities from new exploration.

You may make whatever use of this letter which you think appropriate. I have not provided copies to any other individual or group.

Sincerely,

RAWLEIGH WARNER, Jr.

GETTY OIL CO.,
Los Angeles, Calif., October 17, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: This is in reply to your letter of October 5, 1973, to Mr. J. Paul Getty, regarding Getty Oil Company's utilization of additional cash flow in the event price controls on crude oil and natural gas are lifted.

Over the five years 1969–73, Getty Oil Company has invested approximately 76% of its total discretionary corporate cash flow (domestic and foreign) in domestic petroleum exploration and production, refineries, pipelines and gas processing plants. Based on current long-range planning studies it is estimated that over the next five years about 55% of discretionary corporate cash flow will be expended on similar domestic investments.

You will note that we anticipate that a smaller part (approximately 21% less) of future discretionary corporate cash flow will be invested in domestic programs than historically. This is primarily the result of current unavailability of attractive domestic acreage and projections of a very low rate of return on future domestic investments due to present pricing restrictions and high capital investment requirements. This contrasts with an expected increase in our foreign E&P expenditures from 7% to 14%. The domestic-foreign split is, of course, based on the availability of attractive acreage as well as our evaluation of the relative economic merit of domestic versus foreign E&P investments. Should attractive domestic acreage become available in sufficient quantities and if additional cash flow is generated by removal of price controls, Getty Oil Company would expect to invest its historical average (76%) of such incremental cash flow in domestic exploration and production and related programs and depending on the quality of the acreage, possibly a higher percentage.

Getty Oil Company's 1972 average daily domestic production was 232,700 bbls. of liquids and 743,700 MCF of natural gas. These figures do not include production of our subsidiary, Skelly Oil Company.

Respectfully yours,

J. EARLE GRAY.

SUN OIL CO.
St. Davids, Pa. October 15, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

MY DEAR SENATOR BARTLETT: Your position with respect to the development of domestic oil and gas resources is one that I share not only as an executive of a petroleum company, but as a citizen. You have identified why it is important, and what must be done if it is to be accomplished. Your question in your letter to me dated October 5 is pertinent and understandable.

There is quite obviously a suspicion that the removal of price controls from natural gas and crude oil would result mainly in the enrichment of those who have invested their savings in petroleum companies, and thus little additional effort would be devoted to the expansion of oil and gas supplies for the benefit of the public. To some extent, such suspicions result from lack of knowledge. In many cases, unfortunately, they reflect a basic mistrust and I doubt there is anything that could be said that would bring about a change in attitude. However, even knowing that any percentage figure I gave you in response to your question about reinvestment of additional cash flow resulting from the removal of price controls would be subject to derision and attack, I wish I could give you a figure. The fact is that I cannot, and I want to explain later in this letter why this is so.

A more persuasive indicator of future action than any promise or prediction I might make, it seems to me, can be found in examining what we have done with our cash flow in the past.

Over the last five years, for every dollar of total cash flow, Sun Oil Company has reinvested, in the U.S., 80 cents in exploration and production of crude oil and natural gas and the construction, expansion or modernization of processing and delivery facilities for crude oil, natural gas and petroleum products. In addition, for every dollar of cash flow, Sun reinvested nearly 1.5 cents in similar endeavors in Canada, it being our belief that investment in North American resources and facilities afforded a degree of security that past events indicated could not be anticipated with comparable certainty elsewhere.

In addition to annual reinvestments of cash flow in the U.S. and Canada ranging from $255,131,000 to $323,916,000 during the 1968–1972 period, annual expenditures ranging from $39,247,000 to $54,898,000 were made to develop new proved reserves of oil and gas.

During the same period, the company found it necessary as a part of its efforts to expand oil and gas supplies to borrow $398,344,000, raising the level of its long-term debt to $568,941,000 at the end of 1972.

To believe, given these facts, that the management of this company would ignore the needs of the business should the cash flow improve as a result of price decontrol, is truly to ascribe the worst of motives and judgment to it.

The basic reason I cannot tell you what percentage of any additional cash flow would be reinvested for the purposes you specify

is that investment decisions depend upon a rather precise knowledge of a substantial number of facts current at the time the decision is made, coupled with judgments related to the future. Forecasting the facts is beyond our ability; the judgments alone are difficult enough, and prove often enough to have been incorrect. Unless someone can guarantee future levels of supply, demand, price, costs of materials and wages, interest rates, trends in these factors at different time intervals, decisions to be made by competitors that will affect opportunities for Sun, new discoveries to be made that may open unexpected provinces, etc., any attempt on our part to calculate what percentage of any additional cash flow would be reinvested in the future for any particular undertaking would be meaningless.

In your letter, you asked that we provide you with Sun's daily average production of domestic oil and gas in 1972. In the U.S., our production of crude oil and condensate averaged 235,723 barrels daily, processed natural gas liquids production averaged 44,748 barrels daily, and natural gas sales averaged 1,412 million CF daily. Similar figures for Canada were 65,708 barrels daily of crude oil, of which 50,859 was synthetic, 409 B/D processed liquids and 41 million CF of natural gas sales.

As you requested, copies of this letter will be sent to the individuals identified on the attachment to your letter.

Thank you for your concern, and for your efforts to develop a better understanding within government and among the voters of the facts of the nation's energy situation.

Sincerely yours,

ROBERT G. DUNLOP.

MARATHON OIL CO.,
Finday, Ohio, October 29, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR BARTLETT: Your letter of October 5, 1973 to J. C. Donnell II, Chairman of this company, was referred to me. You ask what Marathon's investment plans would be for any additional cash flow that might result from decontrol of wellhead prices for crude oil and natural gas. Specifically, you inquire as to what portion of the incremental cash flow would Marathon commit to the search for and development of domestic petroleum hydrocarbons and to downstream facilities. This is a perplexing question—perhaps even impossible for an integrated oil company to answer directly. Nevertheless, we would like to be helpful.

First, the basic question presupposes that the added cost of natural gas and crude oil input could be passed along in the form of higher prices to the ultimate user. Otherwise, most integrated refiners—such as Marathon—having some degree of crude deficiency, would suffer higher costs, and thus cash flow would actually be reduced.

With respect to a commitment to future investment of available funds, these are usually based on a current evaluation of many factors, including economic conditions, obligations to shareholders and corporate goals. Since all of these and many other factors are continually fluctuating, future investments cannot be guaranteed in advance.

Marathon's 1972 domestic production of crude oil and natural gas liquids averaged almost 181,000 barrels per day—about 1.6 percent of the U.S. total. Its production of natural gas in the same period averaged about 424,000 MCF daily—about 0.7 percent of the U.S. total. In 1972, also, the company refined more than 230,000 barrels per day of crude oil in its three domestic refineries. This was about 1.97 percent of U.S. crude runs to stills.

It is Marathon's intention to continue to grow, and in doing so, we hope to at least maintain the company's share of the nation's output of liquid and gaseous hydrocarbons. These objectives can only be accomplished by expanding the company's outlays for exploration and development. Since the company also has a basic policy of maintaining a reasonable balance between its various operations, greater investments would also be needed in downstream functions—particularly for refining capacity. Accordingly, we can assure you that the great bulk of any increase in cash flow would be plowed back into our activities.

We would like to point out, however, that the company's directors also have obligations to the company's shareholders. During the past four years, the company's rising capital outlays have contributed to an increase in debt despite rising cash flow. The company therefore has not increased its dividend even though shareholders' equity has increased. It follows, therefore, that some of the improved cash flow could, in all prudence, be used to reduce the company's debt position, and in all equity an increase in dividend payout should be considered.

We hope the foregoing provides you with the information you need in your investigations. Should you need any clarification or additional information, we would, of course, be happy to meet with you and discuss these matters at greater length.

Sincerely yours,

M. G. DUMBROS.

CONTINENTAL OIL CO.,
Stamford, Conn., October 22, 1973.

Hon. DEWEY F. BARTLETT,
Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: In the temporary absence of Mr. John G. McLean, I am responding to your letter of October 5, 1973.

In this letter, you asked that Conoco respond to the question, "Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?" Although neither your statement nor your question specifically so states, I assume you also propose simultaneous removal of regulation of all finished product prices to permit the added costs to be passed forward to the eventual consumers of energy. If this is, in fact, your proposal, then I anticipate that for a moderate period of time, say five years, Conoco would invest 100 per cent of the additional cash flow so generated into the operations described above. Further, if a healthy capital and stock market is available, Conoco probably would secure additional financing, either debt or equity, and likewise invest these funds. Finally, beyond the next five years, we can assure you that Conoco will welcome the opportunity to develop new indigenous energy supplies so long as a favorable investment climate prevails.

In response to your last question, Conoco's domestic oil and gas production data for 1972 are:

Net Crude Oil and Condensate:
U. S. Onshore, 150,000 B/D.
U. S. Offshore, 41,000 B/D.
Natural Gas Liquids, U. S., 29,000 B/D.
Natural Gas Deliveries, U. S., 907,000 MCFD.

Very truly yours,

HOWARD W. BLAUVELT.

PHILLIPS PETROLEUM CO.,
Bartlesville, Okla., October 26, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate, Interior and Insular Affairs, Senate Office Building, Washington, D.C.

DEAR DEWEY: By your letter to me of October 5, 1973, you asked for a response to the following questions: "Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?" You also asked that we respond to the following request: "Also, please indicate your average daily production of domestic oil and gas in 1972." I am sure you realize that to encourage construction of new refinery capacity, it will also be necessary to remove the price controls on petroleum products.

If you are successful in convincing the Congress to encourage the development of domestic energy supplies by the removal of price controls and the offering of new federally owned acreage for exploration and development, it would be reasonable to assume that Phillips would allocate a substantial part of additional cash flow resulting therefrom for exploration, development and processing of oil and gas in the United States, and in all probability, most all of such additional cash flow would be so invested. Obviously the expenditures for pipelines, refineries and processing plants will depend on the success of the expanded exploratory and development efforts. We repeat, however, that price controls must be removed not only on oil and gas, but also on the petroleum products that are manufactured therefrom.

In response to your second question, the domestic production of Phillips in 1972 averaged 130,200 barrels per day of oil and 1,534,000 Mcfd of gas. These volumes were supplemented by purchases to meet our domestic requirements.

As background for the need for the decontrol of prices, we would like to call attention to the fact that in 1972 Phillips Petroleum Company had approximately 1.7 billion dollars of total assets employed in the United States in exploring for, producing, pipelining, refining and marketing crude oil, natural gas and petroleum products. Our rate of return in 1972 on this investment was 6.3%, which reflects a decline from 7.9% return in 1967. Our rate of return on these operations for the first nine months of 1973 has declined further to 5.3% compared to 5.8% on worldwide assets. This continuing decline in our rate of return vividly illustrates the need for improved earnings if this segment of our national economy is to be able to compete for new capital to invest in supplying energy to the nation's consumers. When compared with rates of return in excess of 8% authorized to relatively risk-free interstate transmission companies by the Federal Power Commission, it becomes obvious that Phillips' rate of return has not kept pace, and contrary to apparent public misconceptions, our investment in domestic oil and gas activities at present price levels is far from a bonanza.

As you have so correctly pointed out from time to time, the worsening energy crisis in the United States has been largely caused by several unwise governmental policies starting with the Supreme Court's decision in 1954 that caused regulation of the wellhead prices for gas sold into interstate commerce. The low gas prices regulated by the Federal Power Commission since 1954 have unduly increased the demand for gas, discouraged

exploration for new gas reserves, and inhibited the normal development of supplies of coal, oil and alternate forms of energy.

Further, such direct and indirect government controls have not only served to dull the incentives for high-risk exploratory activities, but have also severely limited the availability of cash required for any substantial expansion of exploratory efforts. At existing crude oil and product prices, there is no possibility of the industry generating the cash necessary for the greatly expanded program of lease acquisition, exploration and development known to be necessary if we are to meet the growing energy needs of this country.

Sincerely,

W. F. MARTIN.

CITIES SERVICE CO.,
Sixty Wall Tower, N.Y., October 24, 1973.

Hon. DEWEY F. BARTLETT,
Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR BARTLETT: In your letter of October 5, you asked what Cities Service would commit to increased U.S. exploration, production, transportation and production facilities from its increased cash flow that would result from improved prices for oil and gas. You also asked for our 1972 production of oil and gas. These figures along with reserve estimates are set out on page 4 of the enclosed Annual Report.

I am sure that you recognize that our answer must be conditioned on a number of factors including those which you mentioned in your inquiry. An increase in revenue of one dollar resulting from improved price will result in increased profit and cash flow of approximately fifty cents after local, state, and federal taxes. This amount of increased cash flow can support substantially greater increments of capital investment given the proper business climate. The best evidence of our commitment to employ increased cash flow is our recent performance. During the five years 1969–1973, the Company generated from its oil and gas operations estimated cash production of $819 million* and will have spent an estimated total of $822 million* during the same period for exploration, production, transportation and processing facilities. These figures are particularly significant in that there was no investment for new refining facilities during the period because of the wholly inadequate current and expected returns from such investments.

Cities Service is primarily a domestic oil company. We desire to remain so and intend to continue to concentrate our efforts in this area as long as we have economically viable investment opportunities. Other important limitations on future investment to develop and upgrade new supplies of energy within the U.S. must also be overcome. Our ability to carry out our dedication to expand our energy producing activities depends on the following assumptions about the future:

1. That new prospective exploration acreage in the United States is available to Cities Service on a consistent year by year basis that warrants the dedication of its limited resources and that sites for building new processing facilities can be located in economically advantageous areas.

Note: Cities Service spent approximately $150 million acquiring new exploration acreage at the December 1972 and June 1973 offshore lease sales.

2. That the market place will be free of direct government intervention in the form of price controls and allocations affecting supply and demand of alternative energy forms. We believe that the market place is the most efficient allocator of our nation's resources. However, we recognize that government has a role to play in ensuring that the balance of power among the various segments of society that meet in the market place is maintained. Direct intervention swings the delicate balance and has been a major contributing factor causing the dislocations with which we are dealing.

3. That a prospective rate of return on the resources so dedicated will be sufficient to justify the risks. Management has the responsibility to all sectors of society to employ the limited resources placed in its trust in the most effective and efficient manner in keeping with the needs of society. These needs are communicated and balanced everyday by the market place.

4. That sufficient numbers of qualified geologists, engineers, and other technicans will be available to get the job done. We find that for a variety of reasons our young people are not choosing to enter into the professions necessary to support finding solutions to our energy problems. A concentrated effort will be required on the part of responsible people in industry and government to hold up to the future's problem solvers the challenges, needs and opportunities to work within the system to bring about the changes necessary to get the job done.

5. That a healthy and vigorous infrastructure will be available upon which the industry counts heavily for: supply of materials (chemicals, pipe, drilling rigs, etc.); the design and construction of facilities; providing trained rig crews; a financial market to provide both equity and borrowed funds, etc.

As previously stated Cities Service has during the last five years invested all of its cash produced from oil and gas operations back into oil and gas facilities. In addition to capital investments, Cities Service has other cash requirements, such as the payment of a reasonable rate of return on equity capital in the form of dividends, debt repayment, and working capital needs. These cash needs have required Cities Service to add substantially to its debt over the five year period. This has been done because the need was recognized and was based upon the assumption that prices must be allowed to move to levels reflecting increased cost and supply/demand conditions in the energy markets. However, Cities Service is approaching the limits of its financial constraints to continue pursuing a policy of deficit financing.

Of course, Cities Service cannot speak for any other company or individual in the industry. However, we suggest that our posture is typical. The attached reports prepared by the First National City Bank and the Chase Manhattan Bank show that over a long period the industry has reinvested almost all of the cash generated from operations in new facilities to meet the growing energy demand and in recent years has had to resort to increasing its debt load to meet all of its obligations. As these reports make clear, it is certain that this trend cannot continue. Available opportunities, improved prices, increased cash flow and adequate prospective returns are the *sine qua non* for the increased expenditures essential for solving the nation's energy supply problems.

Cities Service is and has been maximizing its efforts within the real world constraints to find solutions to the energy problems confronting us today and anticipated in the future and we pledge that we will continue to do so to the fullest extent of our capabilities and resources. We are grateful for your interest in these problems and their solutions.

Sincerely,

ROBERT V. SELLERS,
Chairman of the Board.

* The above figures are taken from the Company's public reports for the years 1969 through 1972 adjusted to include estimates for the year 1973 and to reflect certain allocations based on the published reports. The numbers cover North American operations, U.S. and Canada. The Canadian operations were minor compared to U.S.

SKELLY OIL CO.,
Tulsa, Okla., October 26, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR BARTLETT: This is in reply to your letter of October 5, 1973, in which you have made inquiry of us with regard to the proposal to decontrol the prices of natural gas and crude oil. Specifically, you have asked us to respond to the following question:

"Assuming that sufficient new acreage will be available in the United States for the exploration for new reserves of oil and natural gas and that price controls on either or both commodities are lifted, what percent of the additional cash flow resulting from removal of existing price controls on natural gas or crude oil or both would you invest in exploration for and development of additional new petroleum and natural gas reserves including domestic oil and gas pipelines, domestic refineries and domestic natural gas processing plants?"

In the five-year period from 1968–1972 our domestic capital expenditures of the type described have averaged approximately $60 million per year. Our forecasts for the next five years from 1974–1978 indicate an average annual expenditure of almost double that amount. In projecting this substantial increase in capital investments, our company has assumed that prices of oil and gas will increase, through either complete or partial decontrol of prices. It appears totally illogical that domestic prices can continue to be artificially held at levels much lower than the price from foreign sources.

If a substantial relaxing of price controls does not occur, it is certain that we will spend substantially less than we are now forecasting in domestic areas, perhaps even less than during the last five-year period. In other words, a substantial increase in selling prices is necessary to justify this increased investment we are planning. We believe that with the proper incentive from the higher prices, we will commit to domestic expenditures for oil and gas exploration, production or related facilities virtually all of the additional cash flow that results from removal of price controls.

An important assumption contained in your statement is that sufficient new acreage will be available for exploration purposes and that such acreage will have economical potential for oil and/or gas. Decontrol of prices will not only improve cash flow to permit more spending but will also enhance the potential of marginal or non-economic programs viewed in the light of today's prices.

You may be aware that Skelly's exploration efforts have been impeded in at least two areas, namely, the East Coast Offshore Area and the State of Alaska, by environmental objection to exploration for oil and gas. While we are heartily in accord with the principle of protecting our environment, we believe that the rule of reason must be observed and that the country cannot afford to have a repetition of the lengthy delay that has been experienced in the construction of the Alaska pipeline.

Skelly's 1972 average daily domestic production of crude oil was 72,000 barrels and production of natural gas was 510 million cubic feet daily.

Very truly yours,

HAROLD E. BERG.

THE LOUISIANA LAND AND EXPLORATION CO.,
New Orleans, La., October 17, 1973.

Hon. DEWEY F. BARTLETT,
U.S. Senate, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR BARTLETT: Sorry about the delay in answering your letter of October 5th, but I have just returned to my office.

The Louisiana Land and Exploration Com-

pany is primarily a domestic oil and gas U.S. producing entity. Our net production during 1972 averaged 78,735 barrels of oil and 390 million cubic feet of gas per day. Over 98% of the oil and 100% of the gas was produced from properties in the U.S.

During a five-year period, 1969–73, for wells, leases and other associated drilling costs, this company expended $174,730,000 in the U.S.

Your question directed to me asks whether we would be willing to take the additional cash flow resulting from the removal of existing price controls on natural gas and crude oil in further domestic exploration? The answer is emphatically "YES" provided that prospective areas which can be reasonably expected to produce are available in the U.S. I specifically am saying, if the Federal Government has both an onshore and offshore leasing policy that allows development of new areas.

In the past we have been able to find such areas and we expect to be able to do so in the future if governmental policies including those of the environmentalists will permit us to do so.

The U.S. is experiencing a declining reserve/production index. We will do more than our part in additional exploration if the price ceilings on natural gas and oil are lifted.

Sincerely,

FORD M. GRAHAM.

UNANIMOUS-CONSENT AGREEMENT ON H.R. 8449, TO EXPAND THE NATIONAL FLOOD INSURANCE PROGRAM

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished Republican leader, I am about to make a unanimous-consent request relative to calendar 559, H.R. 8449, to expand the national flood insurance program.

I ask unanimous consent that when that bill is called up, there be an hour on the bill itself, 1 hour on the Johnston amendment, 1 hour on the Taft amendment, 30 minutes on all other amendments, 20 minutes on amendments to amendments, appeals, or motions, and that it be done under the regular form.

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

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

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.

Is there further morning business?

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

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Special Committee on Aging:

S. Res. 214. An original resolution authorizing supplemental expenditures by the Committee on Aging for inquiries and investigations (Rept. No. 93–608). Referred to the Committee on Rules and Administration.

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 3733. An act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and Foreign agencies and to demolish such war memorials in certain instances (Rept. No. 93–609).

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. CURTIS:

S. 2793. A bill to amend the Clean Air Act in order to provide that no grant shall be made under such act for a State vehicle emission device testing program if such program provides a penalty for the removal or rendering inoperative of such device by or at the request of the purchaser of the vehicle. Referred to the Committee on Public Works.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2513

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

S. 2664

At the request of Mr. DOMENICI, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 2664, a bill to designate the Miners' Hospital in Raton, N. Mex., as a Public Health Service hospital to be known as the "Miners' Rehabilitation and Medical Hospital."

S. 2761, S. 2762, AND S. 2763

At the request of Mr. RIBICOFF, the Senator from Florida (Mr. CHILES) was added as a cosponsor of S. 2761, a bill to deny a credit or deduction for taxes paid or accrued on income attributable to oil and gas wells located in countries restricting exports of oil and gas to the United States, and to treat the taxes so paid or accrued as royalty payments; S. 2762, a bill to deny the deduction of intangible drilling and development costs in the case of oil and gas wells located in countries restricting exports of oil and gas to the United States; and S. 2763, a bill to deny percentage depletion in the case of oil and gas wells located in countries restricting exports of oil and gas to the United States.

SENATE CONCURRENT RESOLUTION 60—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO A REDUCTION OF THE CONSUMPTION OF FUELS BY THE FEDERAL GOVERNMENT

(Referred to the Committee on Government Operations.)

Mr. ROTH (for himself, Mr. ABOUREZK, Mr. ALLEN, Mr. BAKER, Mr. BARTLETT, Mr. BAYH, Mr. BEALL, Mr. BELLMON, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. BUCKLEY, Mr. CASE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. COTTON, Mr. CRANSTON, Mr. DOLE, Mr. DOMENICI, Mr. FANNIN, Mr. GURNEY, Mr. HANSEN, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HELMS, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JOHNSTON, Mr. KENNEDY, Mr. MCCLURE, Mr. MCGEE, Mr. MCINTYRE, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mr. NUNN, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. SAXBE, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. TOWER, Mr. TUNNEY, Mr. WEICKER, Mr. WILLIAMS, and Mr. YOUNG) submitted the following concurrent resolution:

S. CON. RES. 60

Whereas the Congress of the United States of America has declared that there exists a shortage of crude oil, residual fuel oil, and refined petroleum products; and

Whereas such shortages have created or may create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of public services; and

Whereas interruptions of energy supplies will require emergency measures to reduce energy consumption; and

Whereas the Federal Government is a significant consumer of energy, 60 per centum of which is consumed by vehicles and equipment; and

Whereas, in times of crisis the American people look to their Federal, State, and local governments for direction and leadership;

Resolved by the Senate (the House of Representatives concurring) that it is the sense of the Congress, That—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce nonessential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

SENATE RESOLUTION 214—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON AGING

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH, from the Committee on Aging, reported the following resolution:

S. RES. 214

Resolved, That section 4 of Senate Resolution 51, 93d Congress, agreed to February 22, 1973, is amended by striking out "$375,000" and inserting in lieu thereof "$411,000".

LEGAL SERVICES CORPORATION ACT—AMENDMENTS

AMENDMENTS NOS. 797 THROUGH 818

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

Mr. HELMS submitted 22 amendments intended to be proposed by him to the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

AMENDMENTS NOS. 825 THROUGH 841

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

Mr. FANNIN submitted 17 amendments intended to be proposed by him to the bill (S. 2686), supra.

AMENDMENTS NOS. 842 THROUGH 849

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

Mr. McCLURE submitted eight amendments intended to be proposed by him to the bill (S. 2686), supra.

RAIL SERVICES ACT OF 1973—AMENDMENT

AMENDMENT NO. 819

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

Mr. HUMPHREY (for himself, Mr. MONDALE, Mr. CLARK, and Mr. SCHWEIKER) submitted an amendment intended to be proposed by them jointly to the bill (S. 2767) to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast regions of the United States, and for other purposes.

AMENDMENTS NOS. 820, 821, AND 822

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

Mr. JAVITS submitted three amendments intended to be proposed by him to the bill (S. 2767), supra.

AMENDMENT NO. 823

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

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (S. 2767), supra.

AMENDMENT NO. 824

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

EXPANSION OF AMTRAK SERVICE

Mr. HATFIELD. Mr. President, the current energy crisis offers an opportunity to consider seriously ways to increase rail passenger service. I plan to call up an amendment to S. 2767 tomorrow calling for a study by the Department of Transportation and Amtrak of what routes could be added to provide better service.

My thoughts on this are set out in a "dear colleague" letter, and I ask that the text of this letter, followed by the language of the amendment, be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C.

DEAR COLLEAGUE: Today's energy crisis has focused renewed attention on our rail passenger system. In some areas of the country, curtailment of air service because of fuel shortages has created greater demands for rail passenger service. The problems of adequate automobile gas supplies will continue to grow.

In my opinion, we should consider expansion of Amtrak routes in view of the serious energy shortages we face, and the expected potential for expanded use. Ridership on existing routes has risen in recent weeks as the impact of reduced amounts of fuel is felt in alternate means of travel.

I plan to offer an amendment to S. 2767, the rail services legislation to be considered by the Senate Tuesday. I am soliciting your cosponsorship of this amendment.

The amendment calls for a report by the Secretary of Transportation and Amtrak officials to the appropriate Congressional committees within 180 days that would review potential routes for expansion of the basic Amtrak system. The report would consider the impact of the energy crisis, curtailment of alternate modes of travel, the economic feasibility of various expansion routes, the availability of fuel for passenger trains, the availability of new passenger equipment, and such related matters.

Congress should consider all possible means to ease the impact of the energy crisis. As automobile travel is curtailed and air service is cut, we should see if expanded rail passenger service can provide an alternative.

If you would like to cosponsor this amendment, please have your legislative assistant call Walt Evans (X.8311 or 3753).

Sincerely,

MARK O. HATFIELD.

On page 21, lines 5 and 6, insert a new subsection:

"(d) RAIL PASSENGER TRANSPORTATION.—within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive report on the feasibility and desirability of expanding service by the National Railroad Passenger Corporation. The report shall consider the current and projected shortage of refined petroleum products, curtailment of alternative modes of travel, availability of additional equipment for the provision of rail passenger service (whether domestic or foreign), the economic feasibility of additional service on existing routes and expansion of service to new routes, and such other matters as the Secretary deems relevant. The National Railroad Passenger Corporation shall cooperate fully with the Secretary in the preparation of this report.

On page 51, line 21, change "$15,000,000" to "$15,100,000".

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2642)—AMENDMENT

AMENDMENT NO. 850

(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.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973 (S. 2611)—AMENDMENT

AMENDMENT NO. 851

(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 justice; establish an independent Special Prosecutor.

Mr. PERCY. Mr. President, over the weekend some question was raised as to whether the Percy-Baker Special Prosecutor bill might actually limit the powers of the Special Prosecutor and prohibit him from investigating matters such as the "plumbers." The implication, in a news story, was that, at the behest of the White House, we were trying to slip something by the Congress.

This, of course, is patently untrue. The truth of the matter is that the intent as well as the effect of the Percy-Baker bill is exactly the same as the Hart-Bayh Special Prosecutor bill. What evidently caused this concern was a clause in section 5(a) of the bill which authorizes the Special Prosecutor to investigate and prosecute certain offenses. Subsection 3 refers to "offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election." The fear was expressed that the phrase, "in relation to the 1972 Presidential campaign and election" would restrict the Special Prosecutor in his investigation of the "plumbers." However, the next subsection refers to "all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R., sections 0.37, 0.38 rescinded October 24, 1973)." Referring back to the original Cox charter, which was the language of 28 C.F.R., sections 0.37, 0.38 it is clear that the "plumbers" activity is indeed covered in our legislation. That charter gives the Special Prosecutor full authority to investigate and prosecute "allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General."

Under this charter, the Special Prosecutor's office was and still is investigating the "plumbers" as well as a host of other allegations of criminal activity. Thus, the Percy-Baker bill, contrary to assertions to the contrary, would indeed authorize continued investigation and prosecution of the "plumbers."

I am somewhat surprised that this particular point was seized upon as being some type of fatal defect in our legislation. If there is any ambiguity, it can easily be cleared up, as Senator BAKER and I are doing today. Rather than get into a semantic debate on this issue, we are prepared to delete the words "in relation to the 1972 Presidential campaign and election" from section 5(a)(3) of S. 2734. We are doing this so that no one can attempt to cloud the issues which are before the Congress. The powers granted by both the Hart-Bayh bill and the Percy-Baker bill are the same.

Further, we are adding additional language which makes absolutely clear that the Special Prosecutor alone has the discretion to determine what actions to take or not to take, and that should a situation arise where the President issued an order to the Special Prosecutor—an act which would be inappropriate under this

act—which the Special Prosecutor decided not to obey, that disobedience cannot be construed as being grounds for dismissal under the act. Since it was just such a situation which gave rise to the dismissal of Mr. Cox, we feel that the legislation could be improved by specifically addressing this point.

Mr. President, I send to the desk two amendments for myself and Senator BAKER, and ask that they be printed and lie on the table.

The VICE PRESIDENT. The amendments will be received and printed, and will lie on the table.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME—AMENDMENTS

AMENDMENTS NOS. 852 AND 853

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

Mr. HARRY F. BYRD, JR., submitted two amendments intended to be proposed by him to the bill (S. 1868) to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

FLOOD DISASTER PROTECTION ACT OF 1973—AMENDMENT

AMENDMENT NO. 854

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

Mr. STEVENS 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 known flood-prone communities to participate in the program, and for other purposes.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Anthony E. Rozman, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years—reappointment.

At the direction of Mr. EASTLAND, chairman, and on behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, December 17, 1973, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

INTERESTING TIMES FOR NATIONALIST CHINA

Mr. HANSEN. Mr. President, earlier this year, I called to the attention of Senators a comprehensive article from the February Marine Corps Gazette by Col. Angus M. Fraser, outlining some of the legal and moral obligations of the United States to the Republic of China.

The November issue of Seapower, in an article by its editor-in-chief, James D. Hessman, makes reference to Colonel Fraser's observations, and discusses the national interest of the United States in the alliance with the Republic of China. I ask unanimous consent that Mr. Hessman's brief analysis be printed in the RECORD.

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

INTERESTING TIMES FOR NATIONALIST CHINA

(By James D. Hessman)

Somewhat like West Berlin, somewhat like Israel, somewhat like Great Britain, Taiwan—also variously known as Formosa, as the Republic of China (ROC), and as Nationalist or Free China—sits, a lonely and beleaguered holdout against the tide of communism which has swept through (or currently threatens) most of the rest of Asia in the traumatic generation since World War II.

Like West Berlin, Taiwan is all but surrounded by a hostile and much more powerful government ruled by the one-time countrymen and erstwhile comrades-in-arms of those who govern Taiwan itself. Like Israel, as events of recent weeks have borne out, Taiwan, under persistent attack from its sworn enemies, is often trapped by a flow of world events beyond its control and now finds itself, except for the United States, without friends among the major powers. And, like Great Britain and other countries of the United Kingdom, Taiwan, an island nation competing with virtually an entire continent, lacks sufficient material resources of its own and has had to base its struggle for economic viability—and, therefore, for independence—on trade, on the remarkable industry and intelligence of its own people, and on its indisputable "special relationship" with the United States.

Also—here, once again, like West Berlin and Israel, in any case—Taiwan's long and continuing fight for freedom has in large part depended and will continue to depend upon the good will of the American people and the willingness and determination of the United States to live up to its legal and moral commitments.

THE CHINESE CURSE

There is an old Chinese curse which says "May you live in interesting times." Even by 20th century standards, however, the recent past has been, for the Republican of China, too interesting for comfort. Red or Communist China—now, in a period of uneasy rapprochement, more politely called Mainland China or the People's Republic of China (PRC)—has replaced Nationalist China in the United Nations. Taiwan also has been expelled, in favor of Communist China, from both the International Labor Organization and the General Agreement on Tariffs and Trades. Over 80 nations have established relations with Peking and, in a large number of cases, severed their previous ties with Taipei to do so. The Executive Committee of the Asian Games Federation on September 18, at the urging of Japan, Iran, and Pakistan, voted to oust Nationalist China in favor of the PRC.

Numerous other embarrassments and hurts could be recorded. Undoubtedly the most ominous change, however from a ROC viewpoint, was the decision—understood in Taipei if not 100 per cent appreciated there—by the Nixon Administration to begin normalization of relations with Mainland China. Despite repeated pledges by President Nixon that the United States will still honor its commitments to Taiwan, ROC leaders could take little comfort from the U.S./PRC Shanghai communique of February 27, 1972 (during the Nixon visit to China), affirming that the "ultimate" U.S. objective is "withdrawal of all U.S. forces and military installations from Taiwan," and promising, as an extra measure of good faith on the American part, that "In the [unspecified] meantime it [the United States] will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes."

It seemed that policy was being put into practice earlier this year when, on September 3, Admiral Noel Gayler, U.S. Commander-in-Chief, Pacific, announced, according to news reports, that "with the reduction of U.S. involvement and hostilities in Southeast Asia and with the lessening of tensions in the area" some 3,000 personnel of the 374th Tactical Airlift Wing, or about one-third of all U.S. military forces on Taiwan, would be returned to the United States. The "lessening of tensions" Gaylor referred to was not particularly noticeable on Taiwan itself, where relations with the mainland continue on a level of cordial distrust.

Not helping the situation has been the changed attitude of some members of Congress and a certain segment of the American press, newly enamored of Mainland China and willing, in some cases, to write Taiwan off as an obsolete relic of the Cold War. In the past it was fashionable in some quarters to speak disparagingly of the "China lobby." Now it may perhaps be more accurate to term it the "anti-China lobby." Some members of that unofficial but probably well intentioned organization undoubtedly believe the prospect, however slight, of better relations with a nation of 750 million Chinese is worth more than the actuality of proven good relations with a less powerful and certainly less threatening nation of "only" 15 million Chinese. Others, enveloped in the euphoria of rapprochement, optimistically believe, or at least fervently want to believe, that the Cold War in Asia is, in fact, coming to an end and think that the United States should be willing to do almost anything, even betray a friend (that is not the word used, of course), to promote that happy prospect.

Still others, genuinely disillusioned with foreign affairs either because of the Vietnam experience or because of their overriding concern about U.S. domestic problems, have become neo-isolationist and want to cut back on *all* U.S. commitments abroad, including but not limited to those involving Taiwan.

TIME OF THE TROUBLES

Providing at least partial moral respectability to those who would abandon Taiwan in favor of Red China is a lingering residue of resentment toward the regime of Chiang Kai-shek, which, pushed off the mainland by the Communists in 1949, fled to Taiwan, where it set up its government-in-exile for all of China—a government, however, from which the native Taiwanese themselves were conspicuously excluded. Because of the harsh rule of the immediate post-1949 years (when, it should be remembered, the Chiang government was fighting for its very existence), because native Taiwanese are still underrepresented in the government, and because Taiwan still is much less than a perfect democracy (although much closer to it than most Asian regimes), there are some, including a number of overseas Chinese, who oppose Nationalist China and Communist China both and who favor the third alternative of an independent Taiwan belonging to neither the ROC nor the PRC.

Those who espouse such an apparently idealistic cause are ignoring both recent history and present reality, however. Because the fact is that, for at least two and a half centuries (1644–1895), Taiwan was an integral part of China. Some 84 per cent of Taiwan's population—the pre-1949 or "native" Taiwanese—are of more ancient Chinese stock,

about 14 per cent are the mainlanders who came over in 1949, and only about 2 per cent, eight tribes of aborigines, of non-Chinese origin.

Japan took Taiwan from China in 1895 and administered the island for the next half century, returning it in 1945 in accordance with the Cairo and Potsdam Declarations. The 1945–49 period was a particularly difficult one for mainlanders and native Taiwanese alike. The former were preoccupied with Mao's forces, leaving administration of Taiwan to officials who were in many cases venal and corrupt; the latter, World War II collaborators with the Japanese, were in a state of almost constant revolt (partly, it is believed, as a result of communist machinations against the central government). The results were repression, a reported 10,000 native Taiwanese killed by government troops, and an enduring animosity that still somewhat infects the Taiwan body politic.

But time heals all wounds, in the Orient as elsewhere. And time has done much to ameliorate the former tensions between native and newcomer Taiwanese. For one thing, while mainlanders have held political power, the natives have held most of the money—but all segments of the population have benefited greatly from a general prosperity which has made Taiwan's standard of living the highest in all of China's 5,000-year history.

Martial law likely will continue until, if and when, there is an easing of tensions with Mainland China, but the stability thus afforded by a strong central government provides for the population at large some side benefits (very little juvenile delinquency, and an extremely low crime rate, for example) which the citizens of the great Western democracies would envy.

Most important from an American point of view, perhaps, has been the evolution—gradual at first, but accelerating rapidly in recent years—of a more traditionally participatory government which has managed the economy with remarkable effectiveness for the benefit of all ROC citizens and which has, in the process, implemented some truly progressive political changes.

Land reform, the first step, has helped some 700,000 small farmers and made them agricultural capitalists of sorts. The result has been: (1) for the people, a diet which is Asia's highest in calories (2,680 per day, including 69.2 grams of protein, versus, for example, only 1,780 calories and 30 grams of protein daily for the Chinese Communists); and (2) for the economy, an agricultural surplus for export—despite the world's highest population density per square mile of arable land area. Of particuar importance, noted Harry B. Ellis in a *Christian Science Monitor* article ("Taiwanese Success Story") of November 16, 1972, is that "Taipei accomplished land reform without disruptive strain, by confiscating Japanese-owned industry and giving it to wealthy landlords, in return for their parceled-out land. 'No one suffered,' commented an expert, 'except the Japanese.'"

Education has been encouraged with almost fanatical zeal. Over one-fourth of the population goes to school. By law no less than 15 per cent of the national budget, 25 per cent of the provincial budgets, and 35 per cent of county and city budgets (percentages usually exceeded, incidentally) must go to education—to support the country's 2,300 elementary schools, 923 high schools, almost 100 colleges and universities, and hundreds of professional institutes. Education is free and compulsory through the ninth grade, and admission to public high school and college is on merit, through competitive examination. Here the result has been a literacy rate of almost 85 per cent, compared to 25 per cent for the PRC (according to a CIA estimate in the "People's Republic of China Atlas" published in November 1971 by the U.S. Government Printing Office).

An extensive public health program has also been vigorously promoted. Such former Asiatic scourges as malaria, encephalitis, smallpox, and plague have been virtually eliminated. The infant mortality rate, an appalling 155.36 per thousand in 1931 (statistics for all of China), was down to 15.50 on Taiwan in 1971. Free medical care and hospitalization are available to the poor, but much of the population, some five million people, is covered by an extremely comprehensive (and cheap) health insurance program for which the employer pays 65 per cent of the premiums. There is one hospital or clinic for every 13,000 persons (versus one per 110,000 on the mainland). Medical care is good. Western medicine is practiced for the most part, but Chinese acupuncture, "discovered" by the Western press after the Nixon visit to Peking, is also available.

MEDIA VERDICT

Improvements in personal freedoms, in the expanding right to dissent, and in increased political participation by native Taiwanese have been noted by such disparate, respected, and exceedingly democratic publications as the Washington Post, New York Times, Reader's Digest, and Wall Street Journal.

Among numerous progressive changes instituted by Chiang Ching-kuo, elder son of Chiang Kai-shek, who succeeded his father as Premier on June 1, 1972, have been "a crackdown on corruption and favoritism in the government bureaucracy," "appointment of younger native Taiwanese officials to important posts," and, "a concerted effort to boost the incomes . . . of Taiwan's farmers" (Stephen W. Harmer in the Washington Post, September 5, 1973).

Some nominees of the governing Nationalist Party were defeated in the national elections of December 23, 1972, "my critics of the government running as independents." Moreover, "With few exceptions," most candidates, "both from the Nationalist, of Kuomintang, side and the independents, were Taiwan-born and many were young men" (New York Times, December 23, 1972).

"The urgent problem everywhere is how to narrow the gap between rich and poor. Communism accomplishes this, but only by removing the rich and reducing the poor to a low common denominator. In most developing countries the gap grows wider as population soars, so increase in unemployment outweighs the gain in GNP. Compare the median income of the top fifth of the population with the bottom fifth: In . . . Mexico between 1950 and 1969, the gap widened from 10–1 to 16–1. But in Taiwan, between 1953 and 1969, it narrowed from 15–1 to 3.5–1" (Noel F. Busch in the Reader's Digest, December 1972).

The Nationalist government has "tried to erode the barrier between refugees and native-born Taiwanese. Today, the majority of the island's college students are native-born, [and] the mayors of the island's principal cities are Taiwanese, as are most delegates to the provincial assembly." Taiwan "is not a civics book example of a model Western-style democracy. But it is moving in that direction, and this at a time when democracy in other Asian nations—South Korea and the Philippines, for example—has been steadily losing ground" (Wall Street Journal editorial, January 15, 1973).

In addition to contested elections and the universal education drive, which inevitably teaches people to think for themselves—the two sine qua nons of a truly participatory government—there are many other evidences that Taiwan has been evolving toward a society much more open (particularly by Asiatic standards) and much closer to the Western concept of the democratic ideal.

News media outlets are numerous and highly competitive. There are 32 independently published daily newspapers, over 1,600 other publications (weeklies, monthlies, bimonthlies, and quarterlies), three commercial TV networks (American shows are often featured) as well as a government-sponsored educational TV station, and 80 radio stations. Overseas editions of leading foreign newspapers and magazines are readily available—to Chinese readers as well as to foreigners—at most major hotels and newsstands.

Contact with foreigners and, therefore, with foreign ideas and ideologies is inevitable, if only because of the staggering increase in tourism—from 40,000 visitors in all of 1954 to a rate of approximately 70,000 per month in 1973. The reasons for the increase are obvious: the scenery is magnificent, the Chinese cuisine, particularly in Taipei, unexcelled, and the business investment opportunities extremely alluring. Taiwan is also, for American tourists, particularly, one of the world's few remaining bargain spots. (The weather in the summer months is hot and atrociously humid, however.)

A military museum on the ROC-held island of Kinmen (Quemoy)—within loudspeaker distance of the mainland—has on display a variety of balloons, leaflets, radio transcripts, and other propaganda messages—those transmitted from the mainland to Kinmen as well as those sent from Kinmen to the mainland. The museum is open to Chinese and foreign visitors alike. There is, in contrast, no indication yet, however, that the Communist Chinese freely permit citizens of the People's Republic to read ROC propaganda.

JUDGE US BY RESULTS

But it is in the field of economics, the open marketplace, that Taiwan has achieved the most spectacular progress. A handful of examples, from hundreds available:

Average family income in 1972 was $1,200—admittedly modest by U.S. standards, but four times that of Communist China.

Taiwan's gross national product grew at an average annual rate of 8.7 per cent during the years 1953–71. Industrial production increased an average 14.7 per cent annually during the same period.

The agriculture/industry imbalance which plagues so many developing nations has been successfully rectified. In 1953 agriculture accounted for 35.7 per cent of Taiwan's GNP, industry 17.9 per cent. In 1972 agriculture accounted for only 15.7 per cent, industry for 36.6 per cent.

Foreign trade has increased at an almost incredible rate. In 1971 the ROC and PRC foreign trade totals were about equal. By the end of 1973 Taiwan's two-way foreign trade will top $8 billion, about 50 per cent more than the mainland, according to current estimates.

ROC ARMED FORCES

U.S. foreign aid to the Maryland-sized island ceased in 1965, since which time Taiwan has itself been providing aid to lesser developed nations. It is partly for this reason, and partly because of the booming ROC economy, that Taiwan is often referred to as "an American showcase."

Similarly, the ROC armed forces, largely equipped with American-made weapons (now purchased, not given), are sometimes cited by naval and military observers as the best current example of "the Nixon Doctrine in action." Mindful, in fact, of the ancient Chinese proverb that says "The more you sweat in peace, the less you bleed in war," ROC political and naval/military leaders long ago strived for the indigenous military self-sufficiency which is the essential basis of the Nixon Doctrine. Taiwan has more of its population, per capita, in uniform than any other nation in the world except Israel. The approximately 600,000 men and women on active duty (including 60,000 Navy/Marine Corps and 80,000 Air Force personnel) are backed up by another 1.8 million in the Reserve Forces.

Military service is compulsory for all male citizens—who normally serve two years in the Army or three years in the Navy or Air Force. A five-year Reserve obligation follows discharge from active duty, with all Reservists organized into "Area Reserve Units" subject to one month's refresher training each year. Shorter duration call-ups follow for the next three years, after which each member is still "available for any national emergency" until reaching 45 years of age.

Among the American-made weapons used by the ROC forces are Hawk and Nike-Hercules missiles, medium tanks, 155mm howitzers, renovated U.S. Navy destroyers, F–100, F–104, and F–5A fighter aircraft, C–119 transports, and a variety of trucks, rifles and other small arms, and various support equipments. Like the Israelis, the Taiwanese armed forces have been repeatedly tested under fire—six times on and around Kinmen, for example. And they have met the challenge each time—once, in a bloody battle on October 27, 1949, by successful driving off from that tiny island a two-division ChiCom force which had made a forced landing two days earlier and was occupying several of the island's strategic strongpoints.

Despite previous ROC combat successes, Taiwan's leaders and the people they govern know Nationalist China's continued viability as a free nation is still and for the foreseeable future will be dependent on the continuing friendship of the United States, and particularly on the comforting offshore presence of the U.S. Seventh Fleet—because the sea forces are of primary importance in the area, the Commander of the U.S. Taiwan Defense Command, currently Vice Admiral Philip A. Beshany, USN, is always a Navyman.

WHAT'S IN IT FOR US?

The dependence is in many respects mutual, however. Longtime China-watchers, particularly the wall-eyed breed which keeps simultaneous book on Peking and Taipei both, vary in their assessments but generally give four principal reasons why it would not be to the advantage of the United States to let Taiwan shift for itself.

Strategically, there is nothing to be gained. There is, in fact, much that could be lost. Taiwan is an integral (although not completely indispensable) element in the chain of U.S. western Pacific island bases ringing the eastern and southern shores of the continent of Asia. An important American staging area during the Vietnam conflict, it might never again have to be used by U.S. forces in combat, but its potential remains. Those who advocate U.S. pullout as a unilateral concession to Communist China ignore the fact, moreover, that there is no guarantee the successors of Mao and Chou will continue the current rapprochement. Until a new regime is in power on the mainland, therefore, any irreversible U.S. move in this direction would be premature, at the very least.

Economically, despite the gossamer prospects of "750 million customers" on the mainland, Nationalist China is much more important to the United States, and will continue to be for a long time to come. Last year, based on foreign trade settlements, the United States and Taiwan had a two-way trade total of slightly over $2 billion, making Nationalist China America's 12th leading trade partner (in a field of 145 nations). If current trends continue Taiwan will move to seventh place on the list within the next two or three years. Red China's total two-way trade with all countries of the world combined, in contrast, was less than $4.3 billion in 1970. Western economists do not see that total growing very rapidly in the near or distant future, nor do they see the United States capturing much more than its current almost infinitesimal share of the ChiCom market.

Politically, Taiwan is a symbol: (1) to the Free World at large, of U.S. credibility—if the United States fails to live up to its commitments to Nationalist China, then Israel, West Berlin, and U.S. allies in NATO and elsewhere will have to make an agonizing reappraisal of their own positions; and (2) to the 750 million human beings on the mainland itself, who see Taiwan, whatever its faults, as a China which might have been for themselves and which, given the passage of time and the changing and mellowing of current regimes, might yet be. To the Taiwan Chinese, who have a still strong identification with the Middle Kingdom, this is a most important point, unlikely though current prospects are for such a utopian ending to the current situation.

Morally—the argument that should have the most appeal to most Americans—U.S. withdrawal from Taiwan would gain nothing for the people on the mainland (although it would please their rulers), but it could have cataclysmic consequences for the people on Taiwan—native-born and mainlanders alike. It is not diplomatic, perhaps, but it is realistic to remember that a study published in 1971 by the Senate Internal Security Subcommittee estimates that, as of then, anywhere from 32 million to 61 million people (estimates vary widely because of the extremely closed nature of Communist society) had been killed by the Mao regime or had died in slave labor camps since the PRC came to power. This is anywhere from six to 10 times the number of Jews slaughtered by the Nazis during World War II. The blunt trust must be faced, therefore, that, based on past performance, U.S. withdrawal from Taiwan at the present time might well be followed shortly thereafter by the slaughter and/or enslavement of another 15 million people. (The appealing "third alternative" of an "independent Taiwan" is apparently not possible; the one thing on which Nationalist China and Communist China agree is that there is only one China, and that Taiwan is part of it.)

There are many Americans antipathetic to the Chiang Kai-shek regime who believe the United States should never have become involved in China's "internal problems" in the first place. Their point is perhaps debatable, but it is also irrelevant—applicable to 1949 realities, but not to today's. The fact is that the United States did, rightly or wrongly, become involved in 1940 and has remained involved ever since.

In an admirably comprehensive article in the February 1973 Marine Corps Gazette, Colonel Angus M. Fraser, USMC (Ret.), a leading Sinologist, recognizes this fact and sums up the dilemma now facing U.S. decisionmakers as follows: "No matter how much this nation wants to reduce its military presence and to see an end to trouble in Asia, we must remember that American support, freely and massively given, put the people on Taiwan . . . in their present position. It would be morally indefensible now to abandon them to a fate not of their own choosing."

HYDROGEN FUEL

Mr. MOSS. Mr. President, a fuel made from water and whose product of combustion is water is very attractive from an environmental standpoint. If we add to this an energy content per pound much higher than most other commercially available fuels and indications that costs might be competitive with other fuels in the future, hydrogen becomes extremely interesting.

A report entitled "A Hydroenergy Carrier" was just released. This report considers the use of hydrogen as a fuel source. The report also considers the feasibility of a hydrogen economy in which hydrogen replaces hydrocarbons as an energy medium.

The report was the result of 11 weeks of effort by participants in the 1973 summer program sponsored by the National Aeronautics and Space Administration in cooperation with the American Society for Engineering Education. This program, entitled the NASA/ASEE Engineering Systems Design Institute, is conducted annually at the Johnson Space Center, and is jointly administered by the University of Houston, Rice University, and JSC.

The systems design team was composed of 18 faculty members representing 14 universities. The team was multidisciplinary and included 16 professors in various fields of engineering, one political scientist and one lawyer. Group composition was designed to enhance the engineering systems concept by incorporating relevant social, legal, political, environmental, economic, and safety factors in the final systems design.

The report is of such national interest that I request unanimous consent to print its summary in the RECORD.

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

SUMMARY

Hydrogen as an energy carrier is almost ideal from an environmental viewpoint. It is made from water and its product of combustion is water. Hydrogen can be used as a fuel in all conventional areas of energy use, including industrial chemical, industrial fuel, electric power generation, residential and commercial, and transportation. A primary source of energy such as fossil fuel, nuclear energy or solar energy must be used to produce hydrogen. The cost of hydrogen will depend on the cost of the primary source of energy and the efficiency of the process used to produce the hydrogen. Projected costs of gaseous hydrogen at the producing plant range from $1.00 to $3.00 per million Btu. Pipeline transmission of gaseous hydrogen will add only a few cents per million Btu to the cost of hydrogen fuel delivered to the customer.

Initial large scale methods of production of hydrogen will be from the gasification of coal with costs forecast to drop from over $1.50 per million Btu to as low as $1.00 as the technology develops.

Coal, by far the greatest domestic energy reserve, can be gasified to produce substantial amounts of hydrogen for many years. Coal will also be used to produce synthetic natural gas and synthetic crude oil. Because of the potentially high demand for coal by these competing forms of fuel, nuclear energy will also be used to produce hydrogen. The established process is by electrolysis of water but the overall efficiency is low. Depending on the cost of electric power, the cost of hydrogen gas produced by electrolysis will range from $1.00 to $5.00 per million Btu. There is very little cheap power available, even at off-peak periods and the cost of most of the hydrogen produced by electrolysis will be from $3.00 to $5.00 per million Btu.

If the needed technology is developed, direct thermal decomposition of water or thermo-chemical decomposition of water to produce hydrogen, using nuclear heat rather than electricity, will produce hydrogen at a cost of $1.00 to $1.50 per million Btu. These processes are not expected to be operational before 1985. For the period after the year 2000, solar energy may replace nuclear energy for the production of hydrogen from water, but the cost is forecast to be in the range of $2.00 to $3.00 per million Btu.

Hydrogen can be transported most economically by pipeline. Special attention must be

directed to designing the pipeline to avoid conditions which may cause hydrogen environment embrittlement. This can be done.

There are no non-technical aspects of the hydrogen economy which cannot be met. Safety problems with hydrogen are similar to and probably no worse than safety problems with other hazardous fuels. Environmental, social, legal, economic and political factors have been examined. No insurmountable problems are anticipated in converting to a hydrogen economy.

Implementation of hydrogen as an energy carrier into our energy system must be by integrated steps. Although large tonnages of hydrogen are used in the chemical industry, there is no established market for hydrogen as a fuel, except in the space program. We believe that direct experience in the production, pipeline transportation, and use of hydrogen as an energy carrier is needed to demonstrate its feasiblity for use in the nation's energy system. Our concept is that a demonstration project is needed to establish the technology of producing hydrogen by one of the proposed methods and transporting it by pipeline to a consumer located in a high pollution area where it would be advantageous to burn a clean fuel. A Ford foundation grant or government subsidy to pay the difference between the cost of a conventional fuel would be needed to give the successful bidder a guaranteed market for several years. During this time he would be permitted and encouraged to develop other markets. In order to get maximum involvement by industry, no other government participation would be needed for this "Hyplex" project.

Subsequent projects might be a new city (Hycity), operation on hydrogen fuel, or even an entire island such as Hawaii. Final integration of hydrogen fuel into the energy system would be the result of economic and environmental advantages.

THE EARTH RESOURCES TECHNOLOGY SATELLITE

Mr. STEVENS. Mr. President, I want to call attention to a problem which I feel requires immediate attention by the Congress.

The specific situation about which I'm concerned is NASA's Earth Resources Technology Satellite—an extremely advanced satellite capable of cataloging our natural resources from 500 miles in space. The first ERTS is currently circling the Earth 14 times a day, taking pictures and sending back immense quantities of computer data telling scientists in 17 countries things never before known about our Earth: Facts about oceans, land masses, winds and resources.

Realizing the increasing importance of understanding, managing and protecting our environment, NASA undertook the ERTS program to determine if a satellite would provide the type and quantity of data needed for this. With just over a year of operation, ERTS has surpassed the expectations of even its staunchest supporters.

ERTS sees things not possible with conventional methods of cataloging and observing the Earth—such as aircraft and field study. First, ERTS collects more data faster and more accurately than any conventional means. Second, ERTS has provided data on remote and isolated areas—such as my State of Alaska—where terrain, time and money previously made exploration and mapping nearly impossible. Third, ERTS has the capability, by virtue of its position in space and path of orbit, to monitor ongoing and isolated phenomenon on the Earth's surface; for example, the changes of seasons, volcanic eruptions, floods, ice and water flow patterns.

In hearings in both the Senate and House Space Committees, NASA officials, officials from Agriculture, Interior, Commerce, EPA, the Navy, Corps of Engineers and several State, local and university scientists and planners detailed the benefits of ERTS. There is no doubt in the mind of anyone interested in inventorying, monitoring and preserving our environment that ERTS is the answer.

But time is running out for ERTS–1. It has already exceeded its design lifetime by several months, and could—according to NASA—die any day.

NASA had considered moving the launch of the second ERTS, ERTS–B, from its original date in 1974 to 1976. But, after the hearings, NASA got a mandate from Congress to continue the ERTS program as previously scheduled.

So, NASA took the successful record of ERTS–1, support from the United States and foreign countries, and the mandate from Congress to the Office of Management and Budget. NASA said:

ERTS is needed, it is wanted, we are planning for it.

This, then, is where the fate of the valuable Earth satellite now lies—in the Office of Management and Budget.

In all but the rarest instance, it is cheaper to do something now, rather than 2 years from now. The technology is in the satellite, launch facilities are on standby, data collection and analysis centers are operating and resource teams for utilizing the data are assembled and working. The amount of data already amassed will keep investigators busy until late next year—and that is when ERTS–B could start sending new data if the 1974 launch date were kept. If the launch is delayed until 1976, it will undoubtedly cost more; also, researchers, universities, institutions and facilities will, by then, be redirected toward other projects. The machinery, both human and hardware, will be extremely costly—if indeed it were possible at all—to reassemble.

Therefore, I urge OMB to carefully assess the case for ERTS–B in 1974—to look ahead to the long-range benefits of knowing and understanding more about the Earth on which we live.

Concern for the environment has almost become a cliche—but as with most cliches, there is an immense amount of truth behind it. "We've got only one Earth—let's keep it"—to paraphrase a motto of the ecology movement. ERTS can be a major tool in the quest for sound environmental policy.

We are well on our way, but we have got a long way to go. The Office of Management and Budget must realize that to jeopardize ERTS–B now is to jeopardize the environment needlessly. Ignoring the need to spend money for the future would not make the future needs go away.

I urge OMB to respond to the future of the Planet Earth by approving NASA's plan for launching ERTS–B next year.

TO PROTECT 29 MILLION SOCIAL SECURITY BENEFICIARIES

Mr. CHURCH. Mr. President, on November 30 the Senate passed, with my strong support, legislation to provide a two-stage, 11-percent increase in social security benefits. An interim 7-percent raise would become effective the month of enactment. This would be a partial advancement on a permanent 11-percent increase effective this coming June.

The need for this bill, it seems to me, is especially compelling.

During the past year alone, prices have increased at an 8 percent level. But even more significant, some items—especially those with the greatest impact upon individuals struggling on fixed incomes—have soared upwards at a near record breaking pace. The classic example, of course, is the cost of food, which has increased by a staggering 19 percent.

As a consequence, many older Americans have been forced to cut back on food. Some have even sought out substitutes, such as dog food. And far too many have just done without.

On top of all this, the elderly are certain to be victimized by the energy crisis. As fuel prices continue to shoot ominously upward, their limited budgets will be squeezed even further.

For many, timely increases in their social security checks can mean the critical difference between a warmer winter with food on the table or a cold, bleak winter in deprivation.

Consequently, I am hopeful that House and Senate conferees will be able to act quickly on this urgently needed social security legislation.

No measure deserves a higher priority in Congress now, nor is more important to the elderly than this proposal.

As the original sponsor of the interim 7-percent raise, I was especially gratified that this measure was approved with such overwhelming bipartisan support in the House and Senate.

A recent letter to the New York Times by Mr. Nelson Cruikshank, president of the National Council of Senior Citizens, describes very clearly and succinctly the situation of millions of older Americans throughout the Nation.

His comments are worthy of the attention of the Senate. Moreover, his remarks provide persuasive reasons for early action on the social security legislation.

Mr. President, I commend Nelson Cruikshank's letter to the Senate, and ask unanimous consent that it be printed in the RECORD.

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

TO PROTECT 29 MILLION OLDER AMERICANS

To the EDITOR:

On behalf of the National Council of Senior Citizens, a nonpartisan, nationwide organization of older people's clubs, I wish to express disagreement with your Nov. 13 editorial on a pending cost-of-living increase in Social Security cash benefits.

The editorial ignores the overwhelming consensus in Congress that a cost-of-living increase is necessary to protect the 29 million Social Security beneficiaries from the ravages of skyrocketing inflation.

The central issue of the dispute concerned the timing of the increase, not the amount.

The Nixon Administration and some conservative lawmakers wanted to delay the cost-of-living increase until July 1974, the next fiscal year, to maintain the fiction of a more nearly balanced "paper" Federal budget, which uses the earmarked Social Security funds to offset deficit spending in other areas.

However, an overwhelming majority of the Congress realized the urgent need for the increase to be effective as soon as possible and rejected the Administration's misleading argument on the House floor by 391 to 20.

The National Council of Senior Citizens strongly supports the concept of an automatic cost-of-living escalator for Social Security cash benefits. When this provision was enacted in July 1972, to provide automatic increases beginning two and one-half years later, inflation was reasonably under control. However, the unprecedented increases in the cost of living this year and the prospect of a hard winter make remedial action by the Congress necessary now if older Americans living on fixed retirement incomes are to avoid further poverty and deprivation.

The two-stage, 1 per cent increase in Social Security cash benefits is nothing more than an "installment" on the automatic increase which was due in January 1975.

Your editorial refers to past increases in terms of percentages and ignores dollar amounts. To evaluate improvements in Social Security benefits properly, it must be remembered that percentage increases have been applied to what were very low payment levels. For example, the average monthly benefit in 1969, the base year in your computation, was only $100 for a retired worker and $170 for an aged couple.

Despite the recent increases, the average monthly benefit for a retired worker is now only $162, and $277 for an aged couple. Thus, while an 11 per cent increase may seem a great deal, it would only increase monthly payments by $18 for a retiree and $31 for a couple.

Clearly, this is an inadequate income level for older Americans largely dependent on Social Security for their economic subsistence.

NELSON H. CRUIKSHANK,
President, National Council of Senior Citizens.

WASHINGTON, *November 20, 1973.*

TAX FOUNDATION AWARD GOES TO SENATOR HARRY F. BYRD, JR.

Mr. HELMS. Mr. President, all too often Members of the Senate receive high honors which, because of their modesty, are allowed to pass virtually unnoticed, like ships in the night.

This happened last week, Mr. President, in the instance of our distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.). On the evening of December 5, Senator BYRD was honored at a dinner in New York by Tax Foundation, Inc., which selected the respected senior Senator from Virginia to receive its Distinguished Public Service Award.

Needless to say, Mr. President, the major news media ignored this award which went so deservedly to our distinguished colleague. After all, Mr. President, Tax Foundation, Inc., is dedicated to saving the taxpayers' money—not promoting a more extravagant and wasteful spending of it. If it were the other way around, Mr. President; if the event in New York last Wednesday had been one involving a liberal oragnization and a liberal recipient of an award, there no doubt would have been a great flurry of publicity.

So I suppose it speaks well for both Tax Foundation, Inc., and Senator BYRD that the event last week was ignored by the major media. Moreover, Mr. President, the hard-working, heavily taxed citizens of this country owe a debt of gratitude to both Senator BYRD and Tax Foundation, Inc. Both are engaged in the same noble battle—a battle which must be won if this Republic is to survive in economic stability. Both are fighting to bring this country to its senses, by making the people aware of how their Federal tax dollars are being wasted.

So it was entirely appropriate that Tax Foundation, Inc., should honor the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.). Every Senator is aware of Senator BYRD's untiring efforts on behalf of fiscal integrity. This was a case of a splendid organization honoring a splendid public servant.

The text of the Tax Foundation's citation to Senator BYRD reads as follows:

Presented to the Honorable Harry Flood Byrd, Jr., United States Senator from Virginia, Member, Virginia Senate, 1947–1965, Editor, Winchester Evening Star, in recognition of his distinguished service to his state and nation, his independence in thought and action and his leadership in the cause of economical and efficient government.

By the Tax Foundation, New York, December 5, 1973.

I congratulate both Tax Foundation, Inc., and Senator BYRD.

WEATHER SATELLITES

Mr. MOSS. Mr. President, just over a month ago, I called to the attention of the Senate, and the public, secret consideration in the executive branch of a shift of responsibility for weather satellites.

For several months now, the Office of Management and Budget, the Department of Defense, the National Oceanic and Atmospheric Administration—NOAA, the National Aeronautics and Space Administration—NASA, the President's Science Adviser, and perhaps others, have been considering consolidation of the military and civilian weather satellite systems into one system operated by the Air Force.

The Congress has not been consulted about this ominous potential departure from the practice of the last 15 years.

Two prestigious committees of the National Academy of Sciences—the Committee on Atmospheric Sciences and the Committee for the Global Atmospheric Research Program—have reviewed this proposal. Both have voiced strong misgivings.

Dr. Philip Handler, president of the National Academy of Sciences, has now forwarded to me a letter on this subject from Dr. Louis J. Battan, chairman of the Atmospheric Sciences Committee. Dr. Battan is also the director of the Institute of Atmospheric Physics in Tucson.

So that my colleagues can be informed of the views of the scientific community on this matter, I ask unanimous consent that the letters be placed in the RECORD at the conclusion of my remarks.

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

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., December 7, 1973.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOSS: I have recently received the enclosed letter from the chairman of our Committee on Atmospheric Sciences. As the matter which he addresses is of interest to you and the members of your committee, I am pleased to make it available to you as an expression of the views of Professor Battan and the other members of his Committee on Atmospheric Sciences.

Sincerely yours,

PHILIP HANDLER,
President.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., December 7, 1937.

Dr. PHILIP HANDLER,
President, National Academy of Sciences,
Washington, D.C.

DEAR DR. HANDLER: On November 7, 1973, Senator Moss released a news item expressing his concerns regarding present considerations being given by the Executive Branch of our Government to the possibility of transferring to the Department of Defense authority for the management of the U.S. satellite program.

This Committee fully concurs with the view of Senator Moss that this matter requires "serious reflection." The Committee believes, furthermore, that the potential implications of such a policy decision could have both a far-reaching and a lasting detrimental impact on national and international programs of interest and concern to the United States.

Perhaps of most immediate concern is the need to be quite certain that the present scientific and technical programs and plans for the Global Atmospheric Research Program do not become compromised. International participation in the Global Atmospheric Research Program is essential. This participation is currently extensive, and includes provision by other nations of sensing and interrogation devices for installation on U.S. satellites.

In regard to long-range national programs in the atmospheric and related geophysical sciences (for which both polar-orbiting and geostationary meteorological satellites now have critical roles) we believe that the broad responsibilities of the Federal Government to the American public can most properly be met under the guidance and direction of civilian authorities.

We are fully aware of the significant role that was served by the military services in the atmospheric sciences during the immediate years following World War II. But during the past twenty years this role has been largely transferred to civilian agencies. We firmly believe that this is as it should be. The separation of any part of the operational satellite program from the civilian agencies which have research and development responsibilities for these satellites, does carry a risk for separation of the research and development effort from the operational aspects, which together have been a major contributing factor to the success and progress that has occurred in this program to date. Also, we are convinced that to do so jeopardizes the success of certain important international cooperative programs from which the United States hopes to gain substantial benefits.

The Committee on Atmospheric Sciences sincerely hopes that Senator Moss and his colleagues can persuade the Executive Branch of our Government that a penetrating examination of the consequences of such a major change of policy is essential. The

Committee stands willing to assist in any appropriate manner that you believe may be useful.

Sincerely yours,

LOUIS J. BATTAN,
Chairman.

AD HOC ADVISORY GROUP ON PUERTO RICO

Mr. COOK. Mr. President, as you know, I have the honor of being the cochairman of the newly created Ad Hoc Advisory Group on Puerto Rico. This group was appointed by President Nixon to explore the further development of the relation between the Commonwealth of Puerto Rico and the United States. Specifically, the committee is and will be considering revision of the statutes relating to Puerto Rico, and the extent to which certain laws of the United States will apply to the island of Puerto Rico.

During the past weekend the Ad Hoc Advisory Group held 2 days of public hearings in San Juan. A total of 27 witnesses appeared, representing all of the political parties on the island and their respective points of view. The subjects discussed ranged from the very specific areas of television programing and minimum wage requirements to the more general question of the ultimate political status of Puerto Rico.

The group met from 9:30 a.m. to 7 p.m. on Saturday, December 8, and from 9:30 a.m. to 12:30 p.m. on Sunday, December 9, in addition, members of the advisory group met privately with several government officials and private citizens to discuss similar problems relating to United States-Puerto Rican affairs.

For your information, Senators BUCKLEY and JOHNSTON join me on the group, as well as Congressman DON H. CLAUSEN of California, and Congressman THOMAS S. FOLEY of Washington. In addition the U.S. delegation includes former Gov. Richard Ogilvie of Illinois and Mr. Paul Howell of Houston, Tex. The next meeting of the advisory group is scheduled for early February.

If any of my colleagues desires any information regarding the activities of the group or wish to discuss any matter concerning Puerto Rico, my staff and I would be most pleased to cooperate with you. I will continue to provide these summaries of the activities of the advisory group as they develop.

UNNOTICED FAMINE IN ETHIOPIA

Mr. KENNEDY. Mr. President, as I indicated to the Senate on November 27, recent field reports from Ethiopia have told of the disastrous impact 3 years of severe drought has had on many rural areas in northern Ethiopia creating famine conditions for millions of people.

Yesterday, the Washington Post carried a London Observer report of some days earlier on the crisis in Ethiopia, and rightly headlined it: "Unnoticed Ethiopia Drought Takes 50,000 to 100,000 Lives."

But, as so often in the past, this humanitarian crisis has not gone unnoticed by the voluntary agencies or international relief organizations. Since last summer it has been their cry of anguish over the long-neglected food needs of Ethiopia that finally served to alert the news media as well as officialdom in Addis Ababa and Washington, as to the seriousness of the problem.

One of the most disturbing of these reports was prepared by the United Nations Development Program representative, and reveals what many in Government have apparently been unwilling to recognize to date: That the effects of the drought have been "catastrophic." American voluntary agencies have also told our Government and the international community of the increasingly serious health conditions, urging some months ago that greater efforts were needed to stave off thousands of deaths from malnutrition and disease.

Peace Corps volunteers, working in the drought affected areas, have also told our Embassy in Addis Ababa, as well as Ethiopia officials, of the deteriorating situation in many areas. Sent out to administer smallpox vaccinations to villagers dying of malnutrition has caused some of these volunteers to resign in frustration—frustration over the seeming inability to meet the simple life or death nutritional needs of these people.

It was for these reasons, Mr. President, that I drew the Senate's attention to these reports, particularly the U.N. report, and addressed a letter of concern to the Department of State. I hope to receive a reply to this inquiry as to our Government's evaluation of these reports and our assessment of food needs in Ethiopia over the coming months. There is much more that we and the international community must do to help Ethiopia to avert even greater human tragedy.

Mr. President, I ask unanimous consent that yesterday's report from the Washington Post, as well as other recent press reports on the situation in Ethiopia, be printed in the RECORD.

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

[From the Washington Post, Dec. 9, 1973]

UNNOTICED ETHIOPIAN DROUGHT TAKES 50,000 TO 100,000 LIVES

(By David Martin)

DESSIE, ETHIOPIA.—Sprawled on his back on a stone road half a mile from the destitutes' shelter at Haik lay the body of an old, gray-bearded man. Flies crawled over his mouth and nose as passers-by skirted the corpse with barely a glance.

In Ethiopia's Wollo province little enough can be done for the living, and the dead are ignored.

The old man was one among hundreds of victims of the drought which passed unnoticed for months outside Ethiopia.

For over 250 miles from Addis Ababa, the now-crumbling road built by the Italians during their occupation in the 1930s winds through Mussolini Pass and across the fertile mountainous landscape to Dessie, capital of Wollo Province.

Fields of corn, wheat and peas, turning brown as the harvest approaches, cloak the reality of a disaster which, the United Nations estimates, has cost 50,000 to 100,000 lives.

The old man's body ended the illusion of rugged beauty which distinguishes this part of Ethiopia.

He had been too weak to make the Haik shelter. Many who reach the camp do not survive. Just before I arrived, a 12-year-old girl died in one of the squalid galvanized shelters where the destitutes huddle together covered in dirty rags with only rush mats between them and the earth floor.

Almost 18,000 people are still in Wollo's 13 shelters. At the peak in June, July and August they were dying at the rate of 100 a day. Emergency feeding had reduced this to about 20 daily now, but disease still threatens them, for they are vulnerable because of malnutrition.

Now there are few beggars on Haik's main street. "You should have been here two months ago. Then there were thousands, and trucks took away 20 to 30 bodies every day," a man in the town's main hotel said.

The full scale of the catastrophe is not yet known, but it is such that this nation, which once mourned its dead with public wailing and weeping, has now lost its voice.

Argashe Abate, 30, in a listless monotone, said she had buried her husband and four eldest children in eight days. When the crops failed last December and the rains in March, her husband, Hassan, sold their six acres of land and took a job as a farm laborer, but he was so weakened by malnutrition that he became sick and died.

The family had no food, and within a week her son Mohamed, 9, and daughters Nurie, 5, Ergoye, 3, and Fatima, 2, were all dead. Argashe with her year-old surviving daughter, walked for three days to reach the Haik shelter, but there the last child died.

Getawa Fantew is a nine-year-old orphan.

For months his family was short of food and when they left their village in April about six people were dying each day. In Haik he watched his parents die on the street and then begged and stole to live.

Abraham Kasa, 32, was comparatively wealthy, but in the past four years he had to sell three of his four plots of land to buy food. Then, early this year, five of his cattle died and he sold the remaining five. Finally, in April, he sold his last plot of land for $29, half the normal price.

A few days later his wife died. Then his older sons. With his last child, an eight-year-old girl, he walked for two weeks to reach Haik, and they now serve other people, having recovered their health on protein concentrate diet.

The cases of Abraham and Argashe illustrate one of the most revolting aspects of the disaster. Wherever there is death the vultures gather, and here there are many.

Starving peasants have been forced to sell their lands, cows, oxen and the crop due in December at half the normal price to survive. Officials have sold emergency feeding cards which should be distributed free, and merchants have doubled grain prices in their shops. A number of officials have been arrested.

In mid-June, Emperor Haile Selassie removed the Wollo acting-governor general, Sololeman Abraham. Six students were shot dead and an unknown number wounded during a demonstration against the provincial administration.

Officials at Dessie firmly believe the bulk of the disaster could have been averted if reports coming in from sub-district governors had been acted upon and sent to the government in Addis Ababa.

It was not until March when destitutes reached the capital from Wollo that it was realized in Addis Ababa that people were starving. The provincial administration failed to respond to inquiries, and a team from five ministries was sent to investigate. Six days later they reported back, and within 48 hours a relief committee had been set up. But by then it was too late.

The emperor has ordered an inquiry into the Wollo administration. In mid-July he appointed a tough minister of state, Legesse Bezou, as the province's new acting governor general.

The New administration and the relief agencies have now turned the tide of starva-

tion and for this great credit must go to an Irish priest, Father Kevin Doheny, head of the Catholic relief services here.

When the churches were called in last May, Father Doheny sent out world-wide appeals for aid and mobilized the Oxford Committee for Famine Relief (Oxfam) whose team of doctors and nurses have done much to cut the death toll.

Nonetheless those in the camps, as well as the 220,000 or more who have returned to their lands, are still weak and vulnerable to diseases such as cholera, typhus, malaria, dysentery and gastroenteritis. Epidemics have killed hundreds in the shelters and urban centers.

At the Kombulcha shelter near Dessie, two British volunteer nurses have spent the last month feeding the undernourished. Only those whose bodyweight is less the 75 per cent of normal receive the emergency protein concentrates. The rest are getting grain supplied by the government.

The shelters are depressing and frustrating. But Zena Chaddick, 26, feels it has been rewarding.

"Morale has improved" she said. "When we first came to Kombulcha there was no laughter and the children were just lying around with the adults. Now morale has improved and the children are smiling. They look a little bit brighter, their hair is shining and basically we feel they are more happy and lively."

I watched one man at Haik, his face etched deep with despair, bring his two surviving children for emergency food. One boy, about 3, had to be hand fed, and he was dead the next day.

The other was 10 and covered in a white shroud to protect him from the sun. His legs were like matchsticks, ribs protruding, face gaunt and apathetic and eyes dulled. He also is expected to die.

People's heads are shaved, but even so lice are common, carrying with them the threat of outbreaks of typhus. Measles has just started at Kombulcha, and as the sick cannot be isolated it is likely to sweep through the 1,400 destitutes there, bringing further deaths.

If the past is grim then the future is also bleak. There are hundreds of orphans and widows. Even those with somewhere to go back to have no seed to plant and no oxen to plow.

The government plans to distribute seed and oxen on credit, but few of the people in the rural areas can withstand another serious drought.

Of the 283,000 destitutes registered in the urban centers, 220,000 have made their way back to the land. People who bought land at a pittance at the height of the famine will be repaid the money by the government and forced to return it.

[From the London Sunday Times, Nov. 25, 1973]

A FAMINE THAT LEFT THE RICH RICHER AND THE POOR POORER

(By Martin Meredith, Addis Ababa)

Not far from the battleground at Magdala, where 100 years ago a British expeditionary force defeated the army of one of Ethiopia's more eccentric emperors, a British Army engineer was last week clambering up and down the rugged mountains of central Ethiopia to survey the possibility of building roads in the area.

The travels of Colonel Richard Holland are of more than passing interest. He is one of the few outsiders to have ventuerd into the interior of Ethiopia's drought-stricken Wollo province, where thousands have died of famine and disease this year, and his foot-slogging survey could play a big part in preventing future disasters there.

Colonel Holland's scrambles could clearly help to solve two problems:

1, a lack of facts. One of the most striking aspects of the famine in Wollo is that, while relief workers have now managed to control the crowds of starving, dying refugees who limped down from the mountains earlier this year, nobody really knows what is happening back in the mountains.

Even less is known of the Danakil Desert beyond the mountains, where the death toll among the nomadic Afar tribesmen could be staggeringly high.

2, a lack of roads. This contributed significantly to the scale of the disaster, for it blocked the chance of sending any food up into the mountains.

By contrast, in the neighbouring province of Tigre, where the drought was equally serious, the energetic governor had spent the past 10 years building feeder roads into the interior and was able to distribute some food, thus keeping the hillsmen from flocking to the disease-ridden camps on the main road.

COMBINATION OF CIRCUMSTANCES

The road problem, however, was just one factor in a fatal combination of circumstances which produced this monumental tragedy. The human responsibility for the size of the disaster, which one United Nations report suggested could have killed 50,000 to 100,000 people, extends far and wide.

It was not until November 12, months after the first victims had died, that people in Addis Ababa were officially told on television that people had died of hunger.

Government action on relief work was almost slow, and the blame for this delay is now being partly attributed to the former governor of Wollo province, Sololeman Abraham, who was sacked in June. An old aristocratic figure, he claims he sent reports to the central government but this is denied in Addis Ababa. The Government says it had no idea of the problem until a special team visited the area in April.

The total amount of grain delivered to the drought areas of Wollo and Tigre by Government, Church and private sources between May and late August—in the middle of a famine which hardened relief workers described as worse than Biafra—was no more than 1,400 tons.

By November the total grain delivered was 9,000 tons. One relief worker estimated that this figure would have been needed each month to halt the starvation. Even the Government's own planning commission concluded in May that 46,000 tons a month would be required.

While the Government was asking foreign countries discreetly for food it made no mention of the need for medical personnel or relief workers. So the brunt of the relief effort fell on local churches and voluntary groups. Their efforts were brave but their resources pitifully inadequate. Help was channelled through the Christian Famine Relief Committee, set up in May and run by an Irish priest, Father Kevin Doheny.

But it was noticeable that the powerful Ethiopian Orthodox Church, which owns 20 per cent of the country's arable land, made no contribution to the relief effort beyond sending a group of volunteers to the drought areas as late as September. Oxfam provided funds as early as May, but no medical teams arrived in the country until October.

The combination of inadequate food and lack of medical personnel was catastrophic. In July a cholera epidemic raged though relief officials were obliged to call the disease "dysentery" for fear of incurring Government displeasure.

A few cases of local corruption and food profiteering added to the misery, but eventually Emperor Haile Selassie woke up to the disaster and ordered Government action. Then in August a deliberately provocative Unicef report inspired world wide attention.

This attention is now being focused on the long-term causes and problems of the famine—and also on the deeper injustices of Ethiopian society. For, startling as it may seem, some Ethiopians have benefited substantially from the disaster.

SELLING FOR A PITTANCE

Wealthy landlords and village chiefs, able to withstand the effects of the drought, have taken the opportunity to buy land and cattle from destitute peasants only too eager to sell their property for a pittance to buy food.

So the famine has made the rich richer and the poor poorer, in a land which was in any case a land of powerful barons and landless peasants reminiscent of medieval England. One recent survey showed that one single Ethiopian owned more than two million acres, while thousands of peasants throughout the country rent land by paying anything between a third and three-quarters of their produce to landowners.

These tenant farmers have no interest in improving the land, or of raising their output beyond subsistence level. In bad years there is little to fall back on.

The Government owns vast tracts of land but most of it is granted to gentry, civil servants, military and police officials as a reward for loyalty and service.

As much as 25 million acres of arable government land (about 12 per cent of the total arable land) is available for grants to individuals. But between 1942 and 1970, of the total registered government land distributed, 95 per cent was given to officials and other elite and only five per cent to peasants. Of unregistered government land, 75 per cent went to officials and 25 per cent to peasants.

[In a study of land problems in Ethiopia, published by the Royal African Society in London last month, John Cohen of the University of Colorado commented: "A primary reason for grants of government land to the elite is to reduce opposition and secure loyalty to the political system."]

For five years the Ethiopian Parliament has been considering land reforms but the great majority of its members are landowners whose interest would suffer should any reforms get through.

Thus the Ethiopian famine has wide implications. The travels of Colonel Holland may well have an impact on the people of Wollo, but ultimately their welfare depends on greater considerations.

[From Time magazine, Dec. 17, 1973]

AFRICA: A DEADLY NEW YEAR

(The wrinkled old Tuareg looked out across the windblown desert surrounding the squalid refugee camp near the Niger capital of Niamey, where he and 5,000 others now live. "This year," he said, "it was the animals that died. Most of us managed to survive. But next year, unless Allah is most merciful, it will be our turn to die.")

Sadly, there is very little likelihood that Allah will be any more merciful next year than he has been throughout 1973. Mohammed Ibrahim may be alive, but starvation and disease on the three-month trek from drought-ravaged Mali to Niger cost him all his cattle and camels and a third of his family. Now he is destitute, living in a stark hut made of hides. The Niger Red Cross manages to provide him with 150 grams of food per day, which, according to U.N. officials, can only sustain life for a short time.

Despite massive international relief efforts, the worst drought in recorded African history has thus far claimed perhaps as many as 100,000 lives in northern Nigeria and in the "Sahel," or sub-Saharan, nations of Mauritania, Senegal, Mali, Upper Volta, Niger and Chad. More than 1,000,000 hungry nomads are roaming the Sahel, surrounding its cities in a futile search for food. Nomads in Chad have been forced to eat leaves and bark to stay alive. In Nigeria's parched Northeast, villagers pillage anthills to get at grain kernels that the ants have stored away.

The drought area stretches across the entire waist of Africa, from Mauritania in the west to Ethiopia in the east. In Ethiopia, more than 50,000 have died of starvation. Many mothers have had to sacrifice their weakest children by drawing emergency food rations for them and then using the food to feed the others. So great is the catastrophe, says one local priest, that the traditional public weeping and wailing for the dead has been abandoned; the people have lost the will to cry.

Ethiopia's case is the saddest of all because many of the deaths could have been avoided. Last January, when officials brought word of imminent starvation among peasants to one provincial governor, he disciplined them for their "negative attitude." He also refused to press Addis Ababa for aid, for fear of embarrassing a government that was pushing tourism. The result was widespread starvation and an initial reductance on the part of international agencies to send food; U.N. officials assumed that Ethiopia was suffering far less than the Sahel states.

SWOLLEN STOMACHS

The prognosis for Ethiopia and the sub-Saharan countries is for an equally grim and dry new year. The little rain that did fall this year came late and ended early, preventing a full fall harvest of millet and sorghum that might have saved some lives. Relief efforts are continuing, and in Ethiopia some food is belatedly getting to the impoverished northern provinces. But in the refugee camps thousands of children with matchstick legs, portruding ribs and swollen stomachs continue to die of malnutrition. A new woe was added last week when swarms of locusts began eating their way through much of Chad and northern Nigeria, reducing the meager supply of food still further.

[From the Washington Star-News, Nov. 8, 1973]

FAMINE IN ETHIOPIA

In the first year of the drought, such meager food reserves as existed were eaten. In the second year, the seed grain and the livestock were eaten. And when the "small rains" of April failed in the third year, the people began to die by the thousands. So the famine that has afflicted Sahel countries of West and Central Africa has come now to Ethiopia. Perhaps 100,000 people already are dead in the provinces of Hararge, Tigre, Wollo and Shoa.

The Ethiopians are a proud people and Addis Ababa is said initially to have tried to conceal the fact of the famine rather than appeal for international charity, a charge which Emperor Haile Selassie's government denies. At any rate, the United Nations, the United States, Sweden, UNICEF, the International Red Cross and other voluntary agencies now are doing what they can to alleviate the worst effects of the disaster.

While it will not help this year's victims, one thing the Ethiopian government could do to help prevent future tragedies is to pass—and enforce—a reasonable land reform law. Many of the victims of the famine are landless tenants who are forced, sometimes illegally, to surrender up to 75 percent of each year's crop to their landlords. This makes it impossible for the peasantry to accumulate even the small reserves necessary to stave off a short famine.

In a parliament in which landlords are in a majority, the passage of a law guaranteeing security of tenure and a limitation on rents is no easy matter. Nor in areas where communications are rudimentary and a tradition of fuedal independence exists is the imperial writ always fully observed.

Ethiopia, which is a good friend of the United States, deserves all the help we can give. But a comprehensive and effective land reform act is a necessity if causes rather than symptoms are to be treated.

ACCURACY—AND HONESTY—IN MEDIA: PART II

Mr. BUCKLEY. Mr. President, on December 4, 1973, I placed in the RECORD articles originally published in the Wall Street Journal. These articles were critical of the reporting of the revolution in Chile and particularly critical of Newsweek's coverage of that event. In the course of my remarks I said:

. . . 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 . . . 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.

It has been brought to my attention that Newsweek's executive editor Kenneth Auchincloss has indeed responded to the criticism leveled against his magazine. On November 15, 1973, he responded at length and in detail and I want to take this opportunity, in the interest of fairness, to place his reply in the RECORD. I want, at the same time, to congratulate the Wall Street Journal for what I feel is a fine example of fairness in presenting a controversial story. The original critical article on Newsweek's report contained a quotation from Mr. Auchincloss, showing that the Wall Street Journal at least bothered to inform Newsweek of the charges leveled against it and gave that magazine an opportunity to reply on the critical article. Mr. Auchincloss was then given an opportunity to reply to the criticisms at approximately the same length as the original article. I hope that the television networks and other newspapers are willing to learn from the Wall Street Journal's excellent demonstration of fairness and accuracy.

Mr. President, I ask unanimous consent that the following article, "Newsweek Replies on Chile," Kenneth Auchincloss, the Wall Street Journal, November 15, 1973, be printed in the RECORD.

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

NEWSWEEK REPLIES ON CHILE

(By Kenneth Auchincloss)

On November 2, The Wall Street Journal devoted a major part of its editorial page to an attempt to discredit Newsweek's account of the killings that took place in Chile after the military coup of September 11. In an editorial and two lengthy articles—one by its Latin American correspondent Everett G. Martin (a former Newsweek correspondent) and the other by Chilean journalist Pablo Huneeus—the Journal suggested that a report by Newsweek correspondent John Barnes in the magazine's October 8 issue was "grossly exaggerated" and "based on events which didn't happen and figures that were misinterpreted." These are serious charges—in my view, utterly unfounded and untrue. Let's examine them, one by one.

1. Mr. Huneeus accuses Newsweek of something called "journalistic imperialism." To cover the Chilean coup, he says, the magazine "sends from London a British correspondent" who "makes no effort to understand what is really going on here." The implication—that Mr. Barnes is a complete stranger to Chile whose reporting was based on a few days' acquaintance with Chilean affairs—is totally false, Mr. Huneeus knows full well. Mr. Barnes was Newsweek's Latin American correspondent from 1970 (the year Salvador Allende was elected president of Chile) until January of this year, when he transferred to the London bureau. He has spent considerable time in Chile and contributed to a number of major Newsweek stories on the Allende regime. It was because of this familiarity with the Chilean scene that Newsweek sent him in. In the course of his previous reporting, incidentally, he has occasionally had harsh things to say about Allende's government; on an earlier assignment in Latin America, he once spent three weeks in one of Fidel Castro's jails. Mr. Barnes has emphatically not shown any special favor or sympathy to Marxist regimes.

Now a look at Mr. Huneeus' credentials. He is a skillful, perceptive journalist and a patriotic Chilean, but he is also a committed anti-Allendist on the right of the Christian Democratic Party. The Journal correctly reports that he has assisted Newsweek correspondents. In the second week after the coup, Mr. Barnes himself interviewed Mr. Huneeus to get the views of a wealthy, sophisticated Chilean who was well-known as an opponent of the regime. In his own piece in the Journal, Mr. Huneeus wrote: "The military intervention is the logical outcome of a Marxist regime." I have no doubt of Mr. Huneeus' professional integrity, but it is a long stretch to call him, as the Journal does, "objective and independent."

2. Mr. Huneeus seeks to discredit Mr. Barnes' account of his visit to the Santiago morgue by quoting morgue staffers who say there are inaccuracies in his physical description of the place and who speculate that, if he did get inside, he fell victim to what a morgue pathologist calls "perception shock": "when exposed to a couple of bodies," he explained, "the shock alters perception capabilities" (Mr. Huneeus evidently suffers from "syntax shock"). Mr. Barnes reports that he was indeed shocked to see 70 or so corpses lined in the corridor—but no more so than in his other encounters with violent death while covering stories in the Dominican Republic, Nigeria and Northern Ireland. In weighing remarks by the morgue staff, one ought to remember that the authorities are presumably unhappy that Mr. Barnes was allowed to get in, and that therefore the staff had good reason to suggest that it was all a fabrication.

MR. BARNES' ACCOUNT

To suggest that Barnes simply made up his report on the morgue seems to me a desperate and grotesque charge against an experienced, first-rate journalist. In fact he was in the morgue four times. Here is Barnes' full account of that experience:

"It all began by accident. On the morning of September 24, a photographer colleague had been at the city cemetery, across the street from the morgue, taking pictures of grieving peasant families burying their dead in the 'potters field' section of the cemetery. As she was leaving, she saw a truck drive through the gates into the courtyard of the morgue. In the back were piled naked corpses—ten, perhaps fifteen. She rushed over to take a picture. A soldier promptly stopped her. A morgue official came over and told her to leave. 'It's hard to get in here at the best of times,' he said. 'These are very difficult times. You had better leave quickly.'

"I was having lunch at the Hotel Carrera Sheraton when she came back and told me what she had seen. It suddenly dawned on me what was going on: the junta was being so bureaucratic (and the Chileans are the most bureaucratic people in South America) that they were processing their victims instead of digging a hole and getting rid of them.

"I went to the morgue that afternoon. There was no hope of getting in the main

entrance. But there was a small side staff door, near where the lists of names of several hundred bodies were posted along with other lists that simply read one after another 'cadaver—unidentified male,' or 'cadaver—unidentified female.' A large crowd of silent Chileans, all of the working class, stood around silently looking at the lists. There was a darkened window over the center of the door. I tapped on it and held up my junta-signed press pass. The door was opened by an elderly, fat little man wearing a white coat. I walked right past him, up a flight of steps, and turned left along a corridor, not knowing where I was going. At an intersection, where the corridor divided, I turned right, I pushed through some swinging doors.

"There were the corpses, lying stretched out naked, side by side, packed tight together, their heads—or what remained of them in most instances—leaning upward against the wall, staring silently out in front of them. I don't know about 'perception shock,' but I was shaking from head to foot. I walked out, back down the corridor, down the stairs, and out into the open. I returned with a Chilean friend so that I would have a witness if only just to tell me that I had seen what I had seen. We stood there looking. I remember at the end of the line there was a young kid with blonde hair, perhaps in his late teens, so unlike the others with their black hair and high cheek bones. I asked my friend why the bodies looked so white and soft for people with such obvious peasant features. He suggested it was because they had already bled. But he didn't really know.

"The next day, we decided we had to go back and try to get some pictures. We figured that at about 1:30 the morgue workers would be at their lunch. It was a different man on the door. But the same flashing of my pass worked again. I was wearing a blue polo-necked sweater with a white linen jacket with my camera tucked inside it. My photographer colleague had already set an estimated light reading. When we reached the swing door, my friend pushed it open with his elbow, looked in, and then nodded to me. I walked quickly through. I saw it was a different lot of bodies, more of them. I stared at them for a second. In place of the blonde kid, there was an old man, with the bottom front of his face gone, up to the upper lip.

"As I went to the camera, a man in a white jacket carrying a sheet of paper walked through the swinging doors at the far end of the corridor. I turned and crashed my way through the door behind me. We left at a walking run. But no one had followed us as we stood panting for air out in the sunlight. Five minutes later, when we had stopped shaking, I said I was going to have one last go.

"We got halfway down the corridor that led to the swing doors when a man came around the corner. I don't know whether it was the same one; he went past us but then turned and asked, 'Where are you going?' We said in unison 'To the bathroom.' He said, 'You had better follow me.' As we walked behind him back down the corridor, we both must have been thinking that things wouldn't go too well with us, what with the camera and those bodies in the corridor. As we reached the short flight of stairs that led down to the side door, the two of us peeled off as though in formation, and we were out of the door in a shot and into the crowd of women."

Skeptics may ask what independent evidence exists that Barnes was telling the truth. He was not able to take a photograph for the reasons he has described. He cannot identify the person who accompanied him because of the obvious likelihood of reprisals against the man. But as it happens, there is another witness to the scene in the Santiago morgue during the period following the coup. On September 19, eight days after the coup and five days before Barnes' visit, a United Nations official spent over an hour and a half at the morgue and counted some 188 bodies.

Luis I. Ramallo, a Spaniard who is a member of UNESCO and the former Acting Secretary General of the Latin American Faculty of Social Sciences, went to the morgue to search for the body of a young Bolivian, Jorge Rios, who had been studying in Chile under a UNESCO-created program. Rios had been seized on September 12 by a military patrol at his home, in front of his wife and two children. Here is Ramallo's description of what he saw in the morgue:

"I went to the morgue on September 19th at about noon. When you went up the stairs, you would turn left and walk along a passageway. I asked a passing attendant in a white coat for help. A girl took me to a records room. She looked through the alphabetized loose-leaf book and said, 'Yes, Jorge Rios is registered. His wife was here a half an hour ago and identified the body.' I asked to see it. The woman gave me a small piece of paper with her signature and the number of the body and told me to go out the same door I came in and that I would see a gate, which was an ambulance entrance that led into a courtyard and the main building where the bodies were. I showed the pass to a man who took us to a large non-airconditioned room that certainly did not appear to me to be a morgue. The room was filled with bodies.

"There were four rows of them and the people were so close together that it appeared as if their arms were linked. We were jumping over the bodies which were obviously in some sort of numerical order. But we could not find the one corresponding to our number. The man was upset and said, 'Well, I don't know what happened, you'll have to look for him yourself.' So then, really, we spent almost one hour in there going from body to body seeing if we could find Jorge. I was looking at body after body, one after another. I counted 184 (the list posted on the door outside numbered only 130).

"I saw four or five children, two girls and three boys 7 or 9 years old. Most of the bodies were of working class people. There were some student types. They were totally naked, some with clothes piled up on them. They all had papers identifying them or saying 'NN,' which means unknown or unidentified. A few bodies had neat bullet holes, others had gaping wounds. Some had parts of their skulls missing or huge holes or mangled arms—all really bad wounds. My first impression was that they had been executed by mortar fire.

"The bodies were still tender, rigor mortis had not set in. While I was there, more bodies were being brought in. I asked a doctor if there were autopsies being performed and he replied, 'Well, we do what we can—for some yes, for others, we just do a report on how they look.'

"Since we couldn't find Jorge, we went into another office where they kept records. Finally, one said, 'Oh, yes, he must have been brought in by the Tacna Regiment (one of several army garrisons in Santiago). We went back, climbed over the bodies, and went into another room that looked like a typical morgue. There were four bodies on metal stretchers (I didn't get to see how many bodies were in refrigerated drawers). One body was of Jorge. It was bullet-ridden with two large gaping wounds in his chest and leg.

"I went back to the records office and read his autopsy report which said he was 'wounded in the street.' Later, Enrique Carvallo, the Under Secretary for Foreign Affairs, told me that he heard that Rios had 'tried to escape.' "

3. Mr. Huneeus says that the dead amputee pictured in Newsweek was killed before the coup in a traffic accident. The photographer, Mr. Guillermo Gomez Mora, reports that the man was killed during the height of the violence in Santiago after the coup. But because Mr. Gomez Mora was not present when the man died, he cannot be sure whether he was killed by gunfire or a truck.

THE BODY COUNT

4. How many people have been killed in the aftermath of the coup? Mr. Barnes quoted the daughter of a morgue staff member as saying that by the fourteenth day after the coup, the morgue had received 2,796 bodies. Mr. Huneeus says this is the morgue's body count for the entire year up to that time. Jonathan Kandell of The New York Times, quoting official sources in the morgue, reports the same version as Mr. Huneeus. But Marlise Simons of The Washington Post talked with a European ambassador in Santiago who said he had been to the morgue and that during the first week after the coup, 2,500 bodies had been processed.

What is beyond dispute is that there was a gigantic surge in the morgue's business after the coup. Time magazine reporter Rudolph Rauch wrote that he had seen on the morgue wall, the same week that Barnes was there, "a list of 300 people whose bodies were to be claimed by relatives. Next day the list was gone, along with a later list of 120 names that had been tacked up and then hurriedly pulled down at army order. According to an official of the morgue, it normally handled about 12 corpses a week." That would make roughly 450 bodies in 1973 up to the day of the coup. The morgue, even by its own calculations, processed a vast number of bodies in the period following the military takeover.

And other recent estimates bear out Mr. Barnes on the magnitude of the killing. In testimony before a congressional committee on October 11, CIA director William E. Colby said "we would estimate it is between 2,000 and 3,000 killed during the struggles." In a New York Times dispatch from Santiago datelined November 4, Kandell reported: "At least 2,000 people have lost their lives—most of them victims of unannounced executions carried out after the resistance to the armed forces had ended." And on September 25, Admiral Jose Merino, a member of the Chilean military junta, gave an interview to a Dutch television station in which he said that 3,500 persons had been killed in the violence. One could go on reciting the details of executions and shootings that have come to light since Mr. Barnes's story. Newsweek is proud to have been one of the first publications to report these tragic facts.

Mr. Auchincloss is executive editor of Newsweek.

EDITOR'S NOTE

No one disputes that there were many deaths in the Chilean coup. The Wall Street Journal's initial dispatch, printed on Sept. 17, quoted estimates of from 1,000 to 5,000 deaths in the fighting. On Sept. 25, another dispatch reported the occurrence of summary executions, but said that civilian deaths throughout the country were estimated at fewer than 500.

The Newsweek story talked of "mass executions" and said "the reign of terror has already gone much further than most people thought." In citing the 2,796 figure for corpses handled by the Santiago morgue alone, it added that "no one knows how many have been disposed of elsewhere" and that "the presumption is that the executions have followed a similar pattern in other cities."

On the basis of our own correspondent's reporting during the coup, and reports by Mr. Huneeus and others since, we agree with Mr. Auchincloss that the figures quoted in the last paragraph of his article are reasonable estimates of the total casualties, from both combat and executions, throughout Chile. Whether they confirm Mr. Barnes' original report we leave to the reader to judge.

PARLEY RIGBY

Mr. CHURCH. Mr. President, on November 22, a grand old man of Idaho passed away at age 81.

Parley Rigby, of Idaho Falls, was the kind of civic leader every community should have. His activities were legion, and when he took up a cause, he did not let go until the matter had been resolved.

The Post-Register of Idaho Falls summed up his career succinctly in a few words:

Parley Rigby was one of East Idaho's first ombudsmen, an often fiery foe of the status quo who left his hot weld on the disparities he determinedly tackled.

Mr. President, I am saddened at the loss of a friend, but grateful that I had the opportunity to know him. I ask unanimous consent that an article that appeared in the Post-Register of November 23, together with an editorial from the November 26 issue of that newspaper, be printed in the RECORD.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as foHows:

HIS BATTLE STARS

Parley Rigby was one of East Idaho's first ombudsmen, an often fiery foe of the status quo who left his hot weld on the disparities he determinedly tackled.

A crusader at heart, the community was quickly aware that this former pastmaster had taken up the cudgel for cause. Like an English bulldog, Parley simply never let go of a problem until he was satisfied it was either solved, or solved as much as it could be. Knowing the sensitivities of those in public or private places who Mr. Rigby felt should be changing their attitudes on a particular problem, he would marshal his fusillades in the press like a General Patton about to smash the Belgian bulge. His long and arduous fight to focus attention on maltreatment of patients at the Idaho State Mental Institution at Blackfoot, was a characteristic Rigby crusade. It led to his appointment to a state investigation board which changed policies at the Blackfoot institution many years ago.

His life, in fact, was a compendium of assorted causes and pitched battles. It was the sheer force of his personality that installed the March of Dimes with such prominence in the community because Parley Rigby fought for the polio-stricken of those days with such incandescent temerity. As both a member of the Idaho Falls City Council and a director of the local Chamber of Commerce, he loved to shoot down the occasional balloons of complacency he encountered . . . or, more properly, uncovered.

He cared little if those about him agreed or disagreed with him. The combative Rigby loved a free-swinging exchange. Debate was a process of profiling a community decision with him . . . just like the founding fathers of this nation, he would quite correctly say. He was ferociously relentless when he smelled the over-ripeness of a problem or was defending some cherished position.

An unusual blend of a personality, he was both cause-finder and a shrewd businessman.

When Parley Rigby died last week, it is fitting that many of the other community leaders of his times remembered him fondly and warmly for his battle stars. In the twists and turns of a community's history, he was always a glowing point of reference.

PARLEY RIGBY, CIVIC LEADER, DIES

Parley Rigby, former postmaster and Idaho Falls civic leader, 81, died Thursday morning in a local hospital following a stroke. He lived with his wife, Margaret, at 238 E. 18th St.

Mr. Rigby served as Idaho Falls postmaster for 25 years, retiring in 1959. Since that time he had remained in Idaho Falls and remained active in various business interests. He entered the hospital three weeks ago.

Mr. Rigby was born in Logan, Utah, March 20, 1892, son of William F. and Elizabeth Eckersley Rigby. His early education was at Newton, Utah. From 1910 to 1914, he attended Utah State Agricultural College where he was a member of Pi Kappa Alpha fraternity.

In 1914, he went to Rexburg as fieldman for a grain company. He lived there until 1917 when he enlisted in the U.S. Army and served for 17 months, a year of which was overseas, in the 315th Field Signal Battalion, 90th Division.

On his return from the service, Rigby came to Idaho Falls in August of 1919, to manage a grain company in which he continued until 1934 when he was appointed postmaster here. On June 20, 1923, he married Margaret Moseley of Idaho Falls.

Active civically, Mr. Rigby was a charter member of Bonneville Post 56 of the American Legion which he joined when it was formed here in 1919; serving as its commander in 1932. Also a charter member of the Kiwanis Club, he served as its president in 1926. He was elected exalted ruler of the Idaho Falls Elks Lodge 1087, in 1928, Mr. Rigby presided over the first lodge session in the original lodge building on Shoup Ave.

In 1926, he was elected to the Idaho Constitutional convention that repealed prohibition. From 1934 to 1945 he was the driving force of the American Legion's War Bonnet Roundup, serving as its chairman for all those years.

Mr. Rigby also helped to direct the affairs of the Idaho Falls municipal government, serving as a member of the City Council from 1927 to 1931, and of the Chamber of Commerce on whose board of directors he served from 1925 to 1927 and from 1946 to 1948. He had since that time received a life membership in the Chamber of Commerce.

He was a charter member of the Idaho Falls Community Chest and two years ago was given a life membership by that organization. He was a charter member of the Idaho Falls Men's Golf Assn.

Actively concerned over the administration of affairs at Idaho State Hospital South at Blackfoot, Rigby served in 1945 on an investigating committee appointed by then Idaho Gov. C. C. Gossett, to probe conditions at the hospital. In 1946–1947 he was a member of the Charitable Institutions Commission appointed by then Gov. Arnold Williams.

As chairman of the National Foundation for Infantile Paralysis from 1938 to 1949, he took a personal interest in the welfare of hundreds of polio stricken children.

Mr. Rigby was active in receiving the charter for the Bank of Eastern Idaho of 1947, and was one of its first stockholders. In 1939 he served as president of the Idaho Chapter of the National Association of Postmasters. In 1958, he was elected first commander of the Idaho Falls Barracks 1252 of the Veterans of World War I. Since his retirement he had been active in the National Association of Retired Civil Service Employes.

In addition to his widow, he is survived by two children, William F. Rigby and Mrs. Martha Pond, both of Idaho Falls, seven grandchildren and one sister, Mrs. Letha Griffin of Logan, Utah.

Funeral services will be conducted Monday at 1 p.m. at the Wood Chapel of the Pines with Bishop Robert Crowley of the 2nd LDS Ward Bishopric, officiating. Interment will be in the Rose Hill Cemetery.

Friends may call at the Wood Funeral Home.

Friends who wish to do so are asked to contribute to Mr. Rigby's favorite charities including Gem State Blind Assn., Harbor House and March of Dimes.

LET'S HEAR IT! FOR UNITED STATES

Mr. BEALL. Mr. President, at a time when we seem to be preoccupied with the negative aspects of life in these United States, it is necessary, I think, that we occasionally take time to contemplate the positive virtues of American life. In their November 19, 1973, issue, U.S. News & World Report reprinted an editorial presented by Mr. Gordon Sinclair, a noted Canadian radio and television commentator, entitled "Let's Hear It! for U.S." I ask unanimous consent that it be printed in the RECORD.

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

LET'S HEAR IT! FOR UNITED STATES

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth. . . .

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities [were] flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. *Now* newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here. . . .

When the railways of France, Germany, and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one

time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

DEAN RUSK LOOKS AT THE KENNEDY YEARS

Mr. FULBRIGHT. Mr. President, on November 26, former Secretary of State Dean Rusk appeared on a special television program entitled "Dean Rusk Looks at the Kennedy Years" on WAGA, channel 5 in Atlanta.

During the course of the program, Mr. Rusk was asked about the 1962 Cuban missile crisis by the interviewer, Paul Shields. I would like to quote from the transcript of the program:

SHIELDS. "And we didn't have that amount of time with the Cuban Missile Crisis, though, did we?"

RUSK. "The one thing that President Kennedy had in mind was that in a nuclear world if you back a man into a corner from which he cannot escape he might elect to play the role of Sampson and pull the temple down around himself and everyone else at the same time. So despite the advice of Senator Fulbright, Senator Russell, Mr. Dean Acheson to start with all-out bombing of Cuba . . ."

(Rusk stopped, and Shields continued.)

SHIELDS. "Those men recommended that?"

RUSK. "Yes, very strongly and President Kennedy went to special pains to give Chairman Khrushchev a few days to take the missiles out by peaceful means rather than move the matter immediately to a much higher level of action or confrontation."

Since Mr. Rusk made mention of me in the interview and stated that along with Senator Russell and former Secretary of State Dean Acheson I strongly advised President Kennedy to "start with all-out bombing of Cuba," I feel compelled to make some comments which I hope will set the record straight.

SETTING THE SCENE

First, it is important to set the scene. On October 22, 1962, I was summoned back to Washington from Arkansas, where I was campaigning for reelection, and was asked to attend a meeting at the White House, along with other congressional leaders.

As I have stated on a number of previous occasions, the President and his advisers had apparently already determined their course of action and the meeting with Members of Congress was essentially a formality. President Kennedy's purpose in calling the meeting was to inform Congress of his plans rather than to seek advice. It was not a consultation so much as it was a briefing.

The meeting was scheduled to begin at 5 p.m., and last only an hour. The President was to make a national television address at 7 p.m.

It is also important to recall that the President and his immediate advisers had been considering this matter for more than a week, with intensive discussion of alternatives. These discussions have subsequently been reported in a number of articles and books.

The first meeting of what was to become known as the Executive Committee of the National Security Council or ExComm was on October 15. Later, Presidential Counsel Ted Sorensen was to refer to "the exhaustive and exhausting deliberation" of that long October week."

Stewart Alsop and Charles Bartlett, in a widely discussed article in the Saturday Evening Post, December 8, 1962, reported in great detail on the deliberations that took place. I believe that article may have been responsible for the popularization of the terms "hawks" and "doves." For the record, according to that article, the hawks favored an air strike, either with or without warning. This group was reportedly made up of John McCone, Director of the Central Intelligence Agency; Douglas Dillon, Secretary of Treasury; Dean Acheson, former Secretary of State; Maxwell Taylor, Chairman of the Joint Chiefs of Staff; McGeorge Bundy, Special Adviser on National Security Affairs. The "doves," who reportedly favored a blockade, included Defense Secretary Robert McNamara; Attorney General Robert Kennedy; Robert Lovett, former Secretary of Defense, and Llewellyn Thompson, former Ambassador to Russia. Secretary of State Rusk was, according to the article, a "dawk or a hove."

Sorensen wrote:

The President . . . could not wait for unanimity among all his advisers or for a special Congressional session . . .

Pierre Salinger, in his book, "With Kennedy," wrote:

Over the next 7 days, the White House was the scene of almost continuous E—COM meetings, with and without the President.

Describing that period in his book, "The U.S. Intelligence Community," Lyman B. Kirkpatrick, Jr., writes:

In 13 days the chief decision-makers of the Government reviewed a virtual encyclopedia of action-reaction possibilities involving not just what Russia would do and how the United States would react, and vice versa, but what the reactions of many other nations would be. A study was made of possible Soviet reaction against Berlin, already the scene of a serious confrontation between the United States and Russia, or against the American Jupiter missiles in Turkey and Iran. The support of the Organization of American States was considered important to the "legalistic-minded decision makers in the Kremlin," according to former Ambassador Llewellyn Thompson. The President asked Secretary of State Rusk to prepare a list of all possible allied reactions, which was presented to ExCom on the second day.

According to Kirkpatrick, the intelligence community operated on a 24-hour-day basis during the crisis:

Starting on August 27, a daily situation report on Cuba was circulated to top federal officials. On October 16 the USIB commenced daily meetings to approve national estimates for presentation to the ExCom at its morning meeting. The photointerpreters, who already had been working extra shifts, put in exhausting hours to cope with the miles of film arriving each day. Every agency's collectors, especially the CIA's watched Soviet activity throughout the world, with particular concentration on crisis spots such as Berlin, Turkey and Iran. Not only were all moves by Russian diplomats studied but those of Soviet intelligence personnel were followed even more intently than usual (if that was possible).

At the height of the crisis, the Russians used the KGB *Rezident* in Washington . . . to contact John Scali, an ABC–TV correspondent covering the State Department, to ascertain "unofficially" U.S. intentions. Scali immediately advised the State Department and was given the official American position, as communicated to Moscow, to give to Fomin. There was valuable guidance in this action for U.S. intelligence.

In his book, "A Thousand Days," Arthur M. Schlesinger, Jr., details the debates within the executive committee between the supporters of an air strike and those who favored a blockade. Schlesinger wrote:

The supporters of the air strike marshalled their arguments against the blockade. They said that it would not neutralize the weapons already within Cuba, that it could not possibly bring enough pressure on Khrushchev to remove those weapons, that it would permit work to go ahead on the bases and that it would mean another Munich. The act of stopping and searching ships would engage us with Russians instead of Cubans. The obvious retort to our blockade of Cuba would be a Soviet blockade of Berlin.

At a later meeting of the group, according to Schlesinger:

The balance of opinion clearly swung back to the blockade (though, since a blockade was technically an act of war, it was thought better to refer to it as a quarantine.) In retrospect most participants regarded Robert Kennedy's speech as the turning point. The case was strengthened too when the military representatives conceded that a quarantine now would not exclude a strike later.

In the final debate of the executive committee, Schlesinger reports:

McNamara impressively presented the case for the blockade. The military with some civilian support argued for the strike. Stevenson spoke with force about the importance of a political program, the President agreeing in principle but disagreeing with his specific proposals. A straw vote indicated eleven for the quarantine, six for the strike. The President observed that everyone should hope his plan was not adopted; there was not a clearcut answer.

Roger Hilsman, in his book, "To Move a Nation," offered a similar description of developments in consideration of alternatives.

The discussions on Wednesday, October 17, examined the whole range of alternatives, but sentiment seemed to be strongest for an air strike or a *coup de main* by parachute forces, a "surgical operation" to eliminate the bases in a sudden, surprise attack.

The ExComm met almost continuously Wednesday, Thursday, and Friday, October 17, 18, and 19. On Thursday, the "surgical operation" to take the missiles out in a single blow by an air strike began to look less and less inviting. Even if it were successful, the United States would be left with a moral stigma as the Attorney General said, and the Soviets would have solid evidence to support their propaganda that the United States would someday begin World War III by launching a surprise attack on the Soviet Union. The only way of lessening the moral stigma would be to give advance warning, and this would permit preparations and defensive measures that would make the attack less likely to succeed. . . .

The idea of an invasion alone was also discussed. But exactly the same criticisms

that applied to an air strike also applied to an invasion. In addition, it would be extraordinarily difficult to keep the preparations for an invasion secret, and the element of surprise would probably be lacking. There would also be a delay, which meant that the missiles might become operational, for it would take time to assemble the necessary forces.

Thus by Thursday evening a consensus began to develop around the idea of a blockade against offensive weapons as a first step—in McNamara's phrase, maintaining the "options" of raising the level of the blockade, of launching an air strike, or of mounting an invasion as progressive increases in the level of force to be used if increases proved necessary. Before the day was over, the President had indicated his own preference for blockade.

On October 22 Salinger took down the following direct quote from the President in a discussion prior to Salinger's press briefing:

We chose a quarantine over an air strike because there is no certainty of hitting all the targets. We are also uncertain how many of the sites are operational. While we were hitting one, another might launch its missiles against us. A quarantine is far less likely to provoke a nuclear response.

All of these references are cited in order to point out that extensive deliberations had taken place in advance of the President's meeting with congressional leaders, and that a variety of different proposals had been considered in detail. As the President had reportedly said of the various options:

There just was not a clearcut answer.

THE WHITE HOUSE MEETING

Now let me turn to the meeting at 5 p.m. on October 22. As I previously stated, the President had determined his course of action prior to the meeting and, in fact, already set it into motion.

He did, however, indicate to us the alternatives which had been considered.

Senator RUSSELL and I indicated that we thought an invasion of Cuba by American forces might be a wiser course of action. My reason for expressing this view was that a blockade, involving as it might, a direct, forcible confrontation with Russian ships, would be more likely to provoke a nuclear war than an invasion which would pit American soldiers against Cuban soldiers and allow the Russians to stand aside.

Hilsman described the meeting this way in "To Move a Nation":

The congressional meeting began with an intelligence briefing. After McCone and an aide had finished, the President began to talk. He explained why an air strike or an invasion would be unwise, emphasizing that the quarantine was only the first step. An invasion might soon become necessary, but it would take still another week to assemble the force and in the meantime it was essential to stop the Soviets from bringing in more equipment to make the missile bases fully operational. Senator Richard B. Russell of Georgia, Chairman of the Senate Armed Services Committee, urged an immediate invasion. A quarantine would take time and thus increase the risk. As for warning and striking the first blow, President Kennedy's speeches and the congressional resolution putting the Soviets on notice that the United States would not tolerate offensive bases in Cuba were ample warning. It was the Soviets who had struck the first blow by putting the missiles in Cuba. Surprisingly, J. William Fulbright, Chairman of the Senate Foreign Relations Committee, who had opposed the Bay of Pigs landings and who, a year earlier, in June 1961, had noted the possibility of Soviet missiles someday appearing in Cuba and had said that he doubted they would alter the balance of power in the world, supported Russell. It seemed to him that intercepting Soviet ships at sea was just as risky as taking out the bases themselves.

The President listened politely.

Pierre Salinger offered this account of the meeting:

At 5:00 p.m., the congressional leaders were taken into his office, shown the aerial photographs and told of the quarantine announcement that would come only two hours later. Senator Richard B. Russell, chairman of the Armed Services Committee, argued instead for an invasion, and had support from J. William Fulbright. The President heard them out, but said he would not change his strategy.

Mr. Sorensen, in his book, "Kennedy," wrote of that meeting:

Reacting to a McNamara-Rusk-McCone picture briefing the same way most of us originally did, many called the blockade irrelevant and indecisively slow, certain to irritate our friends but doing nothing about the missiles. An invasion of the island was urged instead by such powerful and diverse Democratic Senators as Russell and Fulbright (who had strongly opposed the 1961 Cuban invasion). Charles Halleck said he would support the President but wanted the record to show that he had been informed at the last minute, not consulted.

Sorensen reports President Kennedy as having said later:

My feeling is that if they had gone through the five-day period we had gone through—in looking at the various alternatives, advantages and disadvantages . . . they would have come out the same way that we did.

The important point here is that we had not gone through the days of considering various alternatives, advantages and disadvantages, "and as Mr. Sorensen has noted, most of us initially reacted to the information we were given in the same manner as did those in the Executive Committee."

As I have subsequently stated, had I been able to formulate my views on the basis of facts since made public rather than on a guess as to the nature of the situation, I might have made a different recommendation. In any case, the recommendation which I made represented my best judgment at the time and I thought it my duty to offer it, although Mr. Sorensen, in his book, refers to the temerity of those of us from the Congress who expressed opinions at the White House meeting as "the only sour note" in all of the decisionmaking related to the crisis.

President Kennedy's actions proved to be effective and responsible. Nonetheless the episode served to underline the inadequacy of executive "consultation" with the legislative branch during crisis situations, a problem that was greatly heightened during the following years and persists to this time.

Having reviewed the history of the missile crisis decisionmaking, I want to turn again to the remarks made by Secretary Rusk during the Altanta television interview. He stated that Senator Russell, Mr. Acheson and I strongly advised all-out bombing of Cuba.

Insofar as I know, no one advocated "all-out" bombing of Cuba. However, I should add that I do not know what Mr. Acheson's views were. At the time of the meeting I attended, he had already been dispatched to Europe by President Kennedy to brief President De Gaulle and other European leaders.

As most accounts of the meetings have indicated, what Senator Russell and I suggested was an invasion. The possibility of a surgical air strike against the missile sites was also discussed. As I indicated earlier, I viewed an invasion as less provocative than a blockade and less likely to lead to nuclear war.

To my knowledge, there was no consideration of "all-out bombing." I have not seen this referred to in any of the numerous accounts of the missile crisis. Robert Kennedy, in his memorandum, first published in McCalls of November, 1968, and later printed as a book, "Thirteen Days," wrote that Senator Russell "felt the President should take more forceful action, a military attack or invasion," and that I also advised military action.

Certainly it was not my position that we should engage in all-out bombings, and I want the record to be clear on this point. I have learned from past experience that it is best not to let a remark such as this go unchallenged, because such comments seem inevitably to become a part of accepted history.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Atlanta Constitution of November 26 about the Rusk interview entitled, "Advisers Told JFK To Bomb Cuba," and an article from the Hot Springs, Ark., Sentinel-Record of October 30, 1962.

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

MCCLELLAN, FULBRIGHT BACK KENNEDY ON CUBA CRISIS

WASHINGTON.—Arkansas' two U.S. senators—each a power in the Senate—are strongly back of President Kennedy's stand in the Cuban crisis.

Sen. J. William Fulbright, chairman of the Senate Foreign Relations Committee, was one of the congressional leaders summoned to Washington by the President for consultation before he announced the arms blockade of Cuba.

The Soviet arms buildup in Cuba, Fulbright said, presented an intolerable situation which required action by the United States. The President took action "and I support the President," Fulbright said.

Fulbright said the Congressional leaders weren't consulted in advance of the decision made by the President, that the meeting was for the purpose of telling them, not asking them. There was a little discussion and few views were expressed, he said, but most of the group listened and then said "we're back of you Mr. President."

McClellan voiced his support for the President's action early the next morning after Kennedy's Monday night talk.

[From the Atlanta Constitution, Nov. 26, 1973]

RUSK SAYS IN INTERVIEW ADVISERS TOLD JFK TO BOMB CUBA

(By Paul Jones)

At the height of the Cuban missile crisis in the early 1960s, three highly influential leaders in Washington—the late Sen. Rich-

ard Russell of Georgia, Sen. William Fulbright of Arkansas and former Secretary of State Dean Acheson—urged President Kennedy to "start with all-out bombing of Cuba," former Secretary of State Dean Rusk will disclose in a special interview Monday night.

Making a rare appearance in an interview taped in Athens, where he is now professor of international law at the University of Georgia Law School, Dean Rusk discusses, with great candor, the Kennedy years and the many crises which confronted his administration.

Rusk, in the interview, which will be broadcast in prime time at 9:30 p.m. on Channel 5, says that President Kennedy's cool thinking prevented a nuclear war during the Cuban missile crisis.

He tells Paul Shields, a member of the Channel 5 news team who conducted the interview, "The one thing that President Kennedy had in mind was that in a nuclear world if you back a man into a corner from which he cannot escape, he might elect to play the role of Samson and pull the temple down around himself and everyone else at the same time.

"So despite the advice of Sen. Fulbright, Sen. Russell, Mr. Dean Acheson to start with all-out bombing of Cuba. . ."

"Those men recommended that?" Shields interjected.

"Yes, very strongly," said Rusk, who spent his boyhood in rural Georgia. "And President Kennedy went to special pains to give Chairman Khrushchev a few days to take the missiles out by peaceful means rather than move the matter immediately to a much higher level of action or confrontation."

Rusk states in the interview that the Cuban affair had a sobering effect for both sides.

"I think both sides had a chance to look down the cannon's mouth and they did not like what they saw," he says.

Rusk says such confrontations ought not be repeated because humans being what they are, they might one day come up with the right answers.

He says that summit diplomacy in which the President of the United States meets with leaders of other great powers could be dangerous. He suggests that officials on the ambassadorial or foreign minister level ought to thrash out important matters.

"I'm not convinced that summit is a good idea," he says in the interview, one of few he has given since returning to Georgia.

Rusk tells Shields that a lot of the stories which attempted to depict the relationship between President Kennedy and the then Vice President Johnson as something less than friendly were hokum.

There are other surprise comments, particularly about the funeral following the assassination in 1963.

"I have been greatly saddened by some of the things I've read about that (reported animosity) following Kennedy's death," Rusk says. "I was necessarily very much involved with both families and President Johnson in handling the arrangements of all the distinguished people who came from all over the world . . . and my impression was one of great consideration of both sides to each other. . ."

Rusk praises President Johnson for directing a smooth transition between governments. And he, likewise, praises President Kennedy for giving Vice President Johnson opportunities outside the responsibilities other vice presidents enjoyed.

Rusk says President Kennedy would have pooh-poohed the Camelot idea.

"I think he would have rejected sentiments that have gone together to be called Camelot.

"We're now getting anti-Camelot literature. I think both are somewhat beside the point because this was not JFK. He was a very 'down-to-earth' fellow and would not have embraced sentiment of that sort. . .," he says in the interview, which will preempt the Dick Van Dyke Show this one night only.

REPORT ON IRAN OIL PRODUCTION

Mr. GOLDWATER. Mr. President, on November 28 I asked unanimous consent of the Senate to absent myself for 1 week for the purpose of accepting an invitation from his Imperial Majesty Mohammed Reza Pahlavi Aryamehr, Shahanshah of Iran. The Senate voiced no objection, and having completed that journey, I desire to submit a report to my colleagues. A more complete discussion will follow my introductory remarks, and if any of my colleagues have any questions, I will be happy to discuss them.

To begin with, there is no question that his Majesty, the Shah, and the country of Iran are friends of the United States, and there is no question in my mind but what we should do everything in our power to strengthen that friendship and to help them as they prepare to defend that vital portion of the world against possible inroads by the Soviets. Accounts of the inroads that I refer to appeared in the Pakistan Times on April 3 of this year, but I have seen nothing of it in the American press. However, I could have overlooked it. My reference is to the concern of Iran that the Soviets may be making either direct or indirect efforts to gain access to the Indian Ocean by land routes through Afghanistan and Pakistan.

I share the attitude of the military and the Shah in being concerned about this, for once the Soviets control the Indian Ocean, and therefore, control the Straits of Malacca, they would pretty well be able to curb any international trade in which we might be engaged.

I found their air force to be exceptionally prepared, well equipped with what is, in my opinion, the ability to perform as well as our own Air Force against any enemy. I was very much impressed with the extent to which they have proceeded with the manufacturing of most of their own ammunition, rifles, machine guns, et cetera. In fact, their achievements here are something we should be proud of as they are doing them themselves. Their navy is small but it is growing and is well equipped with both United States and British ships. In this field, I think we can be of greater aid than we have in the past.

Iran is not only greatly improving her base at Bandar-E Abbas which is the entrance to the Persian Gulf, but she is proceeding with the construction of an even larger one at Chahbahar, which would protect the Gulf of Oman and that portion of the Indian Ocean.

We were shown in great detail the entirety of their oil industry which has grown from discovery in 1908 to one of the world's great producers and shippers of today. They are servicing tankers in the Persian Gulf that are so large we can handle them at only one or two places in the United States. And it is this latter realization that causes me to suggest that we proceed immediately with the construction of offshore, unloading docks connected directly with refineries in every State with access to ocean so that transport deliveries can be handled from the largest tankers in existence. The trend in tanker construction is all towards larger ships. In fact, the Iranians are prepared to service 500,000-ton ships at the present time.

From the stress I have placed on the material things in Iran, one might believe that she is only making progress in that general area. While it is true that her gross national product is increasing and the per capita income will go up by 100 percent within the next few years, Iran is also concentrating on mass education. Schools are being built everywhere, illiteracy is being attacked and wiped out. Of course, the spark plug behind much of the social and educational progress is Her Imperial Highness who exerts a very strong hand in anything involving youth and particularly education.

I have had an unusual opportunity to watch the growth of this country from the days of World War II when I was chief pilot of an airline run from Cairo to Caracas and then on into China which required refueling both ways at Abadan. This interest grew as Iran's first pilots came to Williams and Luke Air Force Bases in Arizona for their training, and I have since that time maintained a continuing interest in the splendid growth of their air force and air bases. I have visited Tehran three times starting back in the World War II days and its growth exceeds anything that I have seen in this country, even though my State of Arizona has the fastest growing population in the Nation. I think I am safe in saying that within 10 years Iran will prove to be the fastest growing economic unit in the world, even outstripping other countries which are now ahead of her.

In making this more detailed report on observations in the Persian Gulf areas, I will of necessity discuss some of the other States because their positions, strengths and futures have a direct bearing on Iran and her position.

The energy crisis that the world is now suffering from will, naturally, have a tremendous impact on the entire area of what we call the Middle East, extending from the Mediterranean to the eastern boundaries of Iran. It is necessary, therefore, to think of this area as a particular part of the world far from isolated and, in my opinion, the most important of all at the present time.

Market trends in Iran and the Persian Gulf area indicate new business opportunities and more intense competition for America. In making realistic forecasts of business opportunities, a decisive factor is the current world energy crisis and its probable impact on the Persian Gulf area.

The energy crisis will result in vast sums of additional money pouring into the area of the Persian Gulf. In spite of the logical argument that a nation can effectively use only such equipment as it can absorb into its defense system—Egyptian pilots crashed four of Lybia's 18 Mirages within a few weeks, according to a news report, leading Lybia to second thoughts about the simple transfer of equipment—most nations here think their capacity larger than it may in fact be.

There is little doubt Israel has given certain aircraft the glamor of victory—notably the Phantom and the Mirage—and what most Arab States want is equipment that has as much glamor as that of Israel's—as good, or better. Equipment that can beat Soviet aircraft is of concern to Iran and to Pakistan—because of Iraq on the one side and India on the other, each with Soviet ordnance. Yet, of primary concern to the Arabs is not the Soviet ordnance of Iraq and Egypt—but of Israel—and it might as well be faced—Iran. In a sense, looking at the Arabs, what may be wanted above all is a counterdeterrent to U.S. equipment sold by the United States itself.

Iran maintains strong, friendly relations with the United States. It is in fact one of the very few positively friendly nations in the whole of Southwest Asia and the Middle East. These relations have recently taken an upturn. The Shah's ambition to become the superpower, both military and economic, of Southwest Asia, is pinned to strong U.S. support. Iran is concerned over Soviet arms deliveries to Iraq and to India—that is to say, with a 1,000-mile border with the Soviet Union to the north, Iraq to the west and India to the east, Iran is virtually surrounded by Soviet ordnance. Nevertheless, Iran pursues an independent foreign policy.

Iran is part of the CENTO group of nations, along with Turkey and Pakistan. This in the early cold war period of attempted Soviet containment, was the strategic northern tier, composed of the non-Arab Middle East. This tended to sharply divide the region into Arab and non-Arab—and with U.S. support for Israel the divisions have been further developed. It has to be overcome.

The CENTO alliance has some continuing life in the loose, largely ineffective economic community which is called RCD. While very little trade passes across the borders—the machinery for cooperation exists in RCD, and IACI must constantly scrutinize the business opportunities this may afford—particularly through creative attention to the agenda of the periodic joint ministerial meetings. In fact, well presented, a service organization such as IACI has a better chance for regional cooperation than many other projects—such as export of potatoes or oranges—because regional service is an integral part of what IACI is designed for. Turkey, which now has a national income lower than Iran for the first time, may find itself now looking more closely to Iran for the first time, but Turkey is a study in itself. It is Pakistan, having a special relationship with Iran, that is basically more interesting for an Iranian headquartered firm. The "richer" Iran becomes in arms, the more it will offer to extend its defensive umbrella to Pakistan. Geographically, Iran bestrides Southwest Asia. A country with a population of 30 million in a land area of 628,000 square miles, it blocks the Soviet Union's access to the warm water ports of the Persian Gulf. Relations with the Soviet Union are not easy, but consolidated with strong economic ties including massive natural gas deliveries in exchange for economic aid which has taken the form of a steel mill and other heavy industry, in fact, the Soviet Union has a greater economic stake in Iran than in Egypt.

The Shah has opted for this course, preferring a limited Russian presence than a completely frustrated superpower along a 1,000-mile shared border to the north. But one of the Shah's strongest fears is Soviet encirclement. The closer the Soviet Union's relations with Iraq, the closer Iran moves to the United States. But for Iran, more important is its border with Pakistan. The Shah's major fear in this area is that Pakistan may go through further upheavals, which might, either through India, or through a Pakistani successionist movement in Baluchistan, lead to a new Soviet presence on the eastern border. This would indeed be an encirclement—something to be avoided by Iran at virtually all costs.

The meeting of Pakistan President Bhutto with the Shah in Tehran this May, underlined the special relationship of the two countries—a meeting in which defense ministers played an important part—leading to policy statements that strongly suggested joint-defense arrangements. The results of this meeting are worth looking into deeply. Not the least reason being that it has probably led to increased Indian anxiety over the massive Iranian military buildup.

In this context, India is worth a note. Both India and Iran's bitterest enemy, Iraq, signed treaties of friendship with the Soviet Union in April, 1972, each tied to Soviet military aid. If Iraq is Iran's bitterest enemy and India is Pakistan's bitterest enemy—India and Iraq become natural allies. Arabs who may fear Iran's military power, but who cannot come to terms with Iraq for political reasons, might look at India in a new light. There is no question that India is banking on this as she now approaches the oil rich Arab States of the Persian Gulf littoral for special deals, as India will undoubtably suffer greatly from the current energy crisis.

As indicated, Iran does not have the best possible relations with the Arabs as a whole. There are many reasons for it. One simple reason is that the Iranians do not generally like the Arabs, man to man, and the whole of Iranian history during the Islamic period shows very little evidence of friendship, finally culminating in a different sect of Islam becoming the Iranian national religion. There is, of course, the thorny issue of Iran's de facto recognition of Israel, and Iran's aloof stance from the Arab struggles with Israel. There are additionally a number of semantic issues which add up to what many Arabs believe is an insufferable "big brother" attitude on the part of the Iranians: One is Iran's insistence of itself as the heir to the Persian empire which once included almost every bit of Arab territory, the Shah retaining the style of imperial grandeur, which is to say, His Imperial Majesty, the Imperial Iranian Air Force et cetera, at a time when "imperialism" is one of the dirty words in the modern third-world vocabulary, and "imperialism" is precisely what they fear from Iran.

But more germane is the emotive issue of the Persian Gulf or the Arabian Gulf by expressing one name or the other you have already taken sides—that is, by saying Persian Gulf, you can already be considered anti-Arab—each side, in a sense claiming sovereignity over the waters by a name. A more substantial issue is Iran's lightning occupation of three islands in the Persian Gulf—Abu Mussa, and the two Tumbs. This for many thoughtful Arabs is the sign of far worse to come, and promptly leading to the very excuse the militant opposition forces required, as they instantly coalesced under the banner of a striking new name—PFLOAG. It stands for: Popular Front for the Liberation of the Occupied Arabian Gulf.

Nevertheless, Iran does have friends in the area, and some are quite substantial friends. To some extent, Iraq has created friends for Iran—so much so, perhaps, that if Iraq did not exist, it would have to be invented. Iraq, which now has about 10 million population and plenty of oil, is a police state run by the Baathists, and ultra-nationalistic, left-wing, pan-Arab group. It shares a border with Jordan. Thus, Jordan looks to Iran on its east, and there is a personal friendship between the Shah and King Hussein, with Iran providing limited aid to Jordan. Favorable Iranian relations with Saudi Arabia are good, based as they are on mutual self-interest in the Persian Gulf region, that is, countering the threat of subversion headquartered in Iraq and containing the influence of the Soviet Union.

Relations with Kuwait are improving, having recently taken an upturn due to the Kuwait-Iraqi dispute in which Iran offered full military support to Kuwait against Iraq if so requested. In this dispute, this April, Saudi Arabia deployed armored units along two fronts of its border with Kuwait in anticipation of a possible Iraqi attack. The incident was the Iraqi demand for two islands in the Persian Gulf off the border of and belonging to Kuwait—the waterless, unoccupied islands of Bubiyan and Warba. The islands would be of undoubted strategic importance to Iraq, as they control the approaches to the oil port of Um-Al-Kasser, recently built with Soviet help—the terminal of the nationalized North Rumilia oilfield which is being developed with Soviet participation—its output largely designed for the Soviet Union—and to which a new generation of Soviet supertankers are slated to call.

Iraq which owns only a 40-miles strip of the Persian Gulf littoral, can easily be blockaded by Iran, its flow of oil cut to the Soviet Union. During this dispute, Admiral Sergi Gorshikov, commander of the Soviet Navy, arrived in Baghdad at the head of a delegation—with the purpose of building up the Iraqi fleet. But Iraq did not get the islands, neither by force nor by lease. It is interesting to contrast the fact that Iran took what it wanted against mild, mostly pro forma protest of the Arab States, while Iraq could not get what it wanted.

To analyze the above, the determining force was not Iran's military strength in a possible movement against Iraq, but the fact that Iraq was utterly isolated in the Arab world—due to the special position of Kuwait. Herein there was a lesson for the other Arab States. Since the last Arab-Israeli war in 1967, Kuwait has paid out over $1 billion in aid to Egypt and Jordan, plus large additional sums to Syria, and undisclosed sums to militant Palestinian organizations. Kuwait stated it would be unable to continue its subsidy payments and should this happen, the Arab confrontation plan against Israel would collapse. Thus, money was Kuwait's most effective weapon. Pressure from all over the Arab world was immediately applied to Iraq, forcing it to withdraw.

Thus, while Kuwait may thank Iran, it did not look to Iran in the first instance as a "big brother," and in fact continues to cooperate with militant Arab States, many of whom have undoubtedly turned their eyes to the immense additional wealth the Persian Gulf States will generate, possibly with the movement of more militants into the area—the clearest target being the Union of Arab Emirates.

The UAE is a union of the seven trucial sheikdoms near the mouth of the Persian Gulf—which include Abu Dhabi—shortly to be as oil-rich as Kuwait, and Dubai—which is the commercial capital of the UAE. Before the oilboom in the 1960's, they had village-size urban populations and a few Bedouin. Almost their entire population has been recent immigrants. Thus, today more than 75 percent of the people are not native, and this may shortly rise to over 90 percent, if the experience of Kuwait is a guide. The UAE today has a total population of 200,000, while Kuwait has about 850,000—in other words, there is the likely possibility of a four fold population increase as the big money starts to roll in, and the UAE begins to count its wealth in multiple billions of dollars.

Iran's relations with the UAE are good, but better with Dubai than Abu Dhabi. Relations are also good with Qatar and with Bahrain. Iran is currently negotiating a naval base on Bahrain where the United States also maintain small naval facilities.

Relations with Oman are good. Most Omanis are Shi'as, which is to say, of the same sect which is the national religion of Iran.

Throughout the region, the major oil producing states are royalist, with the exception of Iraq. Most have rightist governments, again, with the exception of Iraq. Thus, while militant Arabs may claim that Iran is another Israel, a tool of Americans, the Shah also has his supporters. As a resolute royalist leader of great strength and determination, he has a distinct appeal to many of the royalist Arab governments in the Persian Gulf region. The normalization of Iranian relations with Egypt has further helped in reducing tensions in the area.

Much of the answer to this depends on a clear assessment of the current energy crisis.

To see the impact of the energy crisis in some depth, it is important to see this problem in its world-wide perspective.

On the simplest level, the energy crisis means the United States is no longer self-sufficient in oil. Oil will have to be imported. Very large quantities of oil.

The consequences are dramatic. The virtual unlimited supplies of the United States determined the price structure of oil in international markets, and provided a strategic reserve for the free world. Now, the United States can no longer supply itself, much less the free world. For at least a decade, the oil producing states will have a potent political and economic weapon.

In the United States, every man, woman and child consumes the energy equivalent of one barrel of oil per week. If industrial growth is to be sustained, this will rise over the coming decade to about two barrels of energy per week—and the rest of the industrialized world will not be far behind.

Today, the U.S. produces about 11 million barrels per day and consumes 17. By 1980, U.S. consumption is expected to rise to about 25 million barrels per day. Only by an almost disastrous rise in the price level of oil will the United States be able to put marginal reserves of oil into production. The clear prospect before the United States in the immediate future is the import of at least half U.S. oil requirements.

Just as the United States will require 25 million barrels per day in 1980, Europe will require between 25 and 30, and Japan 15—the remainder of the world another 25. By this calculation, about 90 million barrels per day will be required.

There is only one area of the world where there is a large surplus of oil in the ground and where it can be extracted and exported at relatively cheap prices. That is the Persian Gulf.

More than 60 percent of the world's proven oil reserves lie under the gulf, or, in the oilfields of its immediate hinterland.

At this time it is academic to speak of other major areas of potential world supply or to discuss developing new energy technologies. Much may be done, and done quickly, an Apollo-type crash energy program funded at $20 billion or more by the United States, a counter-reaction against the environmentalists and the opening of off-shore U.S. areas to exploration and development, much can be done in the way of end-user energy conservation, but as far as we can see today, the coming decade of world energy supply belongs to the Persian Gulf.

From the Persian Gulf will come about three-quarters of all the oil moving in international trade. About 80 percent of the world's shipping tonnage will pass the 900 miles from the heart of the Middle East through the Straits of Hormuz at the mouth of the Persian Gulf, out to the Gulf of Oman and the Arabian Sea. To block the flow of oil at any point along this length, in the Persian Gulf itself or at its approaches, would be to cut the jugular vein of the West.

Whoever manages to control this waterway, will have great power.

Iran has decided to take up this task, the Shah becoming the "guardian of the jugular vein." As he recently stated to "Newsweek," the United States is solidly behind him "as it has no other choice".

The oil-producing states of the Persian Gulf will become incredibly rich. So suddenly rich, in fact, that there is no precedent for it in history. Today the monetary reserves of states like Saudi Arabia or Kuwait exceed those not only of India, but of Scandinavia. Yet, this is only the beginning. Saudi financial reserves which are about $3 billion today are expected to increase more than twenty fold in 10 years—which is to say, well over $60 billion.

By the 1980's, the respected British magazine, the Economist, has projected that about one-third of the entire monetary reserves of the world will be controlled by the Persian Gulf States.

In 1970, the United States paid $2.1 billion for oil imports. The cost will rise to $13 billion by 1975. It is expected to top $32 billion annually by 1985. At the Chase Manhattan Bank they are currently talking of a leveling out at a mere $20 billion a year for the United States—and in this they are much more optimistic than many other qualified observers. There is serious question as to whether or not the American currency can stand this trade imbalance—or more fundamentally, whether or not the United States can spend such vast sums simply for basic energy and still remain a world power.

At best, the shift to new power realities will be difficult for many people to swallow. A tension may build up that may have dire consequences for the peace of the region. If this has caught many nations in the world by surprise, it has also caught, by its extraordinary magnitude, the Persian Gulf States also by surprise. In 1970, oil passed from a buyer's to a seller's market—a market so extraordinary that it boggles the imagination even of the sellers. It has given an additional dimension to all the development plans made by the Persian Gulf States—making all their plans developed during the period 1960–72 virtually obsolete.

The following examples will prove the point. The state national reserves of Kuwait are now approximately $3 billion. Yet, careful observers estimate that more than $3.5 billion in additional money is in private Kuwaiti hands—which is to say that in Kuwait there are oil billionaires. Over the next years to 1980, it is projected that Kuwaiti State reserves will probably arrive at $10 billion. If private income also moves at the same rate, there will be extraordinary financial power in private hands. But similar activity will grow elsewhere on the Persian Gulf as well. Little Abu Dhabi will build up monetary reserves of about $8 billion in circumstances not dissimilar to that of Kuwait. Qatar will build up $2 billion, and Saudi Arabia is expected to have reserves ranging from $60 to $75 billion. There have certainly been some Texas oil millionaires, but the Persian Gulf oil boom will produce some individuals who will make them look like paupers.

It was only between $6 to $8 billion that forced the latest devaluation of the dollar. It is estimated that of this specula-

tive money, only $1.5 billion came from this area. The point is that Arab money is going to be influential—not only state money upon which all the comment is being made around the world, but private money that can buy out whole companies of almost any size.

While the oil journals are taking the lead in counting Saudi Arabia's new wealth and key position as energy supplier to the world, there may in fact be a slightly different scenario played out.

Saudi's projected annual income of $25 billion or more is predicated on production of 20 million barrels per day—all of which is today controlled by American companies, and thus a large part of which will be destined to supply the United States.

But it is not clear Saudi Arabia wants to go to 20 million barrels per day.

From the Saudi point of view they recognize they have the oil reserves to produce this much, but in doing so they may be creating problems for themselves they do not need. What is the use of an astronomical number of billions of dollars in banks? The oil in the ground may be worth just as much if not more. There is serious thought in Saudi that they should make only as much money as they can effectively use in Saudi economic development and in carefully considered investments abroad. Thus, there is a movement in Saudi that production of 12 million barrels per day might be best for Saudi Arabia.

This is not idle speculation. Lybia has cut back. Kuwait has decided that although they can easily produce 5 million barrels per day, they will level at 3. Abu Dhabi, which will also be able to produce 5, is taking the same attitude, and is expected to level at 3. This will have the effect of forcing prices up and making the oil in the ground still more valuable.

Then there is also the American point of view. Is it wise to be so wholly dependent on only Arab oil? Would it not be better to have a counterbalancing productive capacity in Iran—at least to the extent possible?

Iran, contrary to the Arabs, is prepared to empty its oil wells for cash immediately.

The Shah has indicated a number of times that he does not believe that oil in the ground to be of any great value. Its real value comes only when it is marketed. With this thought in mind, I believe he will continue to produce oil at an increasing rate.

I find myself in ageement with his philosophy here because the energy crisis, particularly as it has affected the United States will cause this country to greatly accelerate and expand its efforts to produce new sources of power and I am convinced that we will be successful. The world cannot depend on oil forever. Someone must develop other types of power and we are that someone. I believe the Shah realizes this. I believe that this factor is probably the motivating one in his wise decision to continue to produce and sell compared to the unwise decision of Arab States to hold back. What I am trying to say is that in my opinion, we are not too many years away from the time when oil will find its value in the petrochemical fields and we will find other power with which to turn our wheels.

When I say Iran will empty her wells, I mean it is prepared to do so without asking for a change of U.S. policy in the Middle East. It is prepared to continue supplying oil in the event of another Arab war with Israel at a time when King Faisal has stated on three recent occasions that Saudi Arabia "would join other Arab States in consolidating with Egypt" in an oil boycott to the United States.

Iran is counting on the United States to see Iran as its only chance of a possible alternate source of supply—and thus to encourage to the highest extent possible the development of Iran's oil production and delivery capacity.

This Iranian policy is not new. It has been carefully cultivated over many years, and its latest catchword is "secondary recovery."

What secondary recovery techniques mean to Iran is an extra $100 billion in revenue—for it boils down to using methods that will raise Iran's recoverable reserves of oil by about 60 percent.

Without such techniques, Iran would have to level off with a production of about 7 to 8 million barrels per day. What Iran wants is to bring production up to between 10 and 12.

To give this Iranian policy of emptying its oilfields more drama, the Shah will install atomic energy reactors at three sites in Iran as soon as possible, probably within the next 3 years. One he will place at Bandar Abbas at the very mouth of the Persian Gulf as the most visible evidence of Iran's intentions—indicating on the one hand that he is far in advance of the technology of the region—and serving notice that Iran is already preparing for the end of the oil era.

To what extent will this Iranian strategy pay off? Should Iran go to the very maximum possible production—say 12 million per day—and should Saudi Arabia opt to level at 12—then there would be production parity between the two.

Would it help the world? Probably not. Estimated needs are too great. The shortfall would lead to a very high jump in prices—and this would ultimately work against the Arabs, for it would solve the energy crisis through the price mechanism, opening vast, hitherto too expensive, additional energy reserves for the world. This would greatly raise the price of all manufactured goods.

The above has been indicated as a possible alternate scenario—should Saudi Arabia not drive ahead and produce 20 million barrels per day and more. Below are the range of projections:

[Production million barrels per day]

	1973	1980
Saudi Arabia	7.3	12–20+
Iran	6.1	10–12
Kuwait	3.0	3–5
Abu Dhabi	1.3	3–5
Qatar	.6	1.8
Total	18.9	28–44

It is clear from the figures above that Saudi Arabia plays a crucial role. It can out-produce all the other Arab States both in the Persian Gulf and elsewhere. It can in fact out-produce Iran and all the other Arab States in the world taken together. If it decides to go all the way and produce as much as is needed at relatively cheap prices—it offers a solution to the energy crisis. If not—in the troubled period ahead, there will be an added dimension of trouble. Either way, Iran will probably get what it wants—maximum possible production, with an oil income above $10 billion per year by 1978.

PERSIAN GULF TROUBLE SPOTS

The Arab-Israeli conflict will come to the Persian Gulf in a new manner through Arab oil politics and the very potent economic weapon the Arabs now possess. It may not simply come through the States themselves, but through the pressure of militant oil workers. There are tens of thousands of Palestinians in the Arab oilfields of the Persian Gulf, along with Egyptians, Syrians and Iraqis. Some may be open to the influence of subversive elements.

Subversion is the major fear in the Persian Gulf.

The major current trouble spot of this type is in Oman on the approaches to the Persian Gulf. It is the home base for the revolutionary PFLOAG, operating in Oman's southern province of Dhafar, but encouraging active subversion in other Arab States. The PFLOAG obtains support from Iraq and has a branch office in Algeria. British troops, seconded to the Sultan of Oman, are involved in the struggle against the PFLOAG. Iranian troops are also involved. Prime Minister Hoveyda has admitted in an interview to Iran having a force of 300 paratroopers supported by helicopters and C–130 transports, there at the request of the Sultan.

Thus, there is Iraq at the headwaters of the Gulf, and the PFLOAG on the eastern bend of the Arabian Peninsular at the approach to the Gulf.

There is also the Baluchi successionist movement in Pakistan, supported by arms deliveries from Iraq, which has been recently foiled. Baluchistan is on the approaches to the Gulf, opposite Oman.

Within the Gulf area itself there are six armies—Iran, Iraq, Kuwait, Saudi Arabia, Qatar, and the UAE.

Iran is the overwhelmingly powerful force. Nevertheless, Iraq can make considerable short-range trouble by a lunatic lightning attack designed to knock out major oil installations, some of which can be reached by a strong arm throwing a handgrenade, not to speak of missile launches and strike aircraft. Iraq is now in the process of building a small, Soviet sponsored navy. Iraq is capable of taking over Kuwait in a morning, and knocking out Abadan before lunch, but by suppertime, Iraq would be dead. Only the most desperate gamble by Iraq would lead to such a move.

Both Iran and Saudi Arabia have purchased aircraft, for air superiority over Iraqi MIG's, and both are establishing elaborate radar and missile screens over

their territories. Both are building navies, Saudi Arabia so far only a small navy, while Iran has large ambitions.

Iran's ambitions are so large, in fact, that they must be reviewed not only in the light of the Persian Gulf, but on a world power scale. It is clear that the Shah sees the Persian Gulf as the strategic center of a very broad area, encompassing India on the one side and Egypt on the other. He is apparently seeking military parity not with any single Arab power, but with Israel and the Arab powers taken all together.

In his remarks to Newsweek in May of this year, he discounted the fact that he has more Phantoms than Israel, by combining the number of aircraft of both Israel and the Arabs, attempting to show that he still had room for additional expansion. Expansion to what? The answer is superpower status in Southwest Asia.

He claimed he will be able to put into the air a strike capability of more than 300 fighter-bombers, helicopters, and gunships by the hundreds, and enough troop and materiel air transport to move an army anywhere within a wide-ranging region. He talked of a naval build-up of imposing size. Iran has the world's largest missile-carrying hovercraft fleet. He has ordered a destroyer and four SOAM Class MK5 fast frigates for delivery this summer. Meanwhile he has negotiated a naval base on Mauritius, deep in the Indian Ocean, and has announced plans to build at Charbahar, the Iranian Baluchi Port, the largest land, air and naval base in the Indian Ocean. The Iranian army is being equipped with no less than 1,700 tanks, by the Shah's count, each equipped with the latest night vision firing devices. The Shah also acknowledged that he is receiving the U.S.'s new "smart bombs"—in fact, anything and everything nonatomic in the U.S. ordnance.

Assuming he achieves the most formidable military force in the Middle East within 5 years—then what?

This is what is bothering the Saudi Arabians. Their reaction to the massive Iranian buildup is not one of complete sympathy. The Saudis are not convinced the major danger lies in the attack of an outside force. They discount the power of anyone to do so—with the exception of Iran itself.

Which is to say, Iran's defensive power is becoming so overwhelming that it does not need much shift of emphasis to become a potent offensive power. It would not only be able to hold Saudi Arabia to ransom but also be in a position to stop the oil flow to the West itself. The Saudis tend to see the major immediate threat from subversion within the Arab States, and the massive Iranian buildup inflaming radical Arab elements and thus feeding and quickening what they fear most, the radical overthrow of the conservative governments—new regimes using the billions in oil revenue to buy arms wherever they can get them.

The area is fragmented, there are many trouble spots and much rivalry and huge sums of money at stake. There is no doubt that King Faisal wants hegemony over the entire Arabian peninsula. He would like at once to be the spiritual center of Islam, the financial center of Islam, and the protector of Islam. Kuwait would contest him on the second of these assumptions, and Shaikh Zayed of Abu Dhabi mistrusts him on the third assumption. Shaikh Zayed believes King Faisal would like to swallow him up, just as he in turn would like to swallow up the whole of the UAE. To protect himself, he now boasts a personal army of 10,000 men, has a squadron of Hunters and a squadron of Mirages on the way. He also has a few billion dollars a year to play with.

THE ECONOMIC DEVELOPMENT PROGRAMS OF IRAN AND THE PERSIAN GULF STATES

Today, every Persian Gulf ruler is committed to programs of economic development which includes roads, harbors, airports, schools, hospitals, irrigation schemes and the establishment of industry.

The financing of these projects do not present major problems in the Arab emirates. The real question is precisely how much infrastructure they can absorb without attaining a saturation point. Their citizens will soon become among the very richest in the world, with per capita incomes far in excess of the United States. They will be tempted toward vast, showy, prestige projects, especially glamorous visual symbols.

Unlike its southern Arab neighbors, Iran does not have a high per capita income. Instead it has population. Hands, with some money, may prove more potent than money and no hands. The current per capita income in Iran is $513. Within 5 years it is hoped to raise this to $907, through a spectacular annual economic growth rate of 11.4 percent. Should this be achieved, and it will take a minimum expenditure of $56.9 billion over the 5-year period, Iran will have emerged from a developing country to the threshold of a diversified industrial economy capable of sustained economic growth, sharply lessening dependence on oil income.

This is the economic goal. The political goal is increased national unity through more democratic distribution of income and social opportunity. The military goal is to have the predominant military strength in Southwest Asia.

The goal that can be most quickly achieved is the last—and little will stand in the way of the Shah in achieving military superiority in the region.

Over the coming 5 years as much as $15 billion will be spent by Iran on its massive military build-up. The actual figure may rise as high as $30 billion. The Shah has stated he will spend 20 percent of his national budget on arms, but this is conservative. There is probably no existing market anywhere in the world as promising or as difficult as the Iranian defense market.

These are heady figures. There is the possibility of a $30 billion defense expenditure by a developing nation of 30 million people over a 5-year period. This is of course a maximum magnitude of expenditure. The safe and conservative course is to assume about $15 billion.

Some of the items that are being bought under defense are: 108 F–4 Phantoms to add to the 72 he has now—at a total cost of $720 million; 141 F–5E fighters—$300 million; 10 KC–135 jet tankers—$70 million; 700 helicopters—$500 million; 800 British Chieftain tanks—approximately $480 million; 8 destroyers, 4 frigates, 12 high-speed gunboats and 2 repair ships—about $300 million; 14 new Hovercraft to add to what is already the world's largest operational Hovercraft fleet—$30 million; and 2 new air-sea bases—$1 billion.

The new hardware will give Iran truly awesome firepower. Already, the Shah's Hovercraft fleet—led by the big British-made BH–7 which can carry up to 150 marines at 70 knots—has the capability to land a battalion of troops on the other side of the gulf in only 2 hours.

The Iranians do not yet control all the traffic in the gulf—but they are certainly moving in that direction. From their new naval-gun emplacements on Abu Musa and Greater Tumb Islands—which they seized from the United Arab Emirates 17 months ago—they make spot radio checks of passing vessels. And they are even expanding their foothold in the Gulf of Oman and the Indian Ocean—thus making Iran a potential South Asian as well as Mideastern power. Mauritius recently agreed to give Iran port facilities in exchange for an undisclosed amount of aid from Tehran. And in a plateau overlooking Chah Bahar Bay in Iranian Baluchistan, American contractors have deployed 250 giant earth movers to construct a $600 million army, navy and air force base—the largest of its kind in all the Indian Ocean. The Shah insists that the mammoth project be completed in 2 years, but contractors estimate that it will take at least 3 and possibly 4 years to finish. Turning to nonmilitary development details, the plan gives priority to agriculture, social welfare, and neglected regions.

There is another major exception and this is in the oil industry itself. Iran will invest $1 billion in this industry and charge it off in higher prices to the consortium of oil majors which purchase more than 90 percent of Iran's oil output. This also makes a great deal of economic sense. Iranian wells produce about 25 percent of the oil that exists in the oilfield. This they do very effectively and very cheaply. But in the United States techniques of secondary oil recovery have been developed enabling oilmen to obtain as much as 45 percent of the oil in an oilfield. These techniques applied to Iran, aimed at a 40-percent recovery, would raise Iranian oil reserves by an extraordinary 60 percent. Such a move, at current world price, is worth well over $100 billion in Iranian oil income. This move is critical to Iran's plans to raise oil production to 10 to 12 million barrels per day.

There will be vast housing programs. But here also, two-thirds of the outlay is to come from private sources. Although there will be an extraordinary $1 billion military bases construction program undertaken by the Government, parallel to worker's homes in key industries being subsidized, while in key areas some low-cost land made available.

Agricultural production is forecast to rise by 5 percent per year, a target which has become urgent in order to hold down rising food prices.

It is believed that 1.8 million new jobs can be created, assuring full employment for all school leavers, and providing scope for the upgrading of unskilled labor to skilled labor. Meanwhile, a serious attempt will be made to control population increase from one of the highest birth rates in the world, bringing population increase down from 3.2 percent to 2.9 percent.

The above assumptions project full employment in dynamic economy on the road toward democratizing income distribution, raising skills and industrial output and leading to a rise in per capita income from the current $513 to $907 by 1978.

On a sectoral basis in the economic affairs section of the fifth plan, the following is to be spent by the public sector:

[In million rials ($2,350M)]

Agriculture and cattle breeding	208,000
Water resources development	108,000
Power supply	53,500
Industrial development	183,900
Oil industry development	130,700
Gas industry development	29,000
Mining	46,500
Transport and communications	174,500
PTT	21,200
Tourism	7,700

Let us take the category transport and communications and detail it:

[In million rials]

Main roads (construction)	54,000
Secondary roads (construction)	32,000
Road maintenance	10,000
Railway expansion	29,000
Ports development	24,000
Airport development and const.	19,100
Civil aviation	5,400
Shipping	1,000
Urban telephone communications	7,600
Telecommunication trunk channels	8,560
Secondary telecommunication lines	230
International telecommunications	490
Telegraphy	800
Postal services	12,890
PTT research and studies	630

We can look a bit further into airport development and construction:

[In million rials]

Completion of unfinished 4th plan projects	2,300
Expansion of existing airports	7,200
Construction of new airports	
Tehran international airport	6,000
Other airports	1,200
Construction of small local airfields	1,000
Major repairs to airports	600
Purchase of Concordes aircraft	5,400
Studies and research	800

Unfinished airport construction refers specifically to the Isfahan airport and the expansion of Mehrabad airport. Expansion of existing airports refers specifically to improvements of runways and terminal buildings due to increased military and commercial aviation activity. Aside from the new international airport, other new airports are specifically on the Caspian, Babolsar, Gorgan and Nowshahr, foreseeing an expansion of Iran air domestic routes. The smaller airports are an attempt to connect agricultural market centers with industrial centers and will be utilized by Pars Air Service as a private sector airline investment.

Looking further at telecommunications in the fifth plan, the following are the major objectives:

Want to arrive at 33 telephones per 1,000 population;

Want to extend direct distance dialing internationally;

Want to expand direct distance dialing domestically;

Want to become an international switching center for the region;

Want the Iran telecommunications company to meet its current expenses own revenue and loans;

Want more reasonable rates to increase traffic volume and turnover;

Make all government agencies pay for the use of telecommunications so that the Iran Telecommunications Co. can operate viably;

Spur the creation of an electronics industry by stepping up demand for domestic production through more rapid expansion of facilities;

Expand TV coverage from 20 percent to 50 percent of the population;

Raise automatic dialing from 430,000 telephones currently to 1,330,000 by 1978, and towns with automatic systems from 44 to 95. And long distance direct dialing to 69 cities and towns;

Increase the microwave telecommunications channels by 50 percent of original capacity, while putting in the second earth satellite antenna; and

Establishment of a troposcatter circuit between Iran and Bahrain, and improve circuitry with Afghanistan.

HOUSING

The fifth plan projects 964,000 new housing units for Iran of which 775,000 will be by the public sector, 189,000 by the private sector—involving a total expenditure of about $6 billion.

INDUSTRY STIMULATED BY THE MILITARY BUILD-UP:

Perhaps the best way of studying this question is to use the examples of the United States and Europe from which parameters for possible projects can be isolated.

On the simplest level, it has stimulated the cement industry—imports moving in from all over the east to make up for an extraordinary shortage. On another level, it has stimulated agro industry, as the military becomes a huge bulk buyer of foodstuffs. It has stimulated the transport industry as many of the new military sites are distant from the center of the country. It has certainly stimulated the communications industry, of which it is a prime example.

On the very specific level, it has stimulated the growth of IACI into what may be a very promising future, if all goes well.

It has stimulated an ordinance industry at Mis, the former headquarters of the oil industry, where a tank center has been established to deal with the modification of about 1,200 tanks and other equipment.

It has stimulated an avionics industry in Shiraz—an electro-optical industry to be set up by the Iranian Government in collaboration with Hughes and Westinghouse. It is believed this facility will be capable of assembling complete systems, including the next generation of laser-guided missile systems, within about 10 years.

But, this is only the beginning. Any industries necesssary for a country to become a military superpower would be considered by Iran.

In summation, Mr. President, the attitude of Iran toward its responsibilities to peace in the world is the attitude which, in my mind, will preserve peace. The strength of its leader, his understanding of his Nation's problems, his burning desire to solve them are the marks of good leadership and the results, in my opinion, will be spectacular.

WITHDRAWAL AND RENOMINATION OF HELMUT SONNENFELDT

Mr. HELMS. Mr. President, as the distinguished majority leader announced on Friday, the time for the debate on the nomination of Mr. Helmut Sonnenfeldt to the post of Under Secretary of the Treasury has been vacated. The Secretary of State has announced that Mr. Sonnenfeldt has been renominated to the post of State Department Counselor.

The withdrawal of this nomination is a timely one. As the Members of this body are aware, the nomination was to have been voted on today under a unanimous-consent agreement. Until the moment when I learned of the withdrawal of the Treasury nomination, there was grave doubt in my mind that the nomination after pending for 7 months was in fact still bona fide. When Mr. Sonnenfeldt appeared before the Senate Finance Committee on October 1, he confirmed that there have been discussions with him about his going to the State Department after being confirmed in the Treasury post. Numerous newspaper articles have since appeared alleging that it was not Mr. Sonnenfeldt's desire to go to Treasury at all, but only to secure a pro forma confirmation by the Senate.

These persistent allegations cast doubt upon the integrity of the confirmation process, and, had they been borne out by events, would have held the Senate up to ridicule. We had had enough criticism about the actions of our Government not being in accord fundamentally with what they seem to be on the surface. This nomination has become an embarrassment to the Senate. Clearly, if a nominee has no intention to assume the duties for which he is to be confirmed, then the honorable thing to do is to withdraw. That appears to be what has happened, and I am gratified that there will be no mockery of Senate procedures.

Nevertheless, none of the substantive issues have been settled with regard to the longstanding allegations against the character and fitness of the nominee in question. The hearing record of the Committee on Finance contains sworn statements by reputable witnesses which are in complete contradiction to the testimony of the nominee. For the most part this is not hearsay evidence, but eyewitness testimony of those who participated in the events or security review of the nominee. Moreover, witnesses who

can corroborate this testimony with direct and material evidence have been named and are available. I would suggest that any future Senate confirmation procedure would necessarily seek to resolve these contradictions.

It has been frequently asserted that the charges against Mr. Sonnenfeldt have been dismissed and discredited. I think it would be more correct to say that they have been simply disregarded, without regard to their truth or falsity. Unfortunately, the charges are serious enough and the available evidence so strong as to constitute an indictment of the man's fitness for high office. I am not a one-man investigating team, nor is it my intention to defame the character of any man. Yet the facts already upon the committee record are such that it is neither fair to the man nor to the country to confirm him to high public office without substantial refutation.

I will attempt to state the facts as they are upon the record, but first I want to indicate that, despite the persistent accusations of security violations throughout his career, he has never been accused of disloyalty to his country. Nor do I impugn his loyalty. Under Government personnel regulations, however, the concept of security includes both loyalty and suitability for the job intended. It is his suitability that has been questioned and continues to be questioned. And his suitability is questioned precisely because there is much evidence that he has repeatedly disregarded the regulations governing the use of classified information available to sensitive positions. The breach of security regulations is serious in itself, but the fact that he appears to have been less than candid about these problems in his career in his statements to the committee impugns his fitness for office. Moreover, it cannot help but raise doubts in the minds of foreign diplomats with whom he deals as to the integrity of diplomatic correspondence and negotiation.

Mr. Sonnenfeldt has sugested in his testimony that the fact of his continuous advancement in his career is proof enough of the falsity of the charges against him. An alternative view is that his advancement indicates the deterioration of personnel security practices in the face of an onslaught of political favoritism and manipulation of outside channels. It is also unusual that records of investigations of Mr. Sonnenfeldt, including investigations he has admitted to, seem to have disappeared without a trace.

The hearing record also shows that Mr. Sonnenfeldt repeatedly responded to questioning with evasive and nongermane answers in areas not associated with the security questions, as though he wished to shift responsibility for or participation in imprudent policy decisions. Some of this was undoubtedly due to his lack of expertise in financial areas, as the senior Senator from Virginia, Mr. BYRD, has mentioned several times on this floor. But in other examples, I suggest that it stems from the same lack of candor that he displayed in discussing his security problems. Now that he has been nominated to the post of State Department Counselor, his foreign policy concepts are more relevant.

For example, when he was asked whether as the chief Soviet expert in State he had written an official intelligence estimate discounting the view that the Soviets were planning to put missiles in Cuba, Mr. Sonnenfeldt first tried to spread the responsibility throughout the group of intelligence experts which he headed, and then explained:

> My own view, as I recall it now, was that there was a possibility of this occurring. I had not considered this a strong likelihood because I thought that the outcome of the Soviets doing this would be, as indeed it was, namely, that they would be forced to withdraw their missiles by our counteraction, and for that reason, my judgment was that, while the possibility existed, that when the Soviets calculated the risk, that they would probably in the end not do it.

When all of the bobbing and weaving has been removed, this is a remarkable statement, that is especially relevant to foreign policy considerations today. For it expresses the belief that Soviet policy is based upon the same rational calculations as we ourselves might make, and that the Soviets would be deterred from rash actions by the sure knowledge that we would respond.

Now hindsight is easier than foresight, and anyone can make an error of professional judgment. I do not fault him for a mistake. Yet it is pertinent to inquire whether his view of Soviet policy calculations has been tempered since then. In his role as a senior adviser on Soviet policy in the National Security Council his view was doubtless important in the SALT negotiation policy, and we know as a fact that he played a key role in the United States-Soviet trade agreement. His role in the disastrous wheat deal is also important.

Before the Senate Finance Committee, Mr. Sonnenfeldt insisted that he "was not directly involved" in the negotiation of the wheat deal, but only "peripherally involved." He continued to minimize his participation throughout the lengthy questioning. Yet the conclusion that he played a policy role is inescapable. For example, when the NSC directives of January and February 1972 were read to him calling upon the Department of Agriculture to begin immediately to set up a program for handling grain sales to the Soviet Union, Mr. Sonnenfeldt replied:

> I would guess that those were connected with some early soundings beginning during former Secretary of Commerce Stans' mission to Moscow in November-December of 1971, about the possibility of selling some grain to the Soviet Union, again against the background of our trying to move some of our surpluses, and from what you have read, the first one seems to be saying that if this happens, the Secretary of Agriculture should take the lead.

Mr. Sonnenfeldt in his response did not associate himself with Secretary Stans' mission to Moscow, yet a photograph on page 1 of the Washington Post of November 25, 1971, identified Secretary Stans and Mr. Sonnenfeldt together in Moscow. Since the Secretary made no pretensions to being an expert on the Soviet Union, and Mr. Sonnenfeldt was the senior adviser in this field, it is hard to escape the conclusion that Mr. Sonnenfeldt did, indeed, have a major role in developing the policy guidelines on the wheat deal. This conclusion again brings into question his professional judgment about Soviet policy calculations.

His professional judgment is called into question because the hearing record shows he did not anticipate the tactics which the Soviets would use in their attack upon our grain markets, including the technique of parallel secret negotiations with Government negotiators and grain market traders and the cumulative purchase of separate bids. When asked whether any consideration had been given to the impact of the deal upon the American economy and the American consumer prior to the consummation of the deal, Mr. Sonnenfeldt replied:

> I don't believe anybody felt that it would have any noticeable impact on domestic prices at all because we were dealing with surpluses. So that—in that deal—had that been consummated, had that been the totality of Soviet purchases, there would not have been any impact.
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> * * * * *
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> But I am not aware that any review was made of the probable impact on domestic prices of the Government deal which, as I say, was one spread out over three years, connected with surpluses, related to surpluses, and not likely to have any impact on American domestic prices.

What we have here is a senior policy adviser who is apparently aware neither of the probable Soviet responses to a policy decision, nor of the impact of that policy decision upon the United States, and does not even ask for a study of that impact. I need not point out that this is a policy decision that has resulted in the Soviets strengthening their food position and their economic position at the expense of U.S. prestige and the American consumer's pocketbook.

Since Mr. Sonnenfeldt freely admits that he played a major role in the negotiation of United States-Soviet trade agreement, I suggest that the consequences of that agreement be examined with a skeptical eye.

But let us now turn to some general considerations about the nature of the evidence which weighs not against his professional judgment, but against his suitability for a high office where he might be handling sensitive information. It has been suggested that this evidence consists of hearsay and of one man's word against another. There is considerably more to it than that.

The first type of evidence consists of sworn statements before the Finance Committee by individuals who had eyewitness knowledge of security violations or who interrogated him in the official course of their duty.

The second type of evidence consists of sworn statements concerning the contents of investigatory materials compiled by other State departmental officials.

The third type of evidence consists of tape recordings and transcripts of wiretap surveillance over extended periods of time on widely separated occasions.

Unfortunately, only two such witnesses were called before the Finance Committee in impromptu fashion. At least five or

six more such witnesses, who had official contact with the nominee in the course of their duties, are reportedly available to corroborate the testimony already given, if subpoenaed.

The distinguished chairman of the Finance Committee indicated on the floor on December 5 that he had requested the indicated tape recordings or transcripts from the administration and had been denied access on grounds of executive privilege.

Although I do not agree with all the denunciations of executive privilege which have been made in some quarters, I certainly see no excuse whatsoever for executive privilege to be invoked in this case. No personal records or correspondence of the President or the President's Office are involved. Most of the evidence requested involves only lower level bureaucrats in the State Department and the time is several administrations back. The President, in his letter to the Watergate Committee of July 25, 1973, indicated that he would not invoke executive privilege except for personal records, and even that has been modified. I would respectfully suggest that this is no time to invoke executive privilege to protect a bureaucrat.

I would also point out that the integrity of the witnesses who have come forward is of exceptionally high caliber. Mr. Otto Otepka is well known as a State Department security expert who laid his own career on the line to stand by the impartiality of his work and its nonpolitical character, and risked character assassination and loss of income when he was subpenaed by a Senate committee to tell the truth. His many hours of testimony on previous occasions have stood the test of veracity and integrity, and he was appointed to a high post in this administration and confirmed by the U.S. Senate.

Mr. Stephen Koczak, who is an eyewitness to security violations, was for many years a distinguished Foreign Service officer, and is now research director of the American Federation of Government Employees. In that capacity, he has appeared before Senate and House committees more than 100 times.

Both of these witnesses are obviously aware of the importance of accuracy and truthfulness of sworn testimony and cognizant of the solemn responsibilities of such testimony.

I would respectfully suggest that the Foreign Relations Committee should call Mr. Otepka and Mr. Koczak and allow them to supplement their testimony under oath, as they indicated they were willing to do before the Finance Committee.

I would also suggest that the following witnesses be called under oath to testify to any direct and material evidence which they have with regard to the security violations under discussion:

Mr. Francis Niland, Chief, Intelligence Analysis Unit, Department of Justice;

Mr. Herbert Lampe, Division of Investigations, Office of Security, Department of State;

Mr. Donald Daley, Assistant Chief of Investigations, Office of Security, Department of State;

Mr. Robert Berry, former Chief of Division of Investigations, Office of Security, Department of State;

Mrs. Eunice Powers, former stenographer in the Division of Investigations, Office of Security, Department of State;

Mr. John Hemenway, former employee of Bureau of Intelligence and Research, Department of State.

Let us now turn to the facts as known today.

1. THE 1954–55 LEAKS

In 1954 and 1955, Mr. Sonnenfeldt was investigated for leaking classified information to several journalists, including Mr. John Scali, now U.S. Ambassador to the U.N., and Mr. Marvin Kalb, of CBS. In sworn testimony before the Finance Committee, Mr. Otto Otepka, a former State Department security officer, stated under oath that during a security investigation of Mr. Sonnenfeldt he dealt with summaries of the traffic on wiretap surveillance of the nominee. The surveillance established conclusively that Mr. Sonnenfeldt had, indeed, given the classified information to the journalists, but the State Department would not allow the evidence to be used because of the way in which it was obtained. The name of State Department electronics expert who conducted the surveillance for a period of over a year, Mr. Herbert Lampe was not called to testify.

2. THE 1958 INCIDENT

Mr. Koczak's testimony states that in 1958 Mr. Sonnenfeldt was observed giving highly classified information to foreign nationals having to do with U.S. troop movements and the composition of the government of a third nation. Although the leaking of classified material is now considered to be more fashionable, the actions described by Mr. Koczak were extremely serious, for the following reasons:

First. Mr. Sonnenfeldt was an employee of the Bureau of Intelligence and Research of the Department of State, which receives raw data from agents abroad. The information was thus not something stamped secret by some bureaucrat to hide his mistakes from the public; it was intelligence of the most sensitive kind that could jeopardize the lives of foreign officials, the work of agents in place, and even the success of U.S. policy.

Second. The time of the incident was the height of the Lebanon crisis.

Third. The location was a social function honoring an Israeli diplomat who was returning home. Thus with a broad cross-section of people present there was no way to be sure that the setting had not been penetrated by agents of other nations.

Fourth. All employees of the Bureau of Intelligence and Research were under orders to secure prior permission and subsequently report any such meetings with foreign nationals. Mr. Koczak had served in Israel and had numerous Israeli friends and was given permission to attend the function. Mr. Sonnenfeldt had never served abroad, and, according to Mr. Koczak, did not seek permission, nor did he report afterwards.

Fifth. The information given over consisted of the contents of telegrams analyzing the makeup of the Lebanese Government, and relating to the U.S. troop landings at that time. Mr. Koczak had seen an earlier Israel Government undermined by the breach of diplomatic cable traffic, and reported the incident to his superiors, giving the identification numbers of the telegrams compromised.

Sixth. On its own initiative, the FBI sent an agent to see Mr. Koczak about the Sonnenfeldt case. The agent was reportedly concerned because there was evidence of continuing contact with Israeli intelligence agents over a long period of time. The FBI, in a letter to Representative JOHN ASHBROOK, has confirmed that an FBI agent visited Mr. Koczak on the Sonnenfeldt matter and has identified him.

Seventh. The Secretary of the Treasury, Mr. Shultz, in listing the review of security investigations of Mr. Sonnenfeldt, made no mention of the 1958 investigation. The distinguished chairman of the Finance Committee said that he found no adverse security information in the nominee's file. Since the FBI has admitted that there was an investigation, the question arises as to whether or not the file was purged of adverse information.

Mr. Sonnenfeldt's response under oath to these allegations was vague and general, asserting that he was first confronted with them in a security investigation 2 years later.

3. THE 1960 LEAKS

In 1960, at the height of the political campaign between John F. Kennedy and Richard Nixon, Mr. Sonnenfeldt came under investigation because of evidence that he was leaking classified information to the Democratic campaign. Accord to Mr. Otepka, who conducted the interrogation, Mr. Sonnenfeldt's telephone was tapped over a long period of time, and he was placed under personal surveillance. Among the events included in this investigation was an occasion in which he was observed during working hours leaving the home of the late Marguerite Higgins, the journalist, with the late Robert F. Kennedy, who at that time was working in the Presidential campaign. Mr. Otepka's secretary, Mrs. Eunice Powers, was engaged in the transcribing of the wiretap traffic on Mr. Sonnenfeldt. According to Mr. Otepka, the available evidence positively established that Mr. Sonnenfeldt was communicating evidence to persons with whom he had no authority to deal in connection with his official duties at the State Department.

Mr. Sonnenfeldt admits that he was interrogated at this time, but denies that he knew anything about the allegations. Thus, although both sides in the controversy admit there was an investigation at this time—and an investigation of some thoroughness and expense—no record of it appears to remain in the nominee's file. Like the 1958 investigation, the 1960 investigation is not mentioned in the review of investigations confirmed by the Secretary of the Treasury.

Nor is either investigation mentioned in the security investigations index maintained by the Civil Service Commission. Under the Federal personnel se-

curity program, which is still in force under Executive Order 10450, all security investigations must be reported to the central file kept by the Civil Service Commission, so that any subsequent investigation can review the earlier evidence. This further raises the question of whether or not the nominee's file was purged of adverse information.

4. TRANSFER TO ACDA

In 1960, the nominee applied for the job of Deputy Director of the Soviet International Affairs Division of the Bureau of Intelligence and Research of the State Department. But, according to Mr. Otepka, the Director of that office, Mr. Hugh Cumming, determined, in the light of the ongoing investigations of the nominee, in political activity, that he could not continue in his duties at the Bureau where he would have constant access to the communications intelligence traffic of the United States. After the election, Mr. Sonnenfeldt then transferred to the Arms Control Agency of the State Department—now Arms Control and Disarmament Agency—where he could be cleared for activity of lower sensitivity.

5. TRANSFER BACK TO INR

Early in 1962, the nominee came back to the Bureau of Intelligence and Research as head of the Soviet International Affairs Division. Thus the nominee had been rejected as Deputy Director because of doubts that he could maintain the necessary security standards and was sent to ACDA in a less sensitive position; but within a year, he came back to be Director of the same highly sensitive office.

The question then arises as to whether or not the leaking of classified data to a Presidential candidate helps or hinders a man if that candidate wins the election. Unquestionably, the security standards were applied in a different way to his case when the new administration was in full swing. It is highly significant that evidence of the 1960–61 investigation seems to have disappeared from his file, although the nominee admits that an investigation took place.

It should also be noted that the deterioration of the whole State Department security program advanced markedly in 1961, as has been shown in the voluminous hearings of the Internal Security Subcommittee of the Judiciary Committee.

6. FAVORITISM IN PROMOTION

In 1969, Mr. Sonnenfeldt was chosen to join the National Security Council as an associate of Dr. Kissinger. Up to this time, he had been classified as a Foreign Service Reserve officer. Mr. Sonnenfeldt transferred into this position in 1965 from civil service, thereby becoming eligible for a higher pay scale. Technically he was classified as Foreign Service Reserve officer—maximum U.S. duty—FSRO–MUSD. By maximum U.S. duty was meant that he would enjoy the privileges of the Foreign Service, but would never have to serve outside of the United States. In 1967 he was promoted to FSRO–I, still maximum U.S. duty.

In 1969, when Mr. Sonnenfeldt learned that he was going to a prestige appointment with the National Security Council, he applied for a lateral transfer from the Reserve to the regular Foreign Service officer classification—from FSRO I to FSO I. This is an appointment that is the highest rank a Foreign Service officer can attain, aside from the rank of Career Minister and Career Ambassador, and is usually reserved for a handful of the most distinguished men of the corps. It is a rank that usually comes only after many years service abroad.

This lateral transfer caused consternation among the Foreign Service because it came at a time that there was a reduction in force in the Foreign Service of about 10 percent. Thus while meritorious candidates were being riffed, Mr. Sonnenfeldt's position at the NSC enabled him to move into a coveted spot, at that time, the first FSO–I lateral appointment in nearly a year.

The question then is whether political favoritism played a role in this appointment, and whether the security investigations of 1958 to 1960–61 were considered in the appointment.

Mr. President, these matters of possible favoritism were gone into thoroughly at the time of his appointment by the distinguished senior Senator from South Carolina, Mr. THURMOND, and I ask uanimous consent that his remarks of March 26, 1970, on the Senate floor be printed in the RECORD at the conclusion of my remarks.

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

7. THE 1969–71 WIRETAPS

Mr. HELMS. In 1969 and subsequently, the President and Dr. Kissinger became concerned over the alarming leaks of highly sensitive information from the National Security Council, and, as is now well known, telephone taps were put on several employees of the National Security Council and newsmen with whom they are alleged to be in communication.

Two of these taps were put on Mr. Sonnenfeldt and Mr. Marvin Kalb of CBS, both of whom had been wiretapped in connection with previous investigations.

Dr. Kissinger has indicated that nothing came of these wiretaps.

In view of the close association between Dr. Kissinger and Mr. Sonnenfeldt, the question arises as to whether or not Mr. Sonnenfeldt or Mr. Kalb received advance information that their phones were being tapped. Such information would have enabled those under surveillance to establish a record of innocent conversations while the leaking could have been done through other means.

At the very least, the transcripts of these tapes should be made available to the proper committees under relevant safeguards so as to determine the substantive content.

8. THE MOLLENHOFF INVESTIGATION

During the same period as the NSC investigation, Mr. Clark Mollenhoff, then a special counsel to the President, attempted several times to conduct an investigation into the Sonnenfeldt case, but failed to get cooperation from Dr. Kissinger. Mr. Mollenhoff's statement before the Finance Committee was as follows:

My contact with this was simply passing on information when I was special counsel to the White House to Dr. Kissinger and through General Haig relative to this matter, and I viewed it seriously at the time but made no value judgment. I passed it to them and they exhibited great concern, indicated they were going to do something at some point but I could never get a satisfactory explanation back over a period of time and I just dropped it.

9. CONCLUSION

Mr. President, the facts on the public record indicate a recurring pattern in this case of allegations impugning the security suitability of Mr. Sonnenfeldt throughout his career. Yet not only the facts developed in those security investigations and the resolution of those investigations, but even the fact that the investigations were held seems to have disappeared from the nominee's personnel records. The question is not resolved as to whether favoritism in high places has served to cover up unfavorable aspects of the nominee's personnel history.

Fortunately, the uncertainties in this case should not be difficult to resolve. The Foreign Relations Committee can call the relevant witnesses and check out the contradictions that already appear under oath. Or if the committee prefers, the question could be referred to the Senate Internal Security Subcommittee which has demonstrated much expertise and objectivity over the years in developing information on State Department security practices.

Finally, Mr. President, I repeat that I have not desired to cast any reflection upon the loyalty and suitability, and either one alone might make a person ineligible for high office. If a person has a repeated history of leaking sensitive information over the years, he is certainly not suitable for a sensitive post. For example, if it can be established that Mr. Sonnenfeldt has a history of leaking classified information to Israeli diplomats, how could the Soviets trust him in dealing with the Middle East crisis? Whatever his intentions, the suspicions would remain.

I submit, Mr. President, that Mr. Sonnenfeldt's nomination, even to his new post, does not resolve the situation, and that his name should receive the closest possible scrutiny.

The remarks of Senator THURMOND follow:

THE STRANGE NOMINATION OF MR. SONNENFELDT

Mr. President, on March 11 the list of nominations received by the Senate included the name of one Helmut Sonnenfeldt of Maryland for appointment as a Foreign Service officer of class I.

This is a most unusual appointment. The Foreign Service is supposed to be composed of career diplomats who have served their country around the world and have their special status recognized through the Foreign Service rating system. The rating of FSO I is normally the highest rank which a career diplomat can achieve aside from the exceptional positions of Career Minister and Career Ambassador, reserved for a handful of the most distinguished members of the corps. Thus, it appears that we have Mr. Sonnenfeldt entering the Foreign Service at the highest rank normally achieved by others after years of service abroad. Thus, this unusual appointment threatens the status and achievement of the many dedicated Foreign

Service officers who have served with distinction. It is an affront to the career system and a threat to the stability of impartial ratings and of the morale of those who have worked their way up through the ranks to achieve their present positions.

Mr. Sonnenfeldt's appointment is especially outrageous in view of the fact that at the present time, due to the economy measures being taken throughout the Government, the Foreign Service Corps is currently affected by a reduction in force of approximately 10 percent. This means that about one out of 10 of every career Foreign Service officer reviewed for promotion is "selected out"—that is, severed from the Service. So at the very time when many Foreign Service officers are being severed from the Service because of the high rate compelled by the reduction in force, Mr. Sonnenfeldt, who has never served abroad, is entering into the Foreign Service Corps at the highest possible level.

Mr. President, as I have pointed out, this is a highly unusual situation. In fact, it is a unique situation. I am informed that in the fiscal year of 1970—that is, since June of last year—only three men have made lateral entry into the Foreign Service; two of them at the relatively low class III level and only one at the class I level. That sole individual is Mr. Sonnenfeldt.

We can see, therefore, that Mr. Sonnenfeld is an exceptional case who is given special treatment at a time when many others are losing their jobs.

I have mentioned that Mr. Sonnenfeldt has never been abroad. I have received information concerning Mr. Sonnenfeldt's personnel history. Originally, he was in civil service status—and in 1965 he was converted from a GS–15 to Foreign Service Reserve Officer II—maximum U.S. duty.

The FSRO was originally conceived by Congress as a means for the temporary use abroad of persons who were particularly qualified in one aspect or another and whose qualifications filled a need for a particular job overseas.

At this period, Mr. William Crockett, who was then Deputy Under Secretary for Administration in the State Department, began to use this wise provision of the law as a means for enlarging his domestic staff without specific congressional authorization. He invented the category of FSRO—maximum U.S. duty—meaning a Foreign Service officer would never be assigned to foreign service. Those who accepted such a service would enjoy a higher pay scale than in civil service, without having the burden of serving abroad. On Mr. Crockett's part, it relieved him of observing civil service regulations with regard to job rights and categories.

Mr. Sonnenfeldt thus entered the Reserve Officer Corps under this highly unusual situation as a FSRO class II—maximum U.S. duty. I am told that in 1967 he was promoted to the rank of FSRO I—maximum U.S. duty—by a special panel dealing only with officers of this unusual category. The same panel recommended that he be converted from FSRO I to FSO I; that is, to permanent status. But the board of examiners reportedly refused to do so because he had not personally applied for the job, and there was no certificate from the Director of the Foreign Service that he was needed for it. It is significant that, if he had personally applied, then he would have been liable for duty overseas.

Under these circumstances, he was appointed to the National Security Council staff in 1969 in what is essentially a political policymaking position. From the prestige status of this political appointment, he applied for conversion to FSO I in September 1969. He is, in effect, starting at the top. It is hard to escape the assumption that questions of political influence have overshadowed the merit system of the FSO.

It is particularly interesting that Mr. Sonnenfeldt received this special treatment, despite the fact that his wife is known as an antagonist to the present administration. I find it very disturbing that a top assistant in the National Security Council staff, responsible for formulating and advising on our international policy, should be chosen from a milieu which is antagonistic to the work of the President. I do not question the right of Mrs. Sonnenfeldt to engage in political activity, but the question arises whether she acted with the approval or at the direction of her husband. Under the Hatch Act, no Government employee may do indirectly what he is forbidden to do directly. In any event, I find it particularly strange that a top policy adviser is picked from such a political context and, on top of that, given preferential and unusual treatment which threatens the justice and fair workings of the Foreign Service Corps.

IMPORTANT BOOK BY FRANK MANKIEWICZ

Mr. McGOVERN. Mr. President, my friend and recent campaign ally, Frank Mankiewicz, has recently published a volume described by the respected Washington Star journalist Frank Getlein as "an important book."

Entitled "Perfectly Clear: Nixon From Whittier to Watergate," Mr. Mankiewicz's book was published by Quadrangle Press—a subsidiary of the New York Times.

In the words of Mr. Getlein:

The book provides what has so far been lacking in our apprehension of Watergate, an organizing, analytical intelligence taking the overview and adding up all the details into an appalling perspective.

This is, indeed, a well-timed, carefully constructed historical account of the mentality and values which set the stage for the worst scandals in our political history.

I ask unanimous consent that Mr. Getlein's review in the December 10, 1973, issue of the Washington Star-News be printed at this point in the RECORD:

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

THE FIRST OF THE WATERGATE FLOOD

(By Frank Getlein)

Frank Mankiewicz has written an important book. At the moment it is the only important book about the overriding domestic issue facing this country, namely Watergate and the future of Richard Nixon as President.

Mankiewicz was, of course, press secretary to Democratic presidential candidates Robert Kennedy and George McGovern, and his own political sympathies are in no doubt whatever. But before he attained the national prominence he reached in those jobs, Mankiewicz was a journalist and a practicing lawyer, and it is out of the experience of those roles rather than out of partisan political affiliation that the book has been written.

His journalistic and legal skills in combination are what make the book as good as it is. Journalist Mankiewicz writes a hard-hitting, straight-forward prose that almost, not quite, suppresses the irony of which he is a master. Lawyer Mankiewicz has drawn up a brief and cited the evidence against Nixon in a devastating case.

"Perfectly Clear" should be the handbook for everyone trying to follow the Watergate affair as it erupts in a series of court cases here, in New York, and in California; in the resumed investigations of the Senate and the Justice Department, and—inevitably, in Mankiewicz's view—in impeachment proceedings in the House and the Senate.

The center of the book—which probably ought to be reprinted as a pamphlet for television watchers in the months ahead—is a detailed examination of charge after charge after charge in the framework suggested by Sen. Baker, which Mankiewicz correctly says is inadequate: "What did the President know?" and "When did he know it?"

Mankiewicz leads us through, as he might a grand jury, the whole sordid story from the forged cables implicating John Kennedy in the death of Diem to the use of the CIA in the coverup to the Ellsberg burglary, the Watergate burglary itself, the Cambodian bombing, the San Clemente realty deals, the income-tax shenanigans and, in toto, everything you always wanted to know about Watergate but couldn't figure out because there was just too damn much.

At the end of the exhausting list, Mankiewicz seems a little like Paul Muni playing Zola, triumphant in the wreckage of the Dreyfus case and still crying, J'Accuse!

Except for the occasional box score in *Time* or the papers, this is the first effort to bring it all together, and it all adds up to a staggering bit of American history, one that will take more refutation than "Operation Candor" has managed so far.

Mankiewicz goes well beyond this central service of his book. He takes the story back to what he calls the "California Proving Ground" to make the case that Nixon has never won an election in which there wasn't a certain amount of crucial dishonesty on his behalf. The Voorhis and Douglas cases have recently returned to the light of day, but Mankiewicz's treatment of them is useful. He adds the generally forgotten or unknown conviction of Nixon campaign workers for various forms of fraud in the 1962 campaign for the California governorship.

The author's solicited letter from Albert Speer, the Nazi architect and slave-labor manager, on the *Fuhrerprinzip* in its original application is perhaps a touch too much—although either frightening or amusing or both at once, depending on how you see Watergate. But his analysis of the Watergate crimes in terms of standard intelligence procedure and his description of the "Miami ambiente" are valuable contributions to our understanding of how it all happened.

There is also one magnificent *tour de force*. Mankiewicz writes the speech that Nixon could have used early in the game to get himself off the hook and does a good job as a volunteer ghost, ending, of course, with the reasons why the speech wasn't made and won't be made.

The book provides what has so far been lacking in our apprehension of Watergate, an organizing, analytical intelligence taking the overview and adding up all the details into an appalling perspective.

SOUTH KOREA

Mr. PERCY. Mr. President. I was pleased to see recent reports indicating that the South Korean Government may be easing its repressive policies in reaction to public and opposition pressures. Surely democratic reforms in South Korea and certain other Asian nations are long overdue.

In my report "Economic and Political Developments in the Far East," published by the Committee on Foreign Relations on March 30, 1973, I stated:

The revival of democracy in the area would require the restoration of the integrity of the legislative process, the abjuring of the use of martial law for political objectives, and real efforts to close the economic gap between

the very rich and the very poor, to strengthen education at all levels and to combat corruption in government.

I also noted that the press in South Korea is completely controlled. On other occasions, at hearings of the Committee on Foreign Relations, I have mentioned the chilling effect on the Korean body politic of the extremely repressive activities of the Korean Central Intelligence Agency which is an all-pervasive domestic security apparatus.

I ask unanimous consent to have printed in the RECORD an article on this subject from the New York Times of December 4, 1973.

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

SEOUL CABINET CHANGE MAY SIGNAL EASING OF RULE

SEOUL, SOUTH KOREA, December 3.—A sweeping Cabinet shuffle today was being interpreted in political quarters as a signal that President Park Chung Hee might be easing his repressive rule in the face of a growing anti-Government movement among university students, intellectuals, churches and journalists.

Particularly significant in the replacement of 10 of the 20 ministers, it was thought, was the ouster of Lee Hu Rak as the chief of the powerful Central Intelligence Agency, whose activities had been vigorously protested by opposition politicians and students.

It was also considered significant that the changes came a day after the National Assembly adopted a resolution at the initiative of the opposition New Democratic party, urging the Government to carry out "democratic" reforms to wipe out corruption and establish a "free and disciplined society."

The resolutions also called on the Government to promote a free press and a "democratic as well as productive" Parliament, and to resolve the student unrest "with generosity."

DEMONSTRATIONS CONTINUE

The Cabinet shift, however, failed to stop demonstrations immediately. Some 3,500 students took to the streets or held campus rallies today in Seoul and two provincial cities, Taegu and Chonju, demanding the restoration of Democratic freedoms and the release of arrested students.

Among the Cabinet members retained by Mr. Park was Premier Kim Jong Pil. Kim Dong Jo, the Ambassador in Washington, was appointed Foreign Minister. Justice Minister Shin Jik Sot was appointed the new director of the Central Intelligency Agency.

The ousted director, a retired army major general, also resigned as the chief South Korean negotiator in the suspended political talks with North Korea. Chang Key Young, the deputy chief negotiator, became the acting chief delegate.

The changes were announced after the Premier and his Cabinet resigned this morning, saying they "assumed responsibility for a series of events that have taken place recently."

The opposition partly had been pressing for the Cabinet's resignation in connection with the abduction of Kim Dae Jung, the party's presidential candidate in 1971, from a self-imposed exile in Tokyo to Seoul in August.

The Japanese police said that the abduction had been carried out by the South Korean Central Intelligence Agency. It touched off the anti-Government student demonstrations. Along with the cabinet shuffle, the first major one since last December, the Ambassador to Japan, Lee Ho, was called home and the National Unification Minister, Kim Young Sun, was named to succeed him.

The Cabinet shuffle and the ambassadorial shifts were interpreted by diplomatic sources here as a conciliatory move toward Japan in connection with the kidnapping case. The changes, it was noted, took place about two weeks before an economic conference to be held in Tokyo to discuss new Japanese aid to Seoul.

Four of the new ministers are retired army generals, including Defense Minister Suh Jong, Chul.

Hahm Byung Choon, a special presidential assistant for international politics, was named the new ambassador to the United States.

In the continuing demonstrations, about 500 women students demonstrated briefly in the Seoul city hall plaza while 1,700 students at four institutions adopted anti-Government resolutions at separate campus rallies. A group of 150 nursing students at Seoul National University's Medical College started a 48-hour strike in a classroom.

More than 200 reporters at Don-A Ilbo, Seoul's largest-circulation national daily, held a meeting in the paper's editorial room and adopted a resolution to "fight to the last for the restoration of the freedom of the press."

Their action followed a one-day strike of reporters at the Joong-ang Ilbo last Friday.

THE GOOD OLD DAYS

Mr. HUMPHREY. Mr. President, how many times have you heard people drift into a conversation about "the good ole days?" Why, back in the good ole days you could get a cup of coffee for a nickle—a pound of hamburger sold for about 65 cents a pound—a quart of milk was 22 cents—and how about penny candy?

Well, I hope most Americans have been paying attention, because those good ole days have come and gone. For the past 20 years Americans have basked in luxurious affluence, taking advantage of stable food and fiber prices while their standard of living was increasing substantially year after year.

Mr. President, everyone in this country has the desire for cheap food, but many of these same people may still be in the dark about the policies which reduce supplies and increase costs. I ask unanimous consent to have printed in the RECORD an editorial by Earl W. McMunn, editor of the Ohio Farmer, entitled "Let Us Reason Together If Consumers Are To Have Cheap Food."

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

LET US REASON TOGETHER IF CONSUMERS ARE TO HAVE CHEAP FOOD

(By Earl W. McMunn)

Consumers of this country want cheap food. That is what they have had, although many are not aware of the fact. Rising prices of the past year threw many into a panic. Some ill-informed politicians, labor leaders, newsmen and others screamed that "people couldn't afford to eat!" This, in spite of the fact that in 1973 the average person is spending less than 17 percent of his income for food. That is still a real bargain when compared with other nations of the world, or for most other times in the history of this nation.

We have cheap food because of a combination of circumstances. Mostly it is the result of an abundance of technical information, use of commercial inputs, and freedom to operate under a profit-oriented economic system. Cripple any of these forces and food will become more expensive. This is a fact of economic life. But the sad truth is that too many governmental decisions are made by people who don't understand economics. Recent efforts to help consumers by controlling livestock prices are but one example.

The forces which provide our cheap food have been building up for at least half a century. We have had an abundance of land, a surplus of farm labor, and plenty of people who wanted to farm. Commercial suppliers provided the machinery, the chemicals and the other inputs. Our know-how was improved by a steady flow of information from both public and private sources.

During this same period, our economy was expanding and people were becoming more affluent. This made it easier for them to buy food with a smaller share of their total incomes. For instance, in the 20 years between 1952 and 1972, wages and incomes rose by an average of seven percent a year. Farm prices rose less than one percent. This is why many consumers developed the idea that they should get a raise every year, but they shouldn't pay more for food. That was the way it had been during most of their lifetimes.

All this has changed during the past year. Now it is becoming clear that food prices must rise when everything else in the economy is on the upswing. People must pay more if they expect to be well fed. And, there is ample evidence that eating is a habit which no one wants to give up. There is little reason to believe customers will need to make any real changes in their eating habits. At least, not so long as economic forces are permitted to operate. The trouble comes when we try to make economic decisions on the basis of politics.

Here may be our greatest danger. Some of the most critical decisions may be made without real understanding of the problem. This is an ever-present threat where agriculture is involved. It is a fact of life that most members of Congress and the regulatory agencies no longer have a farm background. Too few have even an understanding of agricultural matters. How can they be expected to know, for instance, that a decision which hampers the oil business may cut farm production and add to the cost of food?

As a nation, we haven't yet faced up to the fact that there's a difference between necessities and luxuries. Or, that necessities must come first when hard decisions must be made. We've been sold on the idea that we must have the luxuries, then we'll pay for the necessities if there's anything left over in the budget. This has been true for much of our nation planning, just as it has been in many a private household.

What is the value of aimless joy riding when fuel is needed to grow crops, transport them to market, and keep the nation's factories in operation? Look at the traffic clogging our highways during non-working periods and it's easy to see where billions of barrels of fuel could be saved.

But, our system has offered little incentive for savings. Most of our policies have been in the opposite direction. Regulatory agencies attempt to impose arbitrary restraints upon retail prices. These work like a two-edged sword—and in the wrong direction! They discourage exploratory drilling, investment in refineries and everything else that is required to boost production. At the same time, low prices encourage consumers to use fuel for many purposes which are both foolish and wasteful.

Price may not be the most popular rationing tool, but a more effective method has not yet been invented.

Modern farming depends largely upon the use of commercial inputs. Anything which interferes with their availability is harmful

to food production. Every farmer knows this, but it is not understood by many others.

Recent estimates indicate we are now using commercial inputs at the rate of $50 billion per year. No longer is any farm self-sufficient as in the days of the pioneers.

High crop yields depend upon the use of chemical fertilizers, herbicides and pesticides. We must have fuel to cultivate land and dry the crops. Our rapid increase in labor efficiency is largely the result of abundant use of machinery and equipment. Modern farming would be impossible without vast amounts of capital.

We look to agribusiness for a wide array of production inputs. Other segments of agribusiness process crops into forms that are acceptable to consumers. How long has it been since you saw a consumer carrying a live hen home from market? Now, it's a tender, juicy broiler which is killed, plucked, cut-up, packaged and perhaps cooked in golden batter. The consumer never had it like this in the "good old days!"

And, if we're honest, who in agriculture would like to go back to those good old days? They were the days when wood was cut to heat the house, you turned the soil with a two-horse walking plow, and you killed potato bugs by knocking them into a can of kerosene. No wonder that almost everyone knew something about farming. With the back-breaking work of those "good old days" most people of the nation were needed on farms just to get the farming done!

Consumerism is a popular cause. But some self-styled consumer advocates ignore the fundamentals of sound economics. All they accomplish is to make conditions more difficult for the very people they claim to help. You're not helping anyone when you tear down the agribusiness complex which has provided Americans with the best living ever enjoyed by any people in the history of the world.

Uninformed consumerists are fond of using "profits" as a dirty word. They would squeeze or eliminate profits while implying this helps consumers. What they don't understand is that profits are essential if consumers are to get the products—and this includes food.

No one goes into business expecting to take a loss. There must be a profit incentive before you buy land, build a plant or employ help. Without the profit incentive there is only one other way. This is the Communist method where the production assets are owned by the government and people are told what to do. But, compared with our system, that method has a poor track record!

So it is clear that some things are necessary if we are to retain our ability to produce an abundance of food and at reasonable cost.

Basic to everything else is that we retain the incentive pricing system. It is the governor which signals for more production when demand is great and a slowing off when demand is weak. Price ceilings are a signal to produce less—not more.

We must have adequate supplies of machinery, parts, fertilizer, fuel, chemicals and other commercial inputs. Already we have seen how farm production suffers when any of these is in short supply.

Unwise environmental regulations can seriously hamper our ability to produce. Some environmentalists would ban almost all insecticides, herbicides, antibiotics and fertilizer. They don't know, or refuse to admit what this would do to the food supply. We in agriculture shouldn't be forced to defend against these irresponsible attacks. The people who will really suffer are consumers who want an adequate supply of wholesome food and at reasonable cost. This is what they have been getting. Ill-informed environmentalists should be their problem, not ours! The sooner they understand this fact, the better off we all will be.

Fuel and transportation place other limits on our ability to produce. If added acreage is farmed in 1974 it will take more gasoline and other forms of fuel. Extra rail and truck transportation will be needed to get the crops to market.

Adequate food supplies will require greater investments in research. Surpluses of recent years led some people to conclude that public research was no longer needed. At the same time, private research was discouraged by watch-dog agencies of government which made it increasingly difficult to bring a new product to market. Now we are learning the hard way that there is need for more research—not less.

It all boils down to one simple fact. If Consumers want cheap food, they must support policies which make cheap food possible.

SALE OF HEARING AIDS IN FLORIDA

Mr. GURNEY. Mr. President, recently, the Senate Special Committee on Aging, on which I serve, held hearings relative to the sale of hearing aids to the elderly.

One of the points made at this set of hearings was that the elderly are often victimized by hearing-aid salesmen, anxious to make a buck, who sell vastly overpriced and often unnecessary hearing aids to unsuspecting elderly people.

Florida, however, has been largely exempt from this practice. The reason? Hearing aids are practically a prescription item. In Florida, eligible fitters and sellers of hearing aids are registered by the State. The Florida Division of Health examines and registers hearing aid salesmen and fitters, receives and investigates complaints, and inspects places of business. I might add that there were only 30 consumer complaints filed against Florida hearing aid dealers last year. Considering Florida's huge number of senior citizens—many of whom wear hearing aids—I certainly think this speaks well of the profession, as well as the administration of the Florida laws in this regard.

Because my colleagues may be interested in some information regarding the sale of hearing aids in Florida, I request unanimous consent that the following information be printed in the RECORD at the end of my remarks.

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

JACKSONVILLE, FLA.,
September 14, 1973.

Hon. EDWARD GURNEY,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR GURNEY: I have been requested to forward to you a copy of a letter and other supportive materials that were sent to Mr. Joseph Lucke of Miami by Mr. John Nafis, who is the Chairman of the Advisory Council to the Division of Health on the Fitting and Selling of Hearing Aids. This is the same material that was recently presented in hearings before Senator Church's Committee relative to hearing aids.

The Division of Health administers the Hearings Aid Program in Florida by authority of Chapter 468 Part III, Florida Statutes. The Division has legal authority to examine and register fitters and sellers of hearing aids, to supervise the training program, to receive and investigate complaints and to inspect places of business of the registrants, to hold administrative hearings and to revoke licenses.

We believe that the program of licensure is working well in Florida.

If you have any questions, please contact this office.

Sincerely,

JAMES E. FULGHUM, M.D.,
Chief, Bureau of Adult Health and Chronic Diseases.

JACKSONVILLE, FLA.,
August 31, 1973.

JOSEPH C. LUCKE,
Past President, National Hearing Aid Society, Miami, Fla.

DEAR MR. LUCKE: As you know, the Florida Licensing Law was passed by the State Legislature in 1967 and became effective January 1, 1968. The Chapter 468, Part III, Florida Statutes (Enclosure 1) is administered by the Florida Division of Health with the assistance of a five-man advisory council of which I am the Acting Chairman (Enclosure 2). The Advisory Council meets regularly twice a year and the meetings are open to the public.

Rules of the State of Florida, Chapter 10D–48, apply to the Fitting and Selling of Hearing Aids in Florida. A copy is attached as enclosure (3). Copies of the Law and the Rules are distributed to the fitters and sellers of hearing aids on regular and special occasions.

The examination is given to prospective registrants twice each year, April and October. The Division of Health who has responsibility for the examination, has a Board of Examiners who assist the Division with the examination. The examination consists of 100 multiple-choice questions and a practical part. Recommended Readings, or study course for the examination, are attached as Enclosure (4).

The primary activities of the Hearing Aid Program during 1972 were as follows:

(1) The issuance of 395 certificates of registration to eligible fitters and sellers of hearing aids.

(2) The issuance of 212 trainee temporary certificates of registration to individuals working under the apprenticeship training program.

(3) The administration of qualifying examinations to 78 applicants. Fifty-three (53) individuals, or 68 percent, passed the examinations, while 25, or 32 percent failed. Included in the number taking the examinations were 72 trainees who qualified under a training program as provided by the law. Forty-nine (49), or 68 percent of the trainees successfully passed the qualifying examinations and were issued certificates of registration.

(4) The investigation of 52 complaints relating to the sale of hearing aids. Consumers filed 30 complaints against hearing aid dealers, while 22 complaints were dealer complaints against other hearing aid dealers. Legal action was taken against four hearing aid dealers and resulted in the revocation of their licenses. Thirty-seven (37) complaints were resolved without legal action and eleven are pending. Approximately $1088.00 was refunded to consumers who had filed complaints against hearing aid dealers.

(5) The mailing of approximately 6000 pieces of correspondence, memoranda, trainee kits and miscellaneous items.

(6) The conduction of two meetings with the Board of Examiners and three meetings with the Advisory Council on fitting and selling of hearing aids, the minutes of which were prepared and distributed to the proper authorities.

(7) The preparation, publication and distribution of a directory of all licensed fitters and sellers of hearing aids as required by law.

(8) The routine inspections of equipment and facilities of 48 hearing aid dealers. During inspection, a total of 71 audiometers and 48 testing rooms were checked to determine

if they met state standards. Consultation was given these dealers as to procedures for correcting deficiencies.

One area of activity has been that of consumer education. Consumers are cautioned to do business only with fitters and sellers of hearing aids, a) who are registered with the Division of Health, b) who carry and present proper identification and c) who have a place of business open during normal working hours that is convenient to the consumer. The consumers are urged to investigate before they invest in a hearing aid and are advised to read and understand contracts before they are signed.

An active role of consumer protection has been implemented by the Division of Health under the authority of Chapter 468, Part III, Florida Statutes. The places of business and the equipment of fitters and sellers are inspected. The advertising of hearing aids is carefully monitored to insure that it is not misleading to the public. Advertisements of hearing aids found to be misleading or untrue are called to the attention of the responsible individual for correction.

Information regarding complaints are tabulated as follows: (See enclosed tabulation.)

Presently there are 380 fitters and sellers of hearing aids that are licensed in Florida. There are 130 trainees who are given temporary license at this time. Recent amendment to the rules has strengthened the responsibilities of the sponsor in the supervision of training for the trainee. See Enclosure 2, Chapter 10D-48.08, Trainee Requirements, Rules of Florida.

In summary, then it is the concensus of opinion of the Division of Health, the members of the Advisory Council to the Division of Health, and the fitters and sellers of hearing aids in Florida that the licensure law has gone far in clearing up the misleading advertising and the "fly by night" salesmen who sold out of the back of their car and then could no longer be found. One of the outstanding benefits has been the upgrading of the business offices and the quality of services rendered to the hard of hearing public.

If I can be of further assistance to you, please feel free to contact me.

Sincerely,

JOHN B. NAFIS,
Chairman, Advisory Council to the Division of Health on the Fitting and Selling of Hearing Aids.

PART III—FITTING AND SELLING OF HEARING AIDS

468.120 Short title of part III of this chapter.—This part III may be cited as the "Fitting and Selling of Hearing Aids Act."

History.—§ 2, ch. 67-423.

468.121 Purpose.—Part III of this chapter requires registration for protection of the public of any person engaged in the fitting or selling of hearing aids, to encourage better educational training programs for such persons to provide against unethical and improper conduct and for the enforcement of this part, and to provide penalties for its violation.

History.—§ 1. ch. 67-423. § 1 ch. 71-223.

468.122 Definitions; corporations, etc.; not prohibited, conditions.—

(1) "Division" means the division of health of the department of health and rehabilitative services.

(2) "Hearing aid" means any instrument or device worn on the human body represented as aiding or improving defective human hearing and any attachments or accessories of such instrument or device, except batteries and cords.

(3) "Registrant" means a person who is engaged in the fitting and selling of hearing aids. A registrant shall be responsible for the acts of all employees or trainees supervised by him in connection with fitting, selling and/or servicing hearing aids.

(4) "Council" means advisory council to the division of health, on hearing aids.

(5) "Trainee" means a person who has not, for the purpose of this part, been engaged as a registrant prior to the effective date of this part, but who desires to become a registrant. Said trainee shall be provided a temporary training certificate of registration upon payment of fee with application, as hereinafter prescribed.

(6) (a) "Fitting" means not only the physical acts of adjusting the hearing aid to the individual, taking audiographs, and making of earmolds, but also counseling, advising, audiograph interpretation, and assisting the purchaser in the selection of a suitable hearing aid. The holder of a certificate of registration granted under part III of this chapter shall be entitled to make such measurements of the dimensions of human hearing, by means of an audiometer or by other means approved by the division of health, as are consistent with the practices, procedures, and instrumentation currently employed by the hearing aid industry.

(b) "Selling" means all acts and agreements pertaining to the selling, renting, leasing, pricing, delivering, and guaranteeing of a hearing aid and other services not related to fitting, as outlined in this part.

(7) "Certificate of registration" shall be synonymous with "license"; "registrant" shall be synonymous with licensee."

Nothing in this part shall prohibit a corporation, partnership, trust, association or other like organization from engaging in the business of fitting and selling or offering for sale hearing aids at retail without a certificate of registration if it employs registered natural persons in the direct fitting and selling of such products. Such corporations, partnerships, trusts, associations or other like organizations shall also file with the division a statement, on a form approved by the division, that it submits itself to the rules and regulations of the division and the provisions of this part which the division shall deem applicable to it.

History.—§ 3, ch. 67-423; §§ 19, 35, ch. 69-106; §§ 2, 3, ch. 71-223; § 173, ch. 71-377.

468.123 Powers and duties of the division.—In addition to those prescribed by law the powers and duties of the division under this part are as follows:

(1) To authorize all disbursements necessary to carry out the provisions of this part and to receive and account for all fees.

(2) To supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for registration.

(3) To register persons who apply to the division and who are qualified to practice the fitting of hearing aids.

(4) To purchase and maintain, rent or acquire, audiometric equipment and facilities necessary to carry out the examination of applicants for registration.

(5) To issue and renew certificates of registration and certificates of endorsement to qualified persons.

(6) To suspend or revoke certificates of registration and certificates of endorsement pursuant to this part.

(7) To appoint representatives to conduct or supervise the examination of applicants for registration.

(8) To designate the time and place for examining applicants for certificates of registration.

(9) To make, publish, and enforce rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this part.

(10) To require the periodic inspection of audiometric testing equipment and to carry out the periodic inspection of facilities of persons who practice the fitting of hearing aids.

(11) To delegate such ministerial duties to the advisory council as the division in its discretion shall deem proper.

(12) To conduct investigations into the business and ethical background of any person who makes application for license in order to determine the applicant's qualification for a certificate of registration.

History.—§ 4, ch. 67-423; §§ 19, 35, ch. 69-106; § 4, ch. 71-223.

468.124 Advisory council.—

(1) An advisory council to the division of health is created to consist of five members, who shall be residents of this state. Three members shall be persons who have been actively engaged in fitting and selling of hearing aids in the state for at least five years prior to appointment. In addition, after the enactment of this part, appointees must hold an unrevoked, unsuspended certificate of registration under this part. One member shall be a diplomat or be eligible for qualification by the American Board of Otolaryngology. One member shall be a person eligible for the certificate of clinical competence in audiology from the American Speech and Hearing Association and actively engaged in the field of audiology in this state. The term of office for members shall be three years, or until their successors are appointed and qualify, except that of the members first appointed, one shall be appointed for one year, two for two years, and two for three years. Members of the council shall be geographically representative of the state, appointed by the governor, and shall act in an advisory capacity to the division.

(2) Each member of the council shall be entitled to reimbursement as provided in § 112.061.

(3) The council shall:

(a) Meet within thirty days after their appointment and elect a chairman from their own number and elect or appoint a secretary who need not be a member of the council, each of whom shall hold office for one year and thereafter until his successor is elected and qualified.

(b) Hold an annual meeting each year and hold other meetings at such times and places as the division or the chairman of the council may direct.

(c) Keep a record of its proceedings, a register of persons whose certificates of registration have been revoked. The books and records of the council shall be prima facie evidence of all matters reported therein and shall be open to inspection by the division at all times.

(d) Recommend to the division examination procedures for applicants, minimum requirements for the testing equipment and

procedures necessary in fitting and selling of hearing aids, a code of ethics for the betterment and improvement of the standard of services and procedures to be followed in the fitting and selling of hearing aids and the protection of the public, and do all in its power to encourage the establishment of a specialized educational course of training for all persons wishing to become registered. The council shall be guided by the Federal Trade Commission Trade Practice Rules for the Hearing Aid Industry and by the minimal procedures as herein defined, and shall investigate alleged irregularities in the fitting and selling of hearing aids, and make recommendations to the division with respect thereto.

(e) Make a report each year to the division and the governor of all its official acts during the preceding year.

(f) Upon the request of any person, furnish a list of persons registered under the provisions of this part.

History.—§ 5, ch. 67–423; §§ 19, 35, ch. 69–106; § 5, ch. 71–223.

468.125 Oath of members of council.—Immediately and before entering upon the duties of said office, the members of the council shall take the constitutional oath of office and shall file same with the department of state which shall issue to said member a certificate of his appointment.

History.—§ 6, ch. 67–423; §§ 10, 35, ch. 69–106.

468.126 Qualifications of applicants for registration.—

(1) Any person engaged in fitting or selling of hearing aids from an established place of business at a permanent address in the state, open for service during usual business hours for at least two years prior to the enactment of this part, shall, upon application to the division, be entitled to a certificate of registration qualifying him as a registrant, provided that he must pass the qualifying examination within a period of two years after the enactment of this part. Said application shall be made to the division on the forms prescribed by it. Any person who becomes a legal resident of the state and who shall produce evidence that he has had one year's experience in fitting or selling hearing aids can make application to the division for examination and upon passing the exmination, and being otherwise qualified as provided in this part, shall be granted a certificate of registration.

(2) Any dealer or salesman in business in this state at the time of the enactment of this part, but who shall not have fulfilled the requirements in subsection (1) of this section, shall be entitled to a certificate of registration upon application to the division, but must pass the qualifying examination within a period of two years after the enactment of this part.

(3)(a) Any person desiring registration who is not qualified otherwise shall be issued a trainee temporary certificate of registration by the division only if he is of good moral character, over the age of twenty-one years and is a graduate of an accredited high school or secondary school. However, any person under twenty-one years of age, who marries or has his disabilities of nonage lawfully removed and who successfully completes an approved academic course in fitting and selling hearing aids and who is otherwise legally qualified may be issued a trainee temporary certificate of registration.

(b) Trainee apprenticeship period shall be for six months as follows:

1. Stage I—The trainee shall work for thirty days under the direct control of a registrant. He cannot in any way fit or test the customer.

2. Stage II—This training stage lasts for sixty days. During this period the trainee may do testing necessary for the proper selection and fitting of a hearing aid and make ear impressions. During this period the trainee may not make delivery or final fitting.

3. Stage III—The trainee may engage in all activities of a registered person. He must, however, work under and be responsible to a registrant for the following ninety days.

(c) The above stages must be completed with no interim time lapse between stages. In the event the trainee leaves his place of training without approval of his employer, he loses seniority and must revert to stage I. This ruling is subject to appeal to the division.

(d) After such period has passed, trainee shall take the qualifying examination given by the division for a certificate of registration and upon successfully passing said examination, may obtain a certificate of registration.

(4) If a person who holds a trainee temporary certificate of registration issued under this section takes and fails to pass the qualifying examination, the division may, upon receiving payment of the stipulated temporary certificate of registration fee, renew the temporary certificate of registration for a period ending ten days after the date of the next qualifying examination. A fee of twenty-five dollars shall be paid at the time the qualifying examination is repeated. A trainee temporary certificate of registration may be renewed only once and during this period, the trainee shall continue in stage III of the trainee apprenticeship period.

(5) At such time as a course in fitting and selling of hearing aids, as approved by the division, shall be established in the state, satisfactory completion of this course shall be considered equivalent to stages I and II of the trainee period.

(6) Any person who shall hold an unsuspended or unrevoked certificate or license to fit or sell hearing aids in another state may make application to the division for examination in lieu of any trainee period, provided he becomes a legal resident of this state and is otherwise qualified as provided in this part.

(7) No person shall be issued a certificate of registration to fit and sell hearing aids unless he shall show that he has an established place of business at a permanent address in this state open for business during normal business hours or that he is employed by a person who meets these requirements.

History.—§ 7, ch. 67–423; §§ 19, 35, ch. 69–106; §§ 6–8, ch. 71–223.

468.127. Trainee requirements.—All trainees are required to satisfactorily complete and pass an examination as prescribed by the division. The examination shall be such that it will establish knowledge or proficiency in each of the following:

(1) Basic physics of sound.

(2) Structure and functions of the hearing mechanism.

(3) Counseling of the hard of hearing.

(4) Structure and functions of hearing aids.

(5) Pure tone audiometry, air and bone conduction.

(6) Live voice or recorded speech audiometry including speech reception, threshold testing and speech discrimination testing.

(7) Masking.

(8) Interpretation of audiograms and speech scores to determine hearing aid candidacy.

(9) Selection and adaptation of hearing aids and evaluation of hearing aid performance.

(10) Taking ear mold impressions.

History.—§8, 67–423; §§ 19, 35, ch. 60–106.

468.128 Fees for registration.—

(1) The certificate of registration fee shall be $50.

(2) The certificate of trainee registration fee shall be $25.

(3) The annual renewal of registration fee shall be $50.

(4) The fee for each examination shall be $25.

(5) The delinquency fee as hereinafter provided shall be $25.

History.—§ 9, ch. 67–423; §§ 19, 35, ch. 69–106; §9, ch. 71–223.

468.1281 Disposition of fees.—All fees collected under the provisions of this part shall be paid to the director of the division, who shall depsoit said funds with the state treasurer to the credit of the hearing aids and devices trust fund. The cost of administration of this part, including the activities of the advisory council, shall be paid from the moneys collected under the provisions of this part.

History.—§14, ch. 71–223.

468.129 Refusal to issue or renew a certificate of registration.—The division may refuse to issue or to renew or may suspend or revoke any certificate of registration after proper public hearing for any of the following causes:

(1) The conviction of a felony or a misdemeanor involving moral turpitude.

(2) When a certificate of registration has been secured by fraud or deceit practiced upon the division.

(3) For unethical conduct or for gross malpractice in the fitting of selling of hearing aids.

(4) Violation of any of the provisions of this part or of any rules or regulations promulgated pursuant to the authority delegated in this part.

(5) Altering a license with fraudulent intent.

(6) Willfully making a false statement in an application for a certificate of registration or application for renewal of a certificate of registration.

History.—§ 10, ch. 67–423; §§ 19, 35, ch. 69–106; §10, ch. 71–223.

468.130 Unethical conduct defined.—Unethical conduct shall include:

(1) The obtaining of any fee or the making of any sale by fraud or misrepresentation.

(2) Employing directly or indirectly any suspended or unregistered person to perform any work covered by this part.

(3) Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia or any other representation, however disseminated or published, which is misleading, deceiving or untruthful.

(4) Advertising or offering for sale a particular model, type or kind of hearing aid when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price. In determining whether there has been a violation of this rule, consideration will be given to actions or practices indicating that the offer was not made in good faith for the purpose of selling the advertised product, but was made for the purpose of contacting prospective purchasers and selling them a product or products other than the product offered. Among actions or procedures which will be considered in making that determination are the following:

(a) The creation, through the initial offer or advertisement, of a false impression of the product offered in any material respect.

(b) The refusal to show, demonstrate or sell the product offered in accordance with the terms of the offer.

(c) The disparagement, by actions or words, of the product offered or the disparagement of the guarantee, credit terms, availability of service, repairs or parts or in any other respect, in connection with it.

(d) The showing, demonstrating, and in the event of sale, the delivery of a product

which is unusable or impractical for the purpose represented or implied in the offer.

(e) The refusal, in the event of sale of the product offered, to deliver such product to the buyer within a reasonable time thereafter.

(f) The failure to have access to a quantity of the advertised product at the advertised price sufficient to meet reasonably anticipated demands.

(5) Representing that the professional services or advice of a physician or audiologist will be used or made available in the selling, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the words "doctor," "clinic," "clinical," "medical, clinical and/or research audiologist," "audiologic" or any other like words, abbreviations or symbols which tend to connote audiological or professional services when such use is not accurate.

(6) Permitting another to use the certificate of registration.

(7) Representing, advertising or implying that the hearing aid or repair is guaranteed without a clear and concise disclosure of the identity of the guarantor, the nature and extent of the guarantee and any conditions or limitations imposed.

(8) Failure to properly and reasonably accept responsibility for the actions of the registered trainee.

(9) Using any advertisement or other representation which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers into the belief that any hearing aid or device, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(10) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features such as the absence of anything in the ear, or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(11) Making any predictions or prognostications as to the future course of a hearing impairment, either in general terms or with reference to an individual person.

(12) Stating or implying that the use of any hearing aid will improve or preserve hearing, prevent or retard progression of a hearing impairment, or that it will have any similar or opposite effect.

(13) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(14) Representing or implying that a hearing aid is or will be custom made, "made to order," "prescription made," or in any other sense specially fabricated for an individual person when such is not the case.

History.—§ 11, ch. 67-423; § 11, ch. 71-223.

468.131 Procedure for revocation, suspension, etc.—

(1) No certificate of registration shall be denied, revoked, or suspended expect after written notice by registered mail to the applicant or registrant setting forth the particular reasons for the proposed actions and the right to a hearing if demanded by the applicant or registrant.

(2) Any applicant or registrant who desires a hearing shall, within twenty days after service of notice, request a hearing in writing by registered mail, said request to be delivered to the director of the division.

(3) When an applicant or registrant requests a hearing, he shall be notified, either personally or by registered mail, as to the time and place at least thirty days before the time fixed for the hearing.

(4) If no request for hearing is duly made, the director of the division shall deny, revoke, or suspend the certificate without hearing.

(5) If a hearing is requested, it shall be conducted pursuant to the applicable provisions of chapter 120, part II, and § 468.132.

History.—§ 12, ch. 67-423; §§ 19, 35, ch. 69-106; § 12, ch. 71-223. cf.—§ 1.01 Defines registered mail to include certified mail.

468.132 Conduct of hearing, witnesses, evidence, etc.—

(1) For the purpose of such hearing, the division shall have the power to require the production of books, papers or other documents and may issue subpoenas to compel the defendants or witnesses to testify and produce such books, papers or other documents in their possession as may be, in the opinion of the division, relevant to any hearing before it, said subpoenas to be served by the sheriff of the county where the witness resides or may be found. Such witnesses shall be entitled to the same per diem and mileage as witnesses appearing in the circuit court of the state, which shall be paid by said division from the fees collected under this part. The division may administer oaths or affirmation to witnesses appearing before it. Subpoenas may be so issued for and in behalf of the defendant at his expense.

(2) If any person shall refuse to obey any subpoenas so issued or shall refuse to testify or produce books, papers or other documents required by the division, the division may present its petition to the circuit court of the county where any such person is served with the subpoena or where he resides, setting forth the facts, and shall deposit with said court, when such subpoena is issued in its behalf, the per diem and mileage to secure the attendance of such witness (the defendant may make like deposits), whereupon said court shall issue its rule nisi to such person requiring him to obey forthwith the subpoena issued by the division or show cause why he fails to obey the same, and unless the said person shows sufficient cause for failing to obey the said subpoena, the court shall forthwith direct such person to obey the same, and upon his refusal to comply, he shall be adjudged in contempt of court and shall be punished as the court may direct. The division may delegate to a hearing examiner, or examiners, authority to conduct hearings, and the hearing examiner shall make recommendations to the division.

(3) If the division shall be satisfied, from the evidence and proofs submitted, that the accused has been guilty of any of the charges mentioned in § 468.129, it shall thereupon without further notice take such action upon the charges and impose such penalties as it may be advised under said § 468.129. The records of the division shall reflect the action of the division upon the charges.

(4) The division shall preserve a record of such proceedings in a similar manner as records in court proceedings are kept and preserved in the circuit courts of this state.

History.—§ 13, ch. 67-423; §§ 19, 35 ch. 69-106.

468.133 Review of orders of the division by the circuit courts; procedure and venue.—

(1) The final order of the division in proceedings for the suspension or revocation of certificates of registration shall be subject to review by the Circuit Court of Leon County, or the county wherein the registrant has recorded his certification of registration and has his principal place of business, or of the county wherein the books and records of the division are kept.

(2) All other final orders of the division, under this part, shall be subject to review in the same courts.

(3) All such reviews shall be obtained by filing a petition for the issuance of a writ of certiorari with the appropriate circuit court in the manner provided by the Florida Appellate Rules.

(4) Any interested party may appeal from the decision of the circuit court to the district court of appeal having appellate review over said circuit court and in the manner and within the time provided by the Florida Appellate Rules.

History.—§ 14, ch. 67-423; §§ 19, 35, ch. 69-106.

468.134 Application for certificates, etc.—

(1) No person shall fit or sell hearing aids in this state unless such person has complied with the requirements hereof as to registration and licensing. Every person now lawfully engaged in fitting or selling of hearing aids and every person hereafter duly registered to fit or sell hearing aids shall, on or before January 1 of each year, apply to the division for a certificate of registration upon a blank form to be furnished by the division, and shall pay at such time the regular annual renewal fee. The certificate of registration of any person fails or neglects to register by January 1 of any year, as required herein, shall be suspended automatically after a thirty-day grace period until such time as such person shall register and shall pay the regular annual fee, plus a delinquency fee of twenty-five dollars for each year or fraction thereof that he failed to register.

(2) A person in making his first registration hereunder shall write or cause to be written upon the application blank so furnished by the division his full name, post office and residence address, the date and number of his certificate of registration and such other facts for identification of the applicant as may be deemed necessary, and shall duly execute and verify the same before an officer authorized to take acknowledgments of deeds and shall file the same with the division. Registration subsequent to the first registration need not be upon sworn application unless the division, in a particular case for reasons satisfactory to it, may require the application be under oath.

(3) The division on or before October 1 of each year after the first registration shall mail or cause to be mailed to each registered person a blank form of application for registration addressed to the last known post office address of such person. The form of such application shall be such as to contain space for the insertion by the applicant of the information required by the provisions of this part.

(4) The division shall issue to any duly registered person fitting and selling hearing aids in this state, upon his application therefor in accordance with the provisions hereof, a certificate of registration under the seal of the division for the year ensuing and ending December 31.

(5) Each registered person shall conspicuously display his proper registration certificate in his place of business at all times.

History.—§ 15, ch. 67-423; §§ 19, 35, ch. 69-106; § 13, ch. 71-223.

468.135 Minimal procedures and equipment.—The following minimal procedures and equipment shall be used in the fitting and selling of hearing aids:

(1) Pure tone audiometric testing by air and bone to determine the degrees and type of hearing deficiency. Effective masking.

(2) Appropriate testing to determine speech reception threshold, speech discrimination, most comfortable sound tolerance level and selection of the best ear for maximum hearing aid benefit. Selection of an instrument that will best compensate for the degree of loss and tolerance level and provide a frequency amplification curve that will give the best speech discrimination possible.

(3) Equipment:

(a) Pure tone audiometer which shall meet with the American Standards Association specifications for diagnostic audiometers.

(b) Speech audiometer or a master hearing aid in order to determine most comfortable listening level and speech discrimination.

(4) Final fitting insuring physical and operational comfort of the aid.

(5) Medical clearance: If, upon inspection of the ear canal with an otoscope, in the common procedure of a hearing aid fitter, and upon interrogation of the client, there is any recent history of infection or any observable anomaly, the client shall be instructed to see a physician, and a hearing aid shall not be fitted until medical clearance is obtained for the condition noted. Any person with a significant difference between bone conduction and air conduction hearing must be informed of the possibility of medical correction.

(6) A hearing aid office will have available or access to a selection of hearing aid models, hearing aid supplies and services complete enough to accommodate the various needs of the hearing aid wearers, such as:

(a) An adequate stock of hearing aids including an appropriate selection of receivers.

(b) An adequate selection of accessories.

(c) Maintain, or have access to, facilities for making ear molds.

(7) The division shall have the power to prescribe minimum procedures and the equipment which shall be used in fitting and selling of hearing aids which may be different than that which is provided herein in order to utilize devices and equipment which may hereafter be adopted by the division as more efficient procedures and equipment.

History—§ 16, ch. 67-423; §§ 19, 35, ch. 69-106.

468.136 Receipt required to be furnished to person supplied with hearing aid.—Every person who fits and sells hearing aids shall deliver to each person there supplied with a hearing aid a receipt which shall contain his signature and show the address of the regular place of business and the number of his certificate of registration, together with the brand, model and serial number of the hearing aid furnished and amount charged therefor. Said receipt shall also specify whether the hearing aid is new, used or rebuilt, and the length of time of the guarantee and by whom guaranteed.

History.—§ 17, ch. 67-423.

468.137 Part III of this chapter not applicable to persons in certain professions.—

(1) This part III shall not apply to a person while he is engaged in the practice of recommending hearing aids if his practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or nonprofit organization which is primarily supported by voluntary contribution, provided this organization does not dispense or sell hearing aids or accessories.

(2) This part shall not apply to any physician licensed to practice in the State of Florida.

(3) On the selling and fitting of hearing aids located in the temples of glasses, the lens portion or frame front shall not be fitted, adjusted or sold by a registrant or licensee under this part, unless the registrant or licensee is otherwise qualified to do so.

(4) This part does not apply to an audiologist who does not sell or repair hearing aids.

History.—§ 18, ch. 67-423.

468.138 Penalty.—Any action in violation of any provision of Part III of this chapter shall constitute a misdemeanor of the second degree, punishable as provided in § 775.082 or § 775.083.

History.—§ 19, ch. 67-423; § 408, ch. 71-136.

RULES—STATE OF FLORIDA, DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES, DIVISION OF HEALTH DRUGS, COSMETICS, AND DEVICES, CHAPTER 10D-48—FITTING AND SELLING OF HEARING AIDS

10D-48.01 Definitions. In addition to the definitions in Section 468.122 FS, the following terms shall mean:

(1) Certificate Replica—the duplication of certificates produced by the Division of Health, Department of Health and Rehabilitative Services, by photo copy, from the file copy of certificates issued under the hearing aid program.

(2) Fitting—not only the physical acts of adjusting the hearing aid to the individual, taking audiograms, making of ear molds, but also counseling, advising, audiograph interpretation and assisting the purchaser in the selection of a suitable hearing aid.

(3) Place of business—an established address where the client can have personal contact and counsel with the fitter and seller of hearing aids and obtain services during normal business hours.

(4) Normal business hours—no less than any published schedule of two working week days, and shall include a minimum of eight hours per week.

(5) Selling—all acts and agreements pertaining to the pricing, delivery, guarantees and services and other matters not related to fitting as outlined in these regulations.

General Authority 468.123(9) FS, Law implemented 468.123(10) FS. History—New 6-8-69.

10D-48.02 Administrative Support. In addition to those duties listed under Section 468.123 FS, the Division of Health will provide administrative support to the Advisory Council on Fitting and Selling of Hearing Aids, consistent with that furnished to other similar advisory councils to the Division of Health, maintaining such files and registries and providing such clerical assistance necessary to the program.

General Authority 468.123(9) FS. Law Implemented 468.123(10) FS. History—New 6-8-69.

10D-48.03 Registration Procedures. The Division of Health and all applicants for registration under this program shall adhere to the following rules:

(1) The Division of Health may require letters of reference, physicians statement of applicant's good health, verification of age or other supportive documents as may be required.

(2) Applicants for the Trainee Apprenticeship shall be considered registered with the Division of Health from the date of acceptance of his completed application by the Division of Health and the length of his training period shall be computed from said date.

(a) All registrants and trainees will be responsible for keeping the Division of Health informed of their current mailing address and their current business address.

General Authority 468.123(9) FS. Law Implemented 468.123(2)(3),(9) FS. History—New 6-8-69. Amended 3-22-73.

10D-48.04 Examination Procedures. The Division of Health will administer a qualifying examination to all persons to fit and sell hearing aids in Florida pursuant to Section 468.125 FS. The following rules will govern the presentation of the qualifying examination:

(1) The examination will be given at the time and place as designated by the Division of Health.

(2) The Division of Health may appoint a board of examiners to assist the Division of Health with the preparation of the examination.

(3) The examination will be conducted by the staff members of the hearing aid program at the appointed time and place with the advice and assistance of the board of examiners when required.

(4) Application for examination will be upon forms provided and in the manner prescribed by the Division of Health.

(5) Applications for examination shall be in the hands of the Division of Health thirty (30) days prior to the examination date, and must be accompanied by any required fees or supporting documents.

(6) A Certificate of Examination will be issued by the Division of Health to those persons who successfully pass the qualifying examination. Those persons who fail the examination will be so advised in writing.

(7) The examination will be in the form as determined from time to time by the Division of Health and its board of examiners and will cover the basic subjects listed under Section 468.127 FS.

(8) A trainee shall take the first scheduled qualifying examination that the trainee becomes eligible for, except he may be allowed to take a later examination, if he shows the required proof that illness or death in the family prevented him from taking the scheduled examination.

General Authority 468.123(9) FS. Law Implemented 468.123(2), (7), 468.126(3)(d), 468.127 FS. History—New 6-8-69. Amended 3-22-73.

10D-48.05. Certificates. The Division of Health will issue to the registrant or applicant only one "original" certificate whether it be an annual Certificate of Registration, a Temporary Trainee Certificate or a Certificate of Examination.

(1) Certificate Replica—or duplicate certificate will be issued only if the original is lost or destroyed as follows:

(a) A replica of the original as determined by the Division of Health will be furnished.

(b) Request for replica must be supported by sworn statement, signed by the certificate holder stating the reason for replacement.

(c) The certificate holder is solely responsible to the Division of Health to insure certificate replicas are not for fraudulent or improper uses.

(2) Trainee Certificate—No Trainee Certificate of Registration shall be issued by the Division of Health unless the applicant shows to the satisfaction of the Division of Health that he is or will be employed, supervised and trained by a person who holds a current valid Certificate of Registration issued under this act; and further, that said trainee shall be acceptable to the Division of Health as to ethics and morals.

General Authority 468.123(9) FS. Law Implemented 468.123(5), 468.126(3) FS. History—New 6-8-69.

10D-48.06 Ethics.

(1) It is unethical to use, or cause or promote the use of, any trade promotional literature, advertising matter, testimonial, guarantee, warranty, mark, insignia, depiction, brand, label, designation, or representation, however disseminated or published, which has the effect of misleading or deceiving purchasers or prospective purchasers:

(a) wtih respect to the characteristics and terms of sales of his products;

(b) with respect to any services offered or promised by such member in connection with his products;

(c) with respect to limitations concerning the use or efficient application of his products.

(2) It is unethical to use, or cause to be used, any guarantee or warranty which is false, misleading, deceptive, or unfair to the purchasing or consuming public, whether in respect to the quality, construction, serviceability, performance, or method of manufacture of any hearing aid product, or the terms and conditions of refund or purchase price thereof, or in any other respect.

The foregoing inhibitions of this rule are to be considered as applicable with respect to any guarantee or warranty in which the terms and conditions relating to the obligation of the guarantor or warrantor are im-

practical of fulfillment; and is also applicable to the use of any guarantee or warranty in respect to which the guarantor or warrantor fails or refuses to observe scrupulously his obligations hereunder.

(3) Any guarantee or warranty made by the dealer or vendor which is not back up by the manufacturer must clearly state that the guarantee is offered by the dealer or vendor only.

(4) It is unethical to advertise a particular model or kind of hearing aid for sale when purchasers or prospective purchasers responding to such advertisements cannot have it demonstrated to them or cannot purchase the advertised model or kind from the industry member and the purpose of the advertisement is to obtain prospects for the sale of a different model or kind of hearing aid than that advertised;

(5) It is unethical to advertise or represent an installment sales contract as a lease or rental plan;

(6) It is unethical to advertise or offer as an aid to hearing a device which has less than 18 decibels of amplification as averaged at 500, 1,000 and 2,000 cycles per second (as determined by Hearing Aid Industry Council standards):

(7) It is unethical:

(a) to use in advertising the name or trademark of a manufacturer in such a way as to imply a relationship with the registrant or trainee which does not exist;

(b) to use in advertising the name or trademark or model name of a manufacturer or displays on the premises the name or trademark of a manufacturer in such away as to imply a relationship which does not exist, or whose products are neither in stock nor arranged to stock;

(c) to advertise services and/or accessories in such a manner as to imply a relationship with a manufacturer that does not exist.

(8) It is unethical to advertise a hearing aid utilizing bond conduction as having no cord, no tube, no ear mold, no buttons, or receivers without disclosing the instrument utilizes bone condition;

(9) It is unethical to advertise that no buttons, wires, or cords are attached to an instrument unless there is disclosed in the same advertisement and in reasonable proximity to such statement the fact that a tube runs from the instrument to the ear, if such is the fact;

(10) It is unethical to use or cause, or promote any advertising material which shall show only a single part, accessory, or component of the hearing aid such as a battery on the finger, or a transistor held in the hand, where such has the effect of misleading or deceiving purchasers or prospective purchaser into believing that said parts are all that need be worn or carried, when such is not the fact.

(11) It is unethical to make or publish, or cause to be made or published, any advertisement, offer, statement, or other form of representation which directly or by implication is false, misleading, or deceptive:

(a) concerning the salary, commission, income, earnings, or other remuneration which a registrant or trainee receives or may receive; or

(b) concerning any conditions or contingencies affecting such remuneration or the opportunities therefor.

(12) It is unethical for any registrant or trainee to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising or otherwise, that he is a manufacturer of hearing aids, or of batteries or other parts or accessories therefor, or that he is the owner or operator of a factory or producing company manufacturing them, or that he owns or maintains an acoustical research laboratory devoted to hearing aid research or development, when such is not the fact, or in any other manner to misrepresent the cnaracter, extent, or type of his business.

(13)(a) It is unethical to represent or imply that the services or advice of a doctor have been used in the designing or manufacturing of a hearing aid product, or will be used or made available in the selecting, testing, or adjusting of hearing aid products to the individual needs of consumer purchasers, when such is not the fact;

(b) The inhibitions of the above rule are applicable to the use of such terms as doctor, physician, otologist, specialist, audiologist, or certified hearing aid audiologist and to any abbreviation of such terms, and are also applicable to the use of any symbol or depiction which connotes the medical profession;

(14) It is unethical to use terms in hearing aid advertising that have medical connotations, such as clinic, and so forth;

(15) It is unethical to use such terms as "Hearing Center", "Hearing Institute", "Hearing Bureau", "Hearing Clinic", and the like, that can cause confusion between a commercial hearing aid establishment and a governmental or non-profit medical, educational or research institution. "Hearing Center" is not acceptable although "Hearing Air Center" is acceptable. Any public hearing aid center or medical clinic or practitioner which might undertake to sell hearing aids should identify its commercial interest plainly by the words "Hearing Aid Dealer."

(16) It is unethical to engage in fee-splitting or kickback arrangements with any physician, optometrist, clinical audiologist, or other professional or scientific practitioner.

(17) It is unethical to advertise or offer as an aid to hearing, medicines, ear oils, drugs, vitamins, or remedies of any kind, or treatment, rehabilitation by machine, vibrations, sound "treatment", or surgery. Medicine and surgery are the province of the physician and may in no way be offered or advertised.

(18) It is unethical to represent that any hearing aid or part thereof is concealed or unrecognizable as a hearing aid when worn by any user if, for practical purposes, such is not the fact.

(19) It is unethical, in the sale, offering for sale, or distribution of hearing aid products, to use any advertisement or other representation which misleads or deceives purchasers or prospective purchasers into the belief that any such product, or part or accessory thereof, is a new invention or involves a new mechanical or scientific principle, when such is not the fact.

(20) It is unethical to represent, directly or indirectly, that any hearing aid product or part thereof is new, unused, or rebuilt, when such is not the fact.

(21) In the marketing of hearing aid products which are second-hand or rebuilt, or which contain second-hand or rebuilt parts, it is unethical to fail to make full and nondeceptive disclosure in writing to the purchaser and by a conspicuous tag or label firmly attached to the product, and in all advertising and promotional literature relating thereto, of the fact—

(a) that such products are second-hand, rebuilt, or contain second-hand or rebuilt parts, as the case may be, or

(b) that the rebuilding of rebuilt products was done by other than the original manufacturer, when such is the case.

(22) It is unethical, in the sale, distribution, or promotion of hearing aids—

(a) to represent, or to use any seals, emblems, shields, or other insignia which represent or imply in any manner, that a hearing aid or related product has been tested, accepted, or approved by an individual, concern, organization, group, or association, unless such hearing aid has in fact been tested in such manner as reasonably to insure the quality and performance of the instrument in relation to the intended usage thereof and the fulfillment of any material claims made, implied, or intended to be supported by such representation or insignia; or

(b) to represent that a hearing aid or other related product tested, accepted, or approved by any individual, concern, organization, group, or association has been subjected to tests based on more severe standards of performance, workmanship, quality than is in fact true; or

(c) to make any false, misleading or deceptive representation respecting the testing, acceptance, or approval of a hearing aid by any individual, concern, organization, group or association.

(23) It is unethical to advertise that a certain individual, organization, or institution:

(a) endorses, uses or recommends his hearing aids or other hearing aid products when such is not the case; or

(b) personally wears a particular model, type, or kind of hearing aid when such is not the case.

(24) It is unethical to defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations; or the false disparagement of the products or competitors in any respect, or their business methods, selling prices, values, credit terms, policies, or services.

(25) It is unethical to:

(a) display the products of a competitor in a window, shop or advertising in such manner as to convey a false comparison of the products, thereby resulting in a false disparagement of the competitor's product. (This shall not prevent one from displaying or advertising in such manner as to convey a true and accurate comparison of competitive products, and shall not prevent one from making specific or generalized truthful comparisons to point out the features and superiorities of his product).

(b) represent, without substantial and specific grounds for such representation, that competitors are unreliable whereas the person making such representation is not;

(c) quote prices of competitive devices when such are not the true current prices, or to show, demonstrate or discuss competitive models as current models.

(26) It shall be considered unethical to attempt to foster an unfavorable impression of a competitor with the medical profession, hearing societies, clinics, or public groups by falsely disparaging his motives, his methods, his products, and his prices with such groups.

General Authority 468.123(9) FS. Law Implemented 468.123(9) FS. History—New 6-8-69.

10D-48.07 FTC Rules. The Federal Trade Commission Trade Practice Rules for the Hearing Aid industry shall be a guide for the council, the Division of Health the fitters and sellers of hearing aids of the State.

General Authority 468-123(9) FS. Law Implemented 468.123(9) FS. History—New 6-8-69.

10D-48.08 Trainee Requirements.

(1) During Stage I of the Trainee Apprenticeship Period, the trainee shall train in the same physical location with his sponsor, or other registrants designated by his sponsor, during the published normal business hours. The sponsor shall provide the trainee with a written schedule of assignments that are to be accomplished during each trainee stage and shall include reading assignments from the recommended reference list, and instructions in each of the ten subjects as stipulated in F.S. 468.127. The sponsor must keep on file a copy of the trainee schedule of assignments and provide a copy to the Division of Health upon request.

(2) During Stage II of the Trainee Apprenticeship Period, the trainee shall train in the

same physical location with his sponsor, or other registrants designated by his sponsor, during the published normal business hours. The trainee, while under the direct supervision of his sponsor, or other registrants designated by his sponsor, shall practice each of the tests and procedures as stipulated in F.S. 468.127 in a sufficient number that he becomes skillful in the procedures and techniques for proper fitting and selection of a hearing aid.

(3) During Stage III of the Trainee Apprenticeship Period, the trainee shall train in the same physical location with his sponsor, or other registrants designated by his sponsor, during published normal business hours. The trainee shall fit a sufficient number of hearing aids to assure that adequate training has been accomplished in all subjects as stipulated in F.S. 468.127.

(4) The trainee's sponsor shall make periodic evaluations during each training stage to determine if the trainee has accomplished the assignments. The sponsor and the trainee shall notify the Division of Health at the satisfactory completion of each training stage within seven (7) days after completion date of each stage.

General Authority 468.123(9) FS. Law Implemented 468.126(3)(b) FS. History—New 3-22-73.

10D-48.09 Procedures and Equipment. Audiometric examinations shall be made in a testing room that has been certified by the Division of Health not to exceed the following sound-pressure levels at the specified frequencies: 125 Hz—40 db; 250 Hz—40 db; 500 Hz—40 db; 750 Hz—40 db; 1000 Hz—40 db; 1500 Hz—42 db; 2000 Hz—47 db; 3000 Hz—52 db; 4000 Hz—57 db; 6000 Hz—62 db; 8000 Hz—67 db.

General Authority 468.123(9) FS. Law Implemented 468.135 FS. History—New 3-22-73.

PROGRESS IN ULSTER

Mr. KENNEDY. Mr. President, yesterday's historic agreement to establish a Council of Ireland is a magnificent milestone on the road to peace in Northern Ireland, and I commend the leaders of all three sides—Britain, Ireland and Ulster—whose wisdom, understanding and compassion have made this achievement possible.

In a sense, the new agreement marks the culmination of a remarkable series of positive developments that began in Ulster nine months ago when Britain promulgated its White Paper for Northern Ireland, outlining the hope for steps that have now been achieved in fact.

Slowly, week by week, since March, events have unfolded to bring Ulster to its hopeful status today. The border poll, the dramatic elections for the new Northern Ireland Assembly, the excruciating but successful negotiations for power sharing and the new Ulster Executive, and now the dramatic creation of the Council of Ireland, have been among the truly significant political developments in Ulster—progress that brought both sides to the realization that it was humanly possible to reach the essential compromises that were necessary to end the reign of bombs and bullets in Ulster and let Protestants and Catholics live in peace.

To be sure, any cause for optimism must be tempered by the continuing inflammatory statements and violence of the extremists on both sides in Ulster who would wreck the new agreements. But slowly, over the past nine months, these men of violence and total resistance to compromise are being increasingly isolated. Surely now, with the fruit of peace so close, the great majority of decent Protestant and Catholic citizens in Ulster will be even less inclined to offer support or encouragement to those who would destroy the progress that has been made.

To paraphrase Winston Churchhill in 1942, Northern Ireland has now reached the end of the beginning, and the many leaders who have participated in this remarkable achievement deserve the highest praise.

But above all, I would single out William Whitelaw. The almost unbelievable insight, perseverance and painstaking genius he brought to his task, as Britain's Secretary of State for Northern Ireland, was the guiding factor in reconciling the interests and passions of the parties in Northern Ireland that made this progress possible.

Perhaps, with so many troubled areas in the world, there will be others in other strife-torn lands who will achieve a comparable success, but for now, I can think of no one whose towering service in the cause of peace is more deserving of the Nobel Peace Prize than Mr. Whitelaw.

Mr. President, I ask unanimous consent that the following articles on these developments may be printed in the RECORD: the article by Bernard D. Nossiter from this morning's Washington Post; the article by Richard Eder from this morning's New York Times; and two recent columns analyzing Mr. Whitelaw's role, one by Simon Hoggart in the Manchester Guardian of November 23, and the other by Robert Fisk in the London Times of December 3.

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

[From the Washington Post, Dec. 10, 1973]

IRISH COUNCIL SET UP

(By Bernard D. Nossiter)

LONDON, Dec. 9.—Political leaders from Britain, the Irish Republic and Ulster tonight agreed to set up a Council of Ireland, a brave new form of joint government designed to end centuries of antagonism.

The historic accord was reached after four days and nights of marathon talks at a heavily guarded civil service college outside London. The negotiations were led by Prime Minister Edward Heath of Britain, Premier Liam Cosgrave of Ireland and Brian Faulkner, the chief executive in Ulster's new Protestant-Catholic coalition government.

The pioneering venture will bring together in a continuing body representatives from the independent republic in the south of Ireland and from Ulster, the northern province that is part of the United Kingdom.

Heath, his eyes red rimmed and his voice hoarse from talks that at one point went on continuously for 23 hours, called the accord "a success . . . a very considerable achievement."

"It can mean a better future," he said, "not only for Northern Ireland but for Ireland north and south."

The heart of the new arrangement is its Council of Ministers, seven from the Dublin government in the south and seven from the new Protestant-Catholic executive in the north.

This body is charged with determining how best to utilize Ireland's scarce resources and to seek ways of cooperating, rather than competing in agriculture and industry. Most important, in view of the terrorists, Protestant and Catholic, who still plague Ulster, the new council will have a voice in selecting police directors, north and south.

To reassure Ulster's Protestants, a majority in the north but a minority in the island as a whole, the council can act only when its 14 members agree unanimously.

The key to tonight's agreement hung on allaying Protestant fears over two points. Ulster's majority has been worried that it would be railroaded into a united, independent Ireland in which it would become a minority. The Ulster Protestants have also been suspicious of the Dublin government's willingness to act against Irish Republican Army terrorists who flee across the border to the south.

On the first point, the Irish government "solemnly declared that there could be no change in the status of Northern Ireland (as British) until a majority of the people in the province desired a change." This declaration appears to make a dead letter of a provision in the constitution of the Irish Republic which claims sovereignty over Ulster, a provision that has long fueled Protestant suspicion.

On the second point, all sides of the tripartite talks agreed that persons accused of violence anywhere in Ireland, regardless of motive, should be tried. More specifically, the Irish government promised to change its laws so that anyone charged with murder in Northern Ireland will be brought to trial.

Some IRA terrorists, accused of murder in the north, have found sanctuary in the south by claiming that their deeds were politically motivated. This defense has often spared them from extradition. The new Dublin pledge should close this escape route.

Another central issue in the drawn-out talks was an effort by Ulster and Dublin Catholics to give the joint council power over Ulster's police. Catholics in the north have complained for the 52 years of the province's existence that police there have dealt harshly with their community and protected Protestant thugs.

This issue was compromised. The new council will be consulted when men are appointed to the Northern Ireland Police Authority, the principal policy body. For the sake of balance, the Dublin government will create a police authority and its nominees will also be named after the council is consulted.

Despite the agreement of the three sides, the new accord will be attacked bitterly by both the IRA and the Protestant hardliners in the north. The IRA is expected to complain that it blocks a united Ireland; the Protestant opponents will insist that it forces a united Ireland.

[In Belfast, militant Protestant leaders and both wings of the Irish Republican Army denounced the agreement. A spokesman for the IRA's Official wing said, "It simply gives Britain a further grip on Irish affairs and will be resisted in the streets." The Rev. Martin Smyth, head of the Protestant militant Orange Order, said Faulkner and his colleagues" will get a welcome home in Northern Ireland similar to that given Chamberlain when he returned from Munich."]

Both groups denounced the deal reached last month that divides power between Catholics and Protestants in Ulster. The killings and bombings have continued and there is no reason to think that they will end.

But if the Dublin government is seen to be carrying out its pledges and if Catholics and Protestants in Ulster visibly share power under the new arrangement, terrorists from both sects will find it increasingly harder to operate. The new Council of Ireland could indeed lead to a unified and independent Ire-

land, but one achieved by agreement and not by force.

Britain continues to subsidize Ulster's depressed economy and provides the soldiers that enforce what law and order exists. So tonight's agreement provides that London's interest in finance and security will be protected in any council decisions. Just how this will be accomplished was not spelled out.

Apart from the council of 14 ministers, the new Irish body will contain a consultative assembly. The assembly will have only the power to give advice and consist of 60 representatives, evenly divided between the Dublin and Belfast governments.

Chairmanship of the Council of Ministers will rotate between Dublin and Belfast. This body will be served by a permanent secretariat led by a secretary general. That gives it the shape of a confederation rather than a talk shop.

As a further concession to Ulster's Catholics, the British government promised to release before Christmas some of the suspected terrorists whom London is holding without charge or trial. There are nearly 700 of these "detainees" and most are Catholics.

Cosgrave, the Dublin premier, said that the path-breaking agreement was reached "because we have not allowed ourselves to be intimidated by past prejudices."

"We have worked out a settlement which under God could provide a new basis for understanding in Anglo-Irish relations," he said.

[From the New York Times, Dec. 10, 1973]

ACCORD ON ULSTER REACHED AT TALKS BY THREE PARTIES

(By Richard Eder)

LONDON, Dec. 9.—Britain, the Irish Republic and the moderate Protestant and Roman Catholic leadership of Northern Ireland agreed tonight on sweeping proposals for the future of Ulster.

The agreement, announced after 50 hours of talks including two all-night sessions, left some important issues unresolved. But it included major concessions from both sides, and it cleared the way for a Protestant-Catholic coalition to take office in the North for the first time, probably early in January.

When the weary delegates emerged from the talks, held at a civil service college in Berkshire, 27 miles from here, they were clearly delighted. Price Minister Heath called the agreement "a very considerable achievement." John Hume, a leader of the Northern Catholic delegation, said: "I am very happy."

PLEDGES ON NORTH'S STATUS

Prime Minister Liam Cosgrave of the Irish Republic said that he believed a package had been agreed on "which can respond to the needs of the present situation." Mr. Cosgrave is a careful man with his words, and his guarded comment did not hide his satisfaction.

Perhaps the most dramatic point of the historic agreement was the decision that the Governments of both the Republic of Ireland and Britain would make solemn pledges about the status of Northern Ireland and deposit them at the United Nations. The pledges will thus be given international status and their observance will come under jurisdiction of the International Court of Justice.

Dublin will pledge its recognition that the present status of the North, with its link to Britain, cannot be changed except when a majority in the North so decide. This is the first such statement by the Government of the Irish Republic, whose Constitution still contains a claim to jurisdiction over the whole island.

The suspicion by the northern Protestants that the Republic seeks to force them into a united Ireland is one of the deepest obstacles to the political accord. It remains to be seen whether today's declaration will neutralize the growing Protestant opposition to an accord. This opposition seriously threatens the moderate Protestant leadership of Brian Faulkner.

For her part, Britain has now pledged that should a majority in the North decide some day to join a united Ireland, she will put no obstacles in the way.

The conference agreed to set up a Council of Ireland, a body that will act as a link between the Government of the republic and the Northern Ireland executive body. The Council will consist of seven members of the Dublin Government and seven members of the Ulster executive body, and it will have its own secretariat.

It will be assisted by a consultative body comprising 30 members of the republic's Parliament and 30 members of the Ulster Assembly.

A SYMBOL OF UNITY

The functions of the Council of Ireland remain vague, and this was one area in which the conference failed to make more than partial progress. The Dublin delegation and the Northern Catholics did win a concession from Mr. Faulkner that the council would have some "executive" functions. These were not defined, but they may include tourism, power development and some aspects of trade.

As the symbol of possible Irish unity, the Council of Ireland is an institution that the northern Catholics want to make an impressive and the Protestants an innocuous as possible. Mr. Faulkner had hoped to keep the council purely consultative and without "executive powers," but he avoided further concessions on the issue by leaving the definition of such powers for the future.

The conference agreed that those accused of armed violence would be brought to justice wherever they were apprehended. One of the main grievances of the Protestant majority in the North has been that members of the Irish Republican Army who flee south have often been able to avoid extradition.

Prime Minister Cosgrave did not agree to change the extradition laws; sentiment in the republic would probably not permit that. What is being worked toward, however, is some kind of common code of law enforcement in which, for example, southern courts would be able to try those accused of crimes in the North, and vice versa.

The details of this will be left for further discussion.

On the issue of the police, another deeply divisive issue, Mr. Faulkner succeeded in upholding most of the Protestant position. Because the Catholic community in the North is suspicious of the mainly Protestant Royal Ulster Constabulary, both the Catholic representatives and the Dublin Government had hoped to give the Council of Ireland some authority over both the northern constabulary and the police in the South.

The Protestants, however, would regard such a major change as another link in what they regard as an intolerable chain of surrender to Catholic pressures.

The conference tonight decided that the northern and southern police forces would be left intact. The republic, however, would set up a police authority that, like the one that already exists in the North, would have a general supervisory and policy role.

The Council of Ireland would be consulted in the appointment of members of the southern police authority. It would also be consulted, indirectly, in the appointment of new members to the northern authority.

The agreement on the police was apparently one of the hardest to reach and a principal factor in extending what was to be a two-day meeting into one that lasted four days.

If Dublin and the Catholic representatives from the North failed to win very much on this issue, they apparently recognized that Mr. Faulkner could not concede more. If his position slips much further among his Protestant constituents, that could produce a new Protestant leadership unwilling to make the agreements work.

With the Council of Ireland basically agreed upon, the way is clear for the coalition executive body filled last month to begin to operate in the North.

[From the Manchester Guardian, Nov. 23, 1973]

WHITELAW'S VELVET GLOVE

(By Simon Hoggart)

Mr. Whitelaw began his Northern Ireland tour badly enough. He arrived at Aldergrove Airport to give a press conference, and it soon became clear that he knew virtually nothing about the situation. Irish reporters kept pressing him to take legal action against Mr. Craig's then embryonic Vanguard movement whose members had been parading about in preposterous Germanic paramilitary uniforms, in a fairly evident breach of the law.

Mr. Whitelaw had obviously not been briefed on this, but the reporters persisted until the new Secretary of State said firmly: "It is a great mistake ever to prejudge the past."

It was a remark of stupefying meaninglessness, but in a sense it is part of the key to his success. In a land where every side has reams of conflicting demands, he has always known which issues to duck, where to bend with the wind, and how to avoid ever committing himself to something which might be embarrassing later.

For example, his rule began with a considerable easing of the pressure on Catholic areas. Against great opposition from Ulster's Protestants and from Tories at Westminster, he allowed the IRA to establish its no-go areas, which he knew perfectly well would be used as bases for the bombing and shooting campaign. He persisted, even when liberal reporters began to challenge the policy, and privately poured scorn on the people who demanded it. "If I listened to the right-wing of the Conservative Party," he once remarked, "I would behave exactly like the Russians in Czechoslovakia."

The policy undoubtedly made the security situation worse in the short term. In the long term it built up a reservoir of goodwill from Catholics which has never been completely eroded, and there is no doubt whatever that this week's momentous agreement would never have been possible without it. To achieve it he had to avoid daily challenges from virtually everyone with power or influence in Ulster in a masterful display of simply shutting his ears to anything he did not want to hear.

Part of the trick comes from his negotiating and discussion style. A civil servant who has worked closely with him, and attended many meetings, described it: "He'll be expecting a delegation from the Shankill Loyalist Women's Defense League, or some such body, who are coming to demnad that one Catholic in 10 is executed until the troubles end. He'll groan about these awful people, but just before they come he'll clear his desk and spread out a lot of impressive-looking files. When these harpies arrive, he'll greet them warmly—'So glad you could come, how good to see you'—and make them feel he's been waiting anxiously for their advice all day. Then he'll say: 'What an interesting idea, how interesting. I don't really think I shall be able to get that through the House of Commons, you do understand, but how good of you to come. . . .'

"The women go away thinking that he's listened attentively and may even do something about it. By the time they realise that he won't, it's too late, and the goodwill remains."

This goodwill can be seen all over Ulster. A Sinn Fein woman checking reporters who

were to cover an anti-Whitelaw march which ended in rioting earlier this year, asked if Mr. Whitelaw was leaving soon. She said she hoped not, because he was a good man, but she realised he deserved a rest.

The late Mr. Tommy Herron, shortly after he declared war on the British Army, was abusing Whitelaw for some imagined switch of policy. "I don't mean it personal, like I say, he's a grand wee man," he added. Perhaps it is partly his television image. The air of deep if puzzled concern, the atmosphere of self-doubt he manages to evoke, are a refreshing change from the thick-headed dogmatism that traditionally characterises Northern Ireland politicians in public.

When historians look back at Mr. Whitelaw's last 20 months, they may well decide that his greatest achievement was not the formation of the Executive—even if it succeeds—but the splitting of the Unionist Party. If his reign had any continuing overall policy aim, this was it—the breaking of the monolithic structure which bound two thirds of the Province's population together, and provided the Protestants with a power of total veto.

He wrecked this by the most delicate means and through a series of decisions which at the time looked mistaken. For example, he postponed the tougher action against Protestants terrorists to an almost irresponsible extent yet the mass of working class Protestants remained fairly quiescent. This in turn enabled the Faulknerites to condemn the extreme Loyalists far more openly than they would have been able to do in the midst of a community war similar to the one in Catholic areas. He refused to make attacks on Mr. Faulkner, even while the Unionist leader was subjecting him to fierce personal abuse. He had an instinctive feeling about when to shut up and when to do nothing, which ultimately to ignore, which demands to shrug aside. Bit by bit he managed to split the Protestants right down the middle, and the fact that Mr. Faulkner is now closer to John Hume than to William Craig is a measure of this extraordinary operation.

If and when he leaves Ulster, it will be interesting to see how the Province manages without him. The slight air of panic that gripped the Unionists and SDLP when the rumours of his departure began to circulate is an indication that he may have been the strongest binding force in the Province, the final court of appeal, the father figure to whom they could all turn. It will take a great deal of maturity to carry on without him even now. If Ulster's politicians manage that trick it will perhaps be Mr. Whitelaw's finest monument.

[From the London Times, Dec. 3, 1973]

MR. WHITELAW'S FINE BALANCE BETWEEN POLITICAL AND MILITARY EXPEDIENCY

(By Robert Fisk)

On top of the marble mantelpiece in his office at Stormont Castle Mr. William Whitelaw always kept a cartoon of himself. It had appeared in a Belfast newspaper a month after his arrival and, sensing how appropriate it was, a personal adviser bought the original for him as a gift. The drawing showed a pensive, deeply worried Mr. Whitelaw, brows jutting, mouth sloping to the left and shoulders hunched in a mixture of innocence and despair. On his right hand perched a diminutive and rather tatty dove, holding in its claw a sprig of myrtle. Looking up at Mr. Whitelaw's face, it was saying: "Know summthin'?—I believe I've forgotten how to fly."

The cartoon was a fair one. When Mr. Whitelaw flew into Aldergrove in March last year, he had scarcely any idea how to stabilize the situation in Northern Ireland let alone how to change it. It was less than two months after Bloody Sunday and only days after the suspension of Stormont and the new Secretary of State was met with distrust by Catholics and outright hostility by Protestants. The Loyalists dubbed him a dictator—"Outlaw Whitelaw", their posters used to say—and the Unionist *News Letter* greeted the new epoch by reporting, wrongly, that Mr. Whitelaw was a Catholic. He turned up for his first press conference in a dingy RAF officers' mess, desperately sincere but painfully confused. He did not realize, for instance, that folk in Belfast could be prosecuted for reading "subversive" literature and he countered questions about Bloody Sunday with one of the most glorious sentences ever uttered by a politician in Ulster. "I do not intend", he said, stiffening in his chair, "to pre-judge the past."

But those politicians who tried to take advantage of this naivety—and there were plenty of them in the early days—were eventually forced to discard their illusions. For Mr. Whitelaw's career in Ulster was that of a man who grew tougher and shrewder almost by the hour. Wrapped up inside the affable and at times bumbling exterior, behind all that smiling, tolerant exasperation, Protestants and Catholics, generals and civil servants alike, found an immense amount of steel. And he was able to apply this quality to short-term and long-term objectives with equal skill. He changed course, altered military tactics, played for time, made mistakes but never lost sight of the Government's ultimate desire that Northern Ireland should be persuaded to work out its own salvation.

There was not much steel showing at first. Mr. Whitelaw tried to win support and respect by making concessions; he lifted the ban on parades, announced huge grants to large (and mainly Protestant) industries, and began to release the internees. He flew to London that Easter to tell Mr. Heath he had decided to start opening the gates of Long Kesh and then ordered the first 74 releases immediately he returned, actually signing the papers at Aldergrove.

In a sense the anger which this engendered among Protestants was understandable for people began to let Mr. Whitelaw down (they were to do that again and again during his stay in Northern Ireland—the Social Democratic and Labour Party, the largest group of Catholic politicians, refused to go to the Darlington Conference when Whitelaw could no longer release the remaining internees). When Mr. Whitelaw went to Londonderry, a middle-aged woman, Mrs. McSheffrey, approached him in the street and in front of the television cameras begged him to release her husband, promising to ensure that he went straight. Mr. McSheffrey was released—and went straight back to the Provisionals. It was also becoming embarrassingly obvious that many of the internees who had been freed were returning without a thought to their IRA battalions.

Mr. Whitelaw's unease rarely showed itself in public and he only became visibly angry over irritating, less important matters. When a gaggle of Loyalist ladies, led by an uncompromising woman called Williamson, began to shout their demands to the Secretary of State at Stormont, he virtually bowled them out of the Cabinet room, slamming his heavy fist on the table as he did so. They left—hurriedly—followed by an apologetic civil servant and Mr. Whitelaw instantly regretted his impetuosity. But it probably did some good. When he reacted in a similar fashion to a tirade by Loyalist businessmen in Londonderry they sat in silence and never complained so loudly again.

The political talks, at Stormont and elsewhere, were one of the few constant features of the past two years. At the beginning, any would-be politician or town councilor would be allowed to talk to Mr. Whitelaw and there were some strange customers among them. One man walked into the Cabinet room at Stormont, peered conspiratorially out of the door as he closed it, and then, in a hushed whisper, said to Mr. Whitelaw: "I'm not here." Another even more incongruous figure, a council representative, walked up to Mr. Whitelaw in his office and announced that, since their conversation had to be confidential, he would speak in French. This he proceeded to do for 15 minutes, at the end of which Mr. Whitelaw smiled and the stranger departed.

Mr. Whitelaw cannot speak a word of French and so, as he remarked afterwards, the conversation was indeed confidential.

When the political parties first travelled to Stormont, Mr. Whitelaw received them all cordially, suppressing his deeper feelings as the Unionist—the SDLP were not talking at this stage—pressed on him their demands for yet more military action in Catholic areas. Mr. Faulkner, the Unionist leader, could scarcely bring himself to speak to Mr. Whitelaw at this stage. Publicly Mr. Whitelaw remained unperturbed. But one night he was found watching Mr. Faulkner on television, silently mouthing oaths at the same time.

Yet when political life began to re-emerge, it was principally Mr. Whitelaw who brought Catholic and Protestant politicians together. He insisted—it was the steel beginnings to show through—that elections and the referendum should go ahead. Then, when the parties who chose to attend the Darlington Conference began to argue among themselves, he neatly defused the issues by suggesting that they were redefined. It was to become an old Whitelaw trick. When Mr. Faulkner demanded control of security, Mr. Whitelaw asked what security really meant and what public participation in security matters represented. When the SDLP demanded police reform, Mr. Whitelaw showed that there could be administrative changes but questioned—in the light of cross-border cooperation—what "reform" really meant. Ulster politicians have never thought in this way before.

By the autumn of 1973, Mr. Whitelaw was presiding over an unprecedented series of meetings between Catholic and Protestant politicians, both finally pledged to work together in government. It had been a steady job of careful timing and courage to bring it about—ironically he used a similar tactic to counter Protestant (though not IRA) violence. When the UDA was threatening a civil war, their leadership, masks and all, were invited up to Stormont Castle. Peaceful barricades were generally allowed but when the UDA massed 6,000 men in west Belfast and threatened to create a no-go area inside which there were Catholic homes, it seemed that the issue at last would have to be faced.

Mr. Whitelaw was at a lively but unimportant dinner in Belfast that night when he was called to the telephone. It was General Ford, asking for an answer to the question: should his men shoot at the UDA if they broke through the Army's barrier? Mr. Whitelaw told him he could shoot, then returned to meal looking, according to his colleagues, very sick. But the timing was perfect, the UDA gave way and by the time Mr. Whitelaw left Northern Ireland the Protestant private armies had virtually fallen apart.

But if Mr. Whitelaw's high point came this autumn his moment of despair occurred in the summer of 1972 when the IRA, after their truce had ended, revealed that they had met him secretly in London. The morning before he faced Parliament, Mr. Whitelaw talked privately of resigning. When he got through the ordeal unscathed he was bouncing with enthusiasm again.

One of the by-products of the IRA truce was the political status which Mr. Whitelaw granted to prisoners who had been convicted for their part in the troubles. It conferred upon men who had shot soldiers, privileges which were not granted to a common thief.

In months, perhaps years, to come, politicians in Ulster may live to regret this political expedient. Mr. Whitelaw regarded it as his greatest mistake.

Mr. Whitelaw discovered a fine balance between political and military expediency. Several times he found himself arguing with the Army. When the GOC was preparing to invade the "no-go" areas, for instance, Mr. Whitelaw insisted on warning the public six hours in advance in order to avoid casualties. Many senior officers disapproved of his decision for by morning the Provisionals had flown. The security men woke Mr. Whitelaw at four a.m. at Stormone and said that he thought the casualties were light. It was, Mr. Whitelaw was to recall later, the best wakening he could remember. Only two men died.

By the autumn, violence had fallen to a reasonably "acceptable" level and the appalling vacuum was being filled. The dove had been tought how to fly again.

Mr. Whitelaw left Northern Ireland with the respect of most Catholics, the grudging admiration of Protestants, and a tentative—almost unbelievable—coalition Government in the making. He may or may not have defused the problem of Ulster—probably no single man can achieve that. But he is the only English politician since the Earl of Essex to be thrown into the Irish bog and to emerge from it not only with credit but with a shining reputation.

GASOLINE RATIONING

Mr. FANNIN. Mr. President, time dims our memory of painful experiences in the past. In fact, the suffering and inequities of the past often become the "good old days."

Our energy crisis has caused some people to recall World War II gas rationing as "the good old days." Those of us who can remember that time in our history know better. World War II rationing was imposed under the best of circumstances; that is, the best of circumstances to make a rationing system work. Our Nation was united in a life-and-death struggle with fascism. People who were not patriotic not only were looked down upon but could be in physical danger.

So it was our patriotic duty to abide by the rationing system.

Yet many people did not and, when it became obvious that the Allies would win the war in a matter of time, the system began to crumble. From personal experience, I can tell you that the system was inequitable; some people who did not need gasoline had access to unlimited supply, others who did need it found themselves cut off except for the black market.

Other factors should have made World War II rationing successful. For one, no new cars were manufactured during the war, so there was no increase in the number of personally owned cars. Tires were difficult, next to impossible, for the average person to buy legitimately.

Gas rationing today would not be instituted under such "desirable" circumstances. We are not at war, cars are increasing in number, tires and all parts are readily available.

Some people have forecast that it will take very strong police-state tactics to make rationing effective. It certainly will take a large bureaucracy and stringent enforcement. Here we are talking only about effectiveness; that is, cutting down on gasoline consumption. There is no way, in my estimation, that we can make rationing equitable in today's society.

Mr. President, Government policy, as dictated both by the Congress and the administrations over the past two decades, have restricted incentives for the development of our resources to meet the needs of our society. What we do now must be designed to increase our economic system's ability to produce the energy that we need. Rationing would not accomplish anything in this direction; it could result in prolonging the crisis, making our current shortages chronic.

These considerations must be weighed carefully. Rationing is the politically expedient way out because we would be creating a large bureaucracy, shuffling a lot of paper, issuing orders, and distributing coupons. There would be, as there always is in a Government program, a great deal of sound and fury, but the only effect would be to create an illusion of action. We would be doing nothing to reach the cause of our problem.

Mr. President, columnist John D. Lofton, Jr., has written an excellent column pointing to some of the problems which were encountered during World War II rationing. I believe that all members of Congress would benefit by reading this article, and I request that it be printed in the RECORD.

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

BLACK MARKET AND BOOTLEGGING: GAS RATIONING IS NOT THE ANSWER

(By John D. Lofton, Jr.)

Having been born in 1941, my means of transportation during the war years were mainly by baby carriage and tricycle. Thus I did not directly experience the problems resulting from gasoline rationing.

But I have been reading about rationing during that era and it seems that those who are proposing such action now are advocating a solution which would cause problems more severe than the one rationing is ostensibly designed to solve.

Joe M. Dawson, in an article in the April 24, 1943, *Saturday Evening Post* titled "Life on a Ration Board," wrote:

"Much of the friction in rationing stems from the complexity of the forms and regulations. Obviously, in the ramifications of such a gargantuan program as wartime rationing there inevitably must be some complications and ambiguities.

"It is not too surprising that there are such apparent paradoxes as the fact that you can get extra gasoline to remove a dead dog 'for processing,' but none to take the carcass to a burying place; that preferred gasoline rations are permitted vermin exterminators, but not for diaper laundries.

"Such seeming contradictions may be unavoidable, or make sense after all; but sometimes it seems to me that lawyers who write the regulations and forms down in Washington make a cult of obscurantism."

Dawson, a member of the Manhattan rationing board, writes that despite attending six two-hour lectures by experts, spending 15 hours sitting as an observer with experienced boards and boning up during an entire weekend for an examination, there were still a number of points about rationing he did not understand.

Dawson was inclined to attribute this to his own stupidity, he says, until he discovered that his fellow board members—all highly successful and professional men—found it just as hard to grasp the regulations.

In addition to the incomprehensible, ambiguous regulations making up the rationing program and the accompanying inequity of treatment of those being rationed, there is also the problem of the black market and counterfeiting.

Writing in the July 30, 1944, issue of the New York *Times Magazine*, the administrator of the Office of Price Administration, Chester Bowles, reported on a survey taken in March of this year which showed 2.5 million gallons of gas a day being sold on the black market.

Speaking of the racketeers, former bootleggers, drug peddlers and numbers operators who ran the black market, Bowles pointed out that there were no hidden stills cooking up bootleg gas. "Every gallon of black market gas is diverted from legitimate users," he declared.

Another big problem with rationing was the theft of gas coupons from local board offices. "Gangsters who had been concentrating on counterfeiting money, safe-cracking, bootlegging, and even murder, turned to the more lucrative and easier-to-handle gasoline coupon racket," says Bowles.

Just how widespread the bootlegging of gas was under the World War II program is illustrated by an article in the Oct. 2, 1943, issue of *Collier's* magazine. Titled "Border to Border on Bootleg Gas," reporter Mark Miller tells how he traveled 2,000 miles from the Mexican border at Brownsville, Tex., to the Canadian boundary at International Falls, Minn., without giving up a single gas ration coupon.

The trip was made with one gallon of legitimate gas and no coupon of any kind. Miller writes that "within 10 blocks of the starting point, I got my first tank of bootleg gas at usual prices. Not at any point on the trip was a higher price asked for gas without coupons."

During the gas-rationing period of the early 1940s, Shad Polier, the OPA's chief enforcement officer for gasoline, had in his office what he called the "map of shame." Dark color ran down the entire eastern seaboard. The Pacific coast states, the eastern shore of the Mississippi river, and the Gulf coast were similarly shaded.

OPA agents believed that all this area was under the control of a nationwide ring of gas black marketeers made up of ex-bootleggers, ex-white slavers, clever counterfeiters, thieves and other underworld regulars.

I do not understand why people like Senators Mike Mansfield, Henry Jackson, William Proxmire, Chase Manhattan Bank President David Rockefeller, Interior Secretary Rogers Morton and presidential energy czar John Love want to bring back the bad old days of rationing.

Certainly it would seem that, rather than gasoline at this point, a preferable solution is the one suggested by the chairman of the President's Council on Economic Arvisers, Herbert Stein, that is: through the working of the free market allow gas prices to rise to allocate the scarce supply and in the process introduce more production.

President Nixon is absolutely correct when he says gas should be rationed only as a last resort. Even then, I cringe at the thought.

NANTUCKET SOUND ISLANDS TRUST LEGISLATION

Mr. KENNEDY. Mr. President, on May 25 of this year, I introduced S. 1929, the Nantucket Sound islands trust bill. This revised legislation represented hundreds of man-hours of work by local residents on the islands of Martha's Vineyard and

Nantucket off the coast of Cape Cod, Mass., in an effort to find a unique solution to the problems of unplanned and unchecked development of these islands.

On July 16, the Senate Interior Subcommittee under the distinguished leadership of Senator ALAN BIBLE of Nevada conducted public hearings on the islands to give residents an opportunity to comment on the trust proposal. Overwhelming support for the legislation was obvious on the island of Nantucket in hours of testimony from elected officials, construction workers, planners, and conservation experts.

On the island of Martha's Vineyard there were several hours of testimony both in support of the island trust bill and in opposition to it. At that time I asked the officials and residents of Martha's Vineyard if they could work together on a proposal which they would find acceptable and submit it to me for consideration.

I would like to insert in the RECORD at the close of my remarks, a discussion paper prepared by the Dukes County Planning and Economic Development Commission in response to that challenge. The planning commission has been the focal point of a coordinated effort to solicit island views and comments on both Federal and State legislation to preserve and protect Martha's Vineyard for the residents of Martha's Vineyard. They have hosted meetings and discussion groups to work out draft proposal and they have continually circulated their suggestions to groups and individuals with varying views on how best to assist the vineyard. They have spent countless hours in the tedious and time-consuming work of putting ideas into legislative language. And they have submitted to me the discussion paper which I insert into the RECORD today.

I will be meeting in the very near future with other elected officials concerned with the island trust bill to coordinate State and Federal efforts to preserve the vineyard and to resolve those areas in both the State and Federal legislation which still need refining. The discussion paper presented by the planning commission is a perfect starting point for those discussions as it reflects the views of so many directly affected by the bills. The Dukes County Planning and Economic Development Commission emphasizes that this document is a draft paper for discussion only. And it will be discussed. I want the other Members of the Senate to have an opportunity to review the paper and to see the enormous amount of effort and work that the citizens of Martha's Vineyard have accomplished for their island and its future.

Mr. President, I ask unanimous consent that the paper referred to be printed in the RECORD.

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

NOVEMBER 16, 1973.

DRAFT FOR DISCUSSION ONLY: MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

A bill to establish the Martha's Vineyard Resource Management Fund in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the Resource Management Fund area, and for other purposes

FINDINGS AND STATEMENTS OF POLICY

SEC. 1. The Congress finds that—

(a) Martha's Vineyard Island in the Commonwealth of Massachusetts, possesses unique natural, scenic, ecological, scientific, cultural, historic, and other values;

(b) There is a national interest in preserving and conserving these values for the present and future well-being of the Nation and for present and future generations;

(c) These values are being irretrievably damaged and lost through ill-planned development;

(d) Present state and local institutional arrangements for planning and regulating land and water uses to preserve and conserve these values are inadequate;

(e) The key to more effective preservation and conservation of the values of Martha's Vineyard Island is a program encouraging coordinatte action by Federal, State and local governments in partnership with private individuals, groups, organizations and associations for the purpose of administering sound policies and guidelines regulating ill-planned development.

(f) Such a program can protect the natural character and scenic beauty of Martha's Vineyard Island consistent with maintenance of sound local economies and private property values; and

(g) Because expanded access to the Island would be in contravention to the purposes of this Act, it shall be the national policy that no bridge, causeway, tunnel or other direct vehicular access be constructed from the mainland to the Island.

MARTHA'S VINEYARD RESOURCE MANAGEMENT FUND

SEC. 2. In order to provide for the preservation and conservation of the unique natural scenic, ecological, scientific, cultural, historic, and other values of Martha's Vineyard Island there is established for the Commonwealth of Massachusetts a Martha's Vineyard Resource Management Fund (hereinafter referred to as the "Fund"). This Fund shall be administered as hereinafter described through programs and policies designed to achieve wise use of the land and water resources of the area, giving full consideration to protection of the values of the area as well as to needs for sound local economies.

INTERGOVERNMENTAL COOPERATION

SEC. 3. (a) The Secretary of Interior is hereby authorized and directed to enter into contractual agreements with the Martha's Vineyard Commission (established by the General Court of the Commonwealth of Massachusetts in Chapter ——— of the Acts of 1974) (hereinafter referred to as the "Commission") for the purposes of developing programs aimed at satisfying the intent and purpose of this Act.

(b) All contractual arrangements shall include provisions which ensure that—

(1) All expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act shall be provided for;

(2) The Commission shall publish and make available to the Secretary and to the public an annual report reviewing matters relating to the Fund, including acquisition of lands, progress towards accomplishment of the purposes of this Act, and administration, and shall make such recommendations thereto as they deem appropriate to the Secretary, the Governor, and the towns;

(3) The Commission shall have an Executive Director and such other permanent or part-time professional, clerical, or other personnel as it finds are required, and may engage such other professional services as they may reasonably require:

(4) The Commission shall have an office and a mailing address at a central location in the area of its jurisdiction, and such office shall be where its ordinary business is conducted and its maps and records kept;

(5) The Commission shall have the authority to appoint Advisory Committees at its discretion;

(6) All Commission members shall provide disclosures of ownership interest in Fund area lands.

FUND AREA

SEC. 4. (a) The area served by the Fund shall encompass the lands and waters in the Commonwealth of Massachusetts known generally as Martha's Vineyard Island, and the various islands appurtenant to it.

(b) The area served by the Fund may be changed only by an amendment to this Act adopted by the Congress and signed by the President, and only upon petition therefore by the Commission with the concurrency of:

(1) The town or towns affected by vote of a town meeting or meetings;

(2) The Governor; and

(3) The Secretary.

CLASSIFICATION OF FUND AREA LANDS

SEC. 5. (a) Within one year of the initial contractual agreement between the Secretary and the Commission, the Commission shall prepare a plan and program for classifying all the land within its jurisdiction. In preparing such plan and program the Commission shall delineate them in appropriate documents and maps:

(1) Land where no development should take place;

(2) Land where extraordinary or innovative controls should be introduced;

(3) Land where normal but improved control is applicable.

(b) In the process of establishing such policies and plans for land classification, the Commission shall consider all relevant ecological, economic and sociological considerations and shall have developed whatever pertinent data is necessary and currently unavailable and shall aggregate such data into a documentary body of written proceedings which shall constitute the official, testificatory record of the Commission's land and water classification actions.

ASSIGNMENT OF FUND AREA LANDS

SEC. 6 (a) Assignment of lands and waters within the Fund area to the classification established by Section 5 herein shall be as depicted on official maps of the Commission and shall be available for public inspection in:

(1) The offices of the National Park Service, Department of the Interior;

(2) The offices of the towns within the Fund area; and

(3) The offices of the Commission.

(b) Changes to the plans and policies adopted within one year of the execution of the original contractual agreement between the Secretary and the Commission shall be made only after all affected individuals and property owners are appropriately notified and after at least one public hearing is held.

ACQUISITION OF LANDS

SEC. 7(a) General Provisions

(1) Within the area of the Fund, the Secretary is authorized to provide funds to the Commission for the purchase of lands in

interest therein at a fair market value for the purposes of this Act.

(2) With respect to that property which the Commission is authorized to acquire without the consent of the owner under the terms of this Act, the Commission shall initiate no proceedings therefor until after it has made every reasonable effort to acquire such property or interest therein by negotiation and purchase at the fair market value.

(3) In exercising its authority to acquire property under the terms of this Act, the Commission shall give immediate and special consideration to any offer to sell made by an owner or owners of land which has been designated as land where no development should take place. An owner or owners may notify the Commission that the continued ownership of those lands would result in hardship to such owner or owners, and the Commission shall immediately consider such evidence and shall within six months following the submission of such notice, and subject to the then current availability of funds, purchase the lands offered at the fair market value;

(4) In exercising authority to acquire property under the terms of this Act, the Commission shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601);

(5) Nothing in this Act shall be construed to prohibit the use of eminent domain as a means of acquiring a clear and marketable title, free of any and all encumbrances;

(6) In exercising their authority to acquire property by exchange, the Commission may accept title to any non-Federal property located within such area and convey any federally owned property under the jurisdiction of the Commission within such area. The properties so exchanged shall be approximately equal in fair market value: Provided, that the Commission may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged;

(7) Any property or interests therein, owned by the Commonwealth of Massachusetts or any political subdivisions thereof, may be acquired only by donation. Notwithstanding any other provision of law, any property owned by the United States located within the Fund area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Commission for use by it in carrying out this Act.

(b) Transfer to Towns;

(1) Upon acquisition of any land or interests therein, the Commission shall concurrently or as soon as is practicable thereafter without consideration an undivided one half interest therein to the Town within whose jurisdiction lies;

(2) Thereafter, such land or interest therein shall be held by the Commission and the appropriate Towns in a public trust;

(3) The lands or interests therein so held in trust shall be administered as described in this Act, and the Commission and Towns may exchange any such lands or interests so held in trust pursuant to the provisions of this section.

(c) Taxation;

(1) Nothing in this Act shall be construed to exempt any real property or interest therein held by the Commission and Towns under this Act from taxation by the Commonwealth of Massachusetts or any political subdivision thereof to the same extent, according to its value, as other real property is taxed;

(2) Nothing contained in this Act shall be construed as prohibiting any governmental jurisdiction in the Commonwealth of Massachusetts from assessing taxes upon any interest in real estate retained under the provisions of this Act to the nonexempt owner or owners of such interests, nor from establishing and collecting fees in lieu of taxes upon any nongovernmental use of lands acquired pursuant to this Act.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) The Fund shall be administered and protected by the Commission with the primary aim of preserving the natural resources located within it and preserving the area in as nearly its natural state and condition as possible. No development will be funded through the Fund which would be incompatible with the overall life-style of residents of the area, with generally accepted ecological principles, with the preservation of the physiographic conditions now prevailing, or with the preservation of historic sites or structures.

(b) The Secretary shall be responsible for developing guidelines for the use of funds and administration thereof in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented except that the Secretary may utilize any other statutory authority available to him for the conservation, preservation and management of natural resources to the extent he finds such authority will further the purposes of this Act.

(c) The Commission shall coordinate its administrative activities with those of other Federal, State, and local government authorities and agencies operating in the Fund area.

TRANSPORTATION AND GENERAL USES

SEC. 9. (a) The Commission together with the Governor and the Secretary, shall make an immediate survey of public and private water and air access to land in the Fund area, including that by the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority and by other public and private water and air carriers, shall make such recommendations to the appropriate body or bodies for legislative or administrative action as they deem consistent with the preservation and conservation purposes of this Act. Such recommendations shall include specific measures to limit the number of motor vehicles and passengers such carriers might otherwise transport to Martha's Vineyard Island. Thereafter regular and frequent surveys of such access shall be made, and such recommendations shall be made, as are deemed appropriate to maintain the unique values of lands and waters in the Fund area.

(b) No development or plan for the convenience of visitors to Fund lands or waters shall be undertaken which would be incompatible with the preservation and conservation of the unique values thereof; provided, that the Commission, the Governor, and the Secretary may provide for the public enjoyment and understanding of the values of Martha's Vineyard Island by establishing such public transportation systems, trails, bicycle paths, observation points and exhibits, and by providing such services as they may deem desirable for such public enjoyment and understanding, consistent with the preservation and conservation of such values.

(c) In any such provision for public enjoyment or understanding, the Commission, the Governor, and the Secretary shall not unreasonably disminish for its owners or occupants the value or enjoyment of any improved property within the Fund area.

POLLUTION

SEC. 10. The Commission, together with the Governor and the Secretary, shall cooperate with the appropriate Federal, State and local agencies to provide safeguards against pollution of the waters in and around the Fund area. Such safeguards shall include an immediate survey of the quality of ground water conditions of Martha's Vineyard, and the necessary funds therefor may be drawn from the appropriations authorized by section 12 herein.

NEW EMPLOYMENT OPPORTUNITIES

SEC. 11 (a) The Commission is authorized to expend funds to examine opportunities to experiment with, and to encourage development of, aquaculture of all kinds, including but not limited to, fish and shellfish and other associated activities; and to examine other new employment opportunities of any kind appropriate to the purposes of the Act. Funds appropriated to the Department of Interior, Commerce and Labor under the authority of this or other laws of the United States may be used for this purpose without restriction;

(b) The Commission, the Governor and the Secretary shall to as great an extent as possible in the development of any regulations pursuant to the provisions of this Act encourage the maintenance and commencement of agricultural uses of Fund area lands;

(c) The Commission, in consultation and cooperation with the Secretary of Labor, shall investigate, and where appropriate establish, training and retraining programs suitable for residents of Fund area lands.

APPROPRIATIONS

SEC. 12 There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; not to exceed, however, $20,000,000 for the acquisition of land and interests therein, and not to exceed $5,000,000 for the development for the first three years of the operation of the Fund.

TECHNOLOGY AND THE ENVIRONMENT

Mr. BELLMON. Mr. President, the current energy crisis is properly causing Members of the Senate and American citizens to review recently held conclusions and actions relating to the environment and energy conservation measures.

There are many who feel that efforts to expand energy production and to delay attainment of environmental objectives may prove to be permanently damaging to the health of present and future generations.

Because I share in this concern I was greatly pleased and encouraged to come across a copy of a speech to the Commonwealth Club and the Commercial Club of Cincinnati, Ohio on November 15, 1973, by Dr. A. L. Jones, senior research associate for Standard Oil Co. Ohio.

Mr. President, I believe other Members will benefit by having the factual information contained in Dr. Jones' speech, and I ask unanimous consent that it be printed in the RECORD.

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

TECHNOLOGY AND THE ENVIRONMENT
(By Dr. A L. Jones)

These are days when people have genuine concerns for the future welfare of mankind. Many fear that our technology has gotten the best of us because some think we have passed the "point of no return". It is extensively believed that we are likely to die in our own polluted soup and that we will be lucky to make it to the year 2000. A spirit of mistrust has risen amongst us. The credibility of practically everybody is being seriously questioned.

Three years ago I started to evaluate the premises upon which some of our major environmental concerns are based. The evidence that I have been able to find has proved to be quite encouraging to me. My findings have changed my attitude from one of pessimism for the future of mankind to one of confidence that we can solve our major environmental problems if we are willing to use rational approaches and pay the cost. This is what I want to talk to you about.

I wish to make it quite clear that I am speaking to you as a scientist and not as an emotional supporter of any particular "side" of ecology. I would like to remind you that useful science is based on reproducible evidence or principles that can be repeated and verified by others. As scientists we must work in terms of what we know rather than what we do not know. Unless the pronouncements we make are verifiable by others, they are worthless. Our job is to seek the truth. Our success as scientists depends on finding the truth and relating it to the needs and interests of man.

Some of the facts I present today may surprise many of you. I can assure you my conclusions are supported by evidence that is difficult to interpret in any other way. They can be verified by anyone who wishes to do so.

My first surprise concerns the air we breathe. Throughout my formal education I have been taught that the oxygen in our atmosphere is supplied by green plants using the process of photosynthesis. It is known that plants take in carbon dioxide and, through activation by sunlight, combine it with water to make starches and cecculose and give off oxygen. In this way the whole chain of plant and animal life is sustained by energy from the sun. When the vegetable or animal materials thus produced are eaten, burned, or allowed to decay they combine with oxygen and return to the carbon dioxide and water from which they came. We all know this. What is the surprise?

The surprise is that most of the oxygen in the atmosphere doesn't come from photosynthesis. The evidence is now overwhelming that photosynthesis is quite inadequate to have produced the amount of oxygen that is present in our atmosphere. The reason is that the amount of oxygen produced by photosynthesis is just exactly enough to convert the plant tissue back to the carbon dioxide and water from which it came. In other words, the net gain in oxygen due to photosynthesis is extremely small. The oxygen of the atmosphere had to come from another source. A most likely possibility involves the photodissociation of water vapor in the upper atmosphere by high energy rays from the sun and by cosmic rays. This process alone could have produced, over the history of the earth (4.5×10^9), about seven times the present mass of oxygen in the atmosphere. Two important articles on this subject have been published in *Science* within the last 18 months by Professors Leigh Van Valen of the University of Chicago and W. S. Broecker of Columbia University.

Other scientists predict that man is bringing disaster upon himself by depleting atmospheric oxygen by burning fossil fuels and poisoning the phytoplankton of the oceans by pesticides. Dr. Paul Ehrlich of Stanford predicts an oxygen shortage by 1979. Fortunately, accurate measurements of the oxygen content of the air have been made and recorded routinely since 1910. The National Bureau of Standards has made an abundance of measurements over the years. In 1910, the oxygen content of the air was found to be 20.946% by volume. In 1973, the percentage of oxygen is still 20.946%. There is no change, even in the third decimal place. Dr. R. C. Robbins of the Stanford Research Institute has found that ancient trapped air samples from ice cores removed from the Antarctic ice cap and Greenland glaciers, dating back to 500 BC, show no change from modern air samples. This is direct evidence that the industrial activities of man have produced no measurable change in the oxygen content of the atmosphere.

The significance of this information is that the supply of oxygen in the atmosphere is virtually unlimited. It is not threatened by by man's activities in any significant way either now or in the unforeseeable future. If all of the organic material on earth were oxidized it would reduce the atmospheric concentration of oxygen by less than 1 percent. We can forget the depletion of oxygen of the atmosphere and get on with the solution of more serious problems.

We have heard much in recent years about the death of Lake Erie. It is true that the beaches are no longer swimmable in the Cleveland area and that the oxygen content of the bottom of the lake is decreasing. This is called eutrophication. Heavy blame has been placed on phosphates as the cause of this situation. Housewives have been urged to curb their use of phosphate detergents. The State of New York has signed into law a measure to forbid the sale of detergents containing phosphates by 1973. Many other areas of the country have similar regulations.

The scientific evidence I have been able to acquire on this subject shows that the cause of the eutrophication of Lake Erie has not been properly defined. This evidence suggests that if we totally stopped using phosphate detergents it would have no effect whatever on the eutrophication of Lake Erie. Many experiments have now been carried out which show that it is the organic carbon content from sewage that is using up the oxygen in the lake and not the phosphate in detergents. The reason the Cleveland area beaches are not swimmable is that the coliform bacterial count, from feces, is too high, not that there is too much detergent in the water. Enlarged and improved sewage treatment facilities by Detroit, Toledo, and Cleveland will be required to correct this situation. Our garbage disposal units do far more to pollute Lake Erie than do the phosphate detergents. If we put in the proper sewage treatment facilities, the lake will sparkle blue again in a very few years.

As many of you know, the most toxic component of automobile exhaust is carbon monoxide. Each year mankind adds over two hundred million tons of carbon monoxide to the atmosphere. Most of this comes from automobiles. Until recently I had been concerned about the accumulation of this toxic material because I use it daily in my research and know that it has a life in dry air of about 3 years in the laboratory.

For the past several years, monitoring stations on land and sea have been measuring the carbon monoxide content of the atmosphere. Since the ratio of automobiles in the northern and southern hemispheres is 9:1 respectively, it was expected that the northern hemisphere would have a much higher concentration of atmospheric CO. Measurements show that there is no difference in CO amounts between the hemispheres and that the overall concentration in the air is not increasing at all.

Early in 1971, scientists at the Stanford Research Institute in Palo Alto disclosed that they had run some experiments in smog chambers containing soil. They reported that carbon monoxide rapidly disappeared from the chamber. They next sterilized the soil and found that now the carbon monoxide did not disappear. They quickly identified the organisms responsible for CO removal to be fungi of the aspergillus (bread mold) and penicillium types. These organisms, on a world wide basis, are using all of the 200 million tons of CO made by man for their own metabolism, thus enriching the soils of the forests and the fields. More recently, scientists at Queens University in Canada have found that green plants, such as beans, use CO in their metabolism and that they consume as much atmospheric CO as do the fungi in the soils.

This does not say that carbon monoxide is any less toxic to man. It does say that, in spite of man's activities, this material will never build up in the atmosphere to dangerous levels except on a localized basis. To put things in perspective, let me point out that the average concentration of carbon monoxide in the open air is less than 1 part per million. In downtown Cleveland, in heavy traffic, it sometimes builds up to 15 to 20 ppm. In Los Angeles it gets to be 35 ppm. In parking garages and tunnels it is sometimes 50 parts per million. These are the worst conditions.

Here is another surprise for many of you. Do you know that the carbon monoxide content of cigarette smoke is 42,000 parts per million? The CO concentration in practically any smoke filled room grossly exceeds the safety standards we permit in our laboratories (10 ppm). I do not mean to imply that 35 or 50 ppm of carbon monoxide should be ignored. I do mean to say that many of us subject ourselves to CO concentrations voluntarily (and involuntarily) that are greater than those of our worst polluted cities, including those in the Holland Tunnel in New York, without any catastrophic effects. It is not at all unusual for CO concentrations to reach the 100–200 ppm range in poorly ventilated smoke filled rooms. If a heavy smoker spends several hours without smoking in polluted city air containing 35 ppm of CO, the concentration of CO in his blood will actually decrease! In the broad expanse of our natural air, CO levels are totally safe for human beings.

No one in his right mind would condone air pollution. But we must think of things in their proper perspective. We need to ask the question about whether the air in our living rooms presents a greater hazard to health than does the outside city air. I think we should strive to clean up both of them.

The general public has been led to believe that there is a serious health hazard resulting from increased dispersion of lead into the biosphere by man. The principal sources of lead in the atmosphere are the combustion of gasoline and the burning of coal. The contributions from both of these sources are now of the same order of magnitude but in the past, the greater contribution was from coal. During the past 100 years, over one hundred million tons of lead have been dispersed by man into the biosphere.

Careful studies of possible health effects of airborne lead have been carried out by the National Academy of Sciences, the World Health Organization (WHO) and the American Medical Association (AMA). They have found no evidence of a single case of lead poisoning that can be attributed to breathing ambient air polluted with lead. The WHO reports that "there has been no increase in lead levels in the population in the last two decades". Other studies show that there has been no increase in lead concentration in either blood or urine in the U.S. population during the last 50 years. The lead levels in the blood of New Guinea aborigines are higher than those in the blood of either urban or rural Californians. The lead levels in the bones of present day man are not significantly different from those found in human bones from the third century.

Scientists at Michigan Technological University have reported in *Science* that analyses of human hair for lead show that in the period from 1871–1923 (when lead tetraethyl was introduced into gasoline) the lead in the hair was 10 times greater than in the period from 1923–1971. They attribute the higher amount in the earlier period to the ingestion of lead from collection of water

from lead roofing, storage of water in leaded jugs, lead glazed earthenware, pewter utensils, leaded paints and cosmetics.

It is hard to imagine that airborne lead is not a serious hazard to human health but the evidence is overwhelming that the lead levels in the population have not increased in recent years, in spite of increased dispersion of airborne lead. It would appear that the most important reason for removing lead from gasoline at this time is that lead poisons the catalysts in catalytic afterburners for automotive exhaust emission control. The AMA reports "subtle and unrecognized or 'unrecognizable' changes are not occurring in the general population as a result of its exposure to environmental lead". There is such a thing as lead poisoning but people usually get it by swallowing rather than breathing lead particulate matter.

One of the problems of considerable international interest concerns the use of the pesticide DDT. I find that DDT has had a miraculous impact on arresting insect borne diseases and increasing grain production from fields once ravaged by insects. According to the World Health Organization, malaria fatalities alone dropped from 4 milion a year in the 1930's to less than 1 million per year in 1968. Other insect borne diseases such as encephalitis, yellow fever and typhus fever showed similar declines. It has been estimated that 100 million human beings who would have died of these afflictions are alive today because of DDT.

DDT and other chlorinated compounds are supposedly endangering bird species by thinning of the egg shells. I am not sure this is true. The experiences I found concerning this were not conducted in such a manner that positive conclusions could be drawn from them. (The evidence is that Dieldrin, PCB, and other pesticides are more likely responsible for it, not DDT). Even if it is true, I believe that the desirable properties of DDT so greatly outnumber the undesirable ones that it might prove to be a serious mistake to ban entirely this remarkable chemical.

The United States has banned the use of DDT as of the beginning of 1973. This is a clear-cut example of a modern day decision based more on fear than it is on knowledge. We know that DDT has saved the lives of 100 million people. We know that food production is increased in both quantity and quality through the use of DDT. We know that there is not a single fatality of man that can be attributed to DDT in the food chain. We know that no effective substitute has been discovered for DDT.

DDT was banned because we fear that, in spite of not having done so after 28 years of use, we may find that "man may be exposing himself to a substance that may ultimately have a serious influence on his health". Can a modern society afford to use fear and speculation rather than knowledge as a sound basis for decision making on matters that will affect the lives and welfare of millions?

Many people feel that mankind is responsible for the disappearance of anmal species. I find that in some instances man may hasten the disappearance of certain species. However, the abundance of evidence indicates that he has little to do with it. About 50 species became extinct last century and the century before that. Dr. T. H. Jukes of the University of California points out that about 100 million species of animal life have become extinct since life began on this planet about 3 billion years ago. Animals come and animals disappear. This is the essence of evolution as Mr. Darwin pointed out many years ago. Mankind is a relatively recent visitor here. He has had nothing to do with the disappearance of millions of species that preceded him.

It is of interest to note that man has not been successful in eliminating a single insect species, in spite of his all-out war on certain undesirable ones in recent years. He also has not felt kindly towards snakes and rats, but no species of them have disappeared to my knowledge.

The world supply of fossil fuels (oil, gas, coal) is limited. Fossil fuels are composed primarily of hydrocarbons. Each year the activities of man result in 27 million tons of hydrocarbons escaping into the atmosphere. The sources of most of this escape are partially burned fossil fuels and the direct evaporation of fuels and solvents. For the most part, it is advantageous to minimize this loss for reasons of efficiency, fuel conservation and reduction of air pollution.

It is well established that in sunny places, where the air is stagnant, certain hydrocarbons, when oxidized, produce photochemical smog. This results in the growth of aerosol particles which produce a haze. The color and odor of the haze is influenced by the kind of hydrocarbon involved.

It is not so well known that, on a global basis, nature releases at least 5 times more volatile hydrocarbons into the air than man does. Practically all types of forest trees emit substantial quantities of terpene hydrocarbons. In addition to pine trees, from which hydrocarbon turpentine is obtained, trees such as aspen, locust, cottonwood, willow, oak, sweetgum, sycamore, yellowwood, mulberry, buckthorn, and Oregon grape emit substantial quantities of isoprene and ethylene. The Blue Ridge and Smoky mountains of the eastern U.S. are so named because of the characteristic haze generated by photochemical reactions involving hydrocarbons emitted by the trees. Nature releases an estimated 175 million tons of hydrocarbons each year in this way.

In addition to volatile ones, practically all plants contain hydrocarbons such as waxes and resins that do not evaporate. Did you know the red color in watermelons, tomatoes and pink grapefruit is a non-volatile hydrocarbon? The wax in your ears is also.

In the middle-east there is a bush, with the botanical name of Dictamnus Fraxinella, which gives off so much terpene hydrocabons that explosive mixtures are generated in the air surrounding the plant. This plant is believed by some to be the burning bush which Moses saw. Man has been accused of being a major polluter of the air and the water with hydrocarbons but we must also recognize the greater amounts emitted by nature.

For those who wish to return to the "good old days" when we didn't have dirty industries and automobiles to pollute the air, let's consider what life was really like in America before the Civil War. For one thing, life was very brief. The life expectancy for males was less than 40 years. Those 40 years were exhaustive, back-breaking years. The work week was 72 hours. The average pay was $300 per year. The life of a woman was far from "women's lib." They worked 98 hours a week, scrubbing floors, making and washing clothes by hand, bringing in firewood, cooking in heavy iron pots and fighting off insects without screens or pesticides. Most of the clothes were very inferior by present day standards. There were no fresh vegetables in winter. Vitamin deficiency diseases were prevalent. Homes were cold in winter and sweltering in summer.

Every year an epidemic could be expected and chances were high that it would carry off someone in your immediate family. If you think that water pollution is bad now, it was more deadly then. In 1873, one person in every five in the city of Philadelphia died in a single epidemic of typhoid fever as a result of polluted water. I wonder how many informed people want to return to the "paradise" of the good old ante-bellum days. Perhaps the simple life is not so simple.

Many of us are alarmed by the dire announcement made by technically untrained people and by scientists who have not bothered to check their assumptions against the evidence. These alarms have made us go off half-cocked with expensive measures in some cases to solve problems that are sometimes more imaginary than real. For example, the construction of some nuclear power plants has been held up because of the fear of thermal pollution by the effluent cooling water. In some cases, multimillion dollar cooling towers have been required before construction could proceed. The evidence I can find is that when the plants are located on large bodies of water, such as Lake Erie, cooling towers represent expensive monuments to misinformation. The public will have to pay for these and will receive no measurable benefit from the expenditure.

My investigation of the thermal pollution problem reveals that, beyond any question of doubt, the sun is by far the greatest thermal polluter of Lake Erie. Governor Gilligan of Ohio announced that he would "back legislation making it unlawful to increase the temperature of the (effluent) water by more than one degree over the natural temperature." As we all know, the natural temperature of the lake is changed by the sun more than 40°F every year between winter (33°) and summer (75+°). The natural life in the lake accommodates this drastic change in great fashion, as it has for many thousands of years.

I have determined that if we could store up all of the electricity produced in Ohio in a whole year and use it exclusively for heating Lake Erie all at one time, it would heat the entire lake less than three tenths of one degree (0.3°F).

In terms of localized heating, we must remember that we already have many hundreds of power plants pouring warm water into streams and lakes. Twenty-five of these are nuclear power plants. Evaluation of the effect of these from an ecological point of view is that "thermal pollution" is a less descriptive and lesss appropriate term than is "thermal enrichment." There are no species disappearing. No ecological catastrophes or problems have appeared. Some of the best fishing locations in the country are near the warm water outlets of power plants. An excellent scientific report on this subject may be found in the March 1972 issue of Environmental Science and Technology.

In every age we have people practicing witchcraft in one form or another. I used to think that the people of New England were particularly irrational in accusing certain women of being witches without evidence to prove it. Suppose someone accused you of being a witch. How could you prove you were not? It is impossible to prove negative evidence. Yet this very tactic is being used to deter the construction of nuclear power plants. The opponents are saying, in effect, that these plants are witches and it is up to the builders to prove that they are not.

The positive scientific evidence is that the nuclear power plants, constructed to this date, are the cleanest and least polluting devices for generating electricity so far developed by man. Lightning and snakebite have proven to be greater hazards to the health and safety of the public than nuclear power plants. The amount of radiation escaping from a well designed nuclear plant is less than that from the cosmic rays to which I was exposed on the jet aircraft flight to this conference. Carelessness and irresponsibility are inexcusable in potentially hazardous operations. I can find no evidence of any such behavior in our industrial nuclear operations.

The energy crisis in the United States is quite real. If w are to maintain our standard of living and avoid a rapidly increasing deficit in our balance of payments, because of greater oil imports, we must construct nuclear power plants with the greatest of urgency. They are the only demonstrated and economically feasible alternative we have for electric power generation. We can-

not afford to let fear and superstition impede the attainment of the improved quality of living which we can achieve.

From what we read and hear it would seem that we are on the edge of impending doom. A scientific evaluation of the evidence does not support this conclusion. We clearly have some undesirable problems attributed to technological activities. The solution of these problems will require a technical understanding of their nature. The problems cannot be solved unless they are properly identified. This will require more technically trained people, not less. These problems cannot be solved by legislation unless the legislators understand the technical nature of the problems.

In my estimation, the most serious problem we face is the rapidly increasing human population on a world-wide basis. The pollution of our natural waters with sewage and chemicals is perhaps the second most serious one. Nothing good has been found for either sulfur oxides or particulate matter in our air. Hydrocarbon emissions from our automobiles can be hazardous, especially in poorly ventilated locations. I have not been able to identify any problems that we do not already know how to solve. It is strictly a question of economics. The back to nature approach of withdrawing from reality will accomplish nothing.

I believe, as Thomas Jefferson did, that if the public is properly informed, the people will make wise decisions. I know that the public has not been getting all of the scientific facts on many matters relating to ecology. That is why I am speaking out on this subject today as a scientist and as a citizen. Some of the information I have given you may be contrary to the things you are being led to believe but I am willing to support my conclusions on evidence good enough for me to urge any of you to evaluate it for yourselves. I have no fear of staking my reputation on what I have presented to you.

We are all familiar with the Aesop fable about the shepherd boy and the wolf. The moral for the fable is: those who are found to misrepresent facts are not believed even when they speak the truth.

In recent months, we have heard cries of wolf with respect to our oxygen supply, the build-up of carbon monoxide, the disappearance of species, DDT, phosphates in the lake, thermal pollution, radiation effects on health from nuclear power plants, the Amchitka nuclear tests, lead in gasoline, and mercury in fish, to name a few. For the most part, these cries have not been malicious but have been based largely on fear, ignorance, or misinformation. The people have listened to these cries and have come running to the rescue but they are not finding many wolves.

Let us not cry wolf until we are reasonably certain that we have done enough homework to know what a wolf looks like. Otherwise we may undermine our credibility and not be believed by the pople when we warn them of the real wolves that do exist. We cannot solve our recognized problems unless we attack them on the basis of what we know rather than what we don't know. We must use our knowledge and not our fears to solve the real problems of our environment. Our future can be better than most of our past if we choose it so.

BOSTON TEA PARTY

Mr. KENNEDY. Mr. President, it is particularly fitting that the Senate approved last Friday legislation which I introduced to preserve the Revolutionary War Sites in Boston; for this weekend in Boston we will begin the Bicentennial celebration.

December 16 is the anniversary of the Boston Tea Party and next Sunday that historic event will be reenacted in Boston.

I ask unanimous consent to print in the RECORD an article that appeared in Parade magazine yesterday outlining the celebration Boston will host to commemorate the Tea Party. And I would like to print a brief history of that historic day along with a schedule of events in Boston prepared by Boston 200, the outstanding bicentennial group for the city of Boston directed by Kathy Kane, an enormously talented and committed community leader.

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

BICENTENNIAL KICKOFF—IT'S TEA TIME AGAIN IN BOSTON

(By Herbert Kupferberg)

BOSTON, MASS.—Back in 1776, John Adams, contemplating America's first Independence Day, wrote: "I am apt to believe that it will be celebrated by succeeding generations. . . . It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward, forevermore."

Now, two centuries later, Adams' prediction is coming true more spectacularly than ever. Next Sunday a reenactment of the Boston Tea Party of Dec. 16, 1773, will launch the American Bicentennial, which will reach its climax on July 4th, 1976, the 200th anniversary of the Declaration of Independence.

Observance of the Bicentennial was originally supposed to be built around a giant exposition in Philadelphia. But plans for that fell through, and in 1972 the American Revolution Bicentennial Commission in Washington urged that celebrations be held instead throughout the land, with each locality running its own.

"Boston started it then, and we're starting it now," says Katharine Kane, director of Boston 200, a project launched by Mayor Kevin H. White to coordinate all Bicentennial activities in the Massachusetts capital.

Boston 200 is making its first big splash with the Tea Party re-enactment. The plan is for a party of some 200, mostly members of the Massachusetts National Guard and Chralestown Militia, but also including about 10 professional actors, to act out the famous tea-dumping aboard a ship in Boston Harbor next Sunday.

Certain historical liberties will be taken. Instead of gathering in Old South Meeting House, as they did in 1773, the tea-partyers will assemble in a handy parking lot. They'll perform their act not under cover of night, but at 2 in the afternoon, when a festive crowd of onlookers can conveniently watch them. Since Griffin's Wharf, where the event actually took place, is now covered by the Southeast Expressway, a major traffic artery, the celebration will be held at the nearby Congress St. Bridge. And, in the most drastic departure of all from the original, no tea will be thrown overboard.

"Boston Harbor doesn't need to be polluted any further," says Mrs. Kane firmly.

On the other hand, a note of realism will be provided by the presence of a real ship, a replica of the brig Beaver, one of the three British tea-bearing vessels actually in the harbor that famous night. And while the despoilers of the cargo won't be wearing war paint and feathers, they'll have bright-colored blankets over their heads, to indicate that they're disguised as Indians, as were the band of Bostonians who swept down to the harbor in the historic protest against King George's tea tax.

CHANGED ROUTE

The quarter-mile route taken by the 1773 tea party mob, along what is now Milk St. and Pearl St., would be unrecognizable to them today, leading as it does through the heart of Boston's financial district to a commemorative plaque on the Sheraton Office Building, the nearest structure to the traffic-jammed expressway.

But the Old South Meeting House, from which the crowd sallied forth, still looks pretty much as it did back in 1773, with its benches arranged in square pews, and the lofty pulpit from which Samuel Adams uttered the words: "This meeting can do nothing more to save the country"—which historians regard as a code signal that sent the colonists racing for the wharf to dump the tea.

"There were about 7000 people in and around the hall that night," says Massachusetts State Archivist Richard Hale. "The Governor's House was just across the street then, and one of the advantages of meeting in Old South was that if you yelled like hell, the Governor could hear you. However, Gov. Hutchinson, who was a law, order and justice man, wasn't there that night. He thought it was a nice time to go out to his place in Milton."

A TRADITION

Dr. Hale says that New Englanders still feel kinship with the perpetrators of the tea party. In fact, he refers to both generations as "we."

"We have a tradition of direct, constitutional democracy here," he says. "The tea party was just one example. It was a period of idealism. There were 340 chests of tea on those ships, and they spilled every one—they didn't take any home and drink it. Somebody tried to pinch a little, and was roughly handled. Most unfortunately, a padlock was broken in the process of getting at the tea. So the next morning we gave them back a new padlock. The Boston Tea Party was a calculated use of force to protect constitutional rights. It was unconstitutional for us to pay the duty on tea and it was unconstional for us to break the padlock."

More than history will be involved in the Boston Bicentennial observation. As befits a 20th-century American festivity, it will also have touches of commercialism, tourism, cultural activity, and urban revitalization. The replica of the tea-ship, Beaver II, built in Denmark by a private corporation called Tea Party Ship, Inc., will become a permanent, admission-charging exhibit in Boston Harbor. A number of tea organizations, the India Tea Board, Red Rose Tea, Salada Tea, and the Davison Newman Co. Ltd., are lending support to various aspects of the celebration. According to reports, Thomas J. Lipton, Inc., originally offered to sponsor the entire event—a proposal that was rejected. A local concern, Shreve, Crump & Low, is marketing a Boston 200 souvenir teaspoon for $6.50.

The Boston aspect of the Bicentennial is also being observed with such manifestations as a Tea-Party Stamp issued by the U.S. Postal Service, a poster contest with a $1000 first prize put up by the Massachusetts Council on the Arts and Humanities, an essay competition for schoolchildren, various forums, lectures, concerts and receptions, and, of course, a giant tea party, to run all day next Saturday in a tent outside the Old South Meeting House.

But essentially, Katherine Kane and her Boston 200 colleagues view the Bicentennial as an event that will bring permanent benefit to the entire city. "We're not building a fairgrounds," she says, "the whole city will be the celebration.

To the present "Freedom Trail," which marks out the route of historical happenings in Boston, the city now plans to add Literacy, Medical, Religion and Black Heritage Trails, setting forth its contributions in

other areas of human activity. It also aims at physical and environmental improvements in the center core and outer neighborhoods, paid for both by public and private funding. Boston 200 is also working closely with similar commissions in three other cities that expect to mount major Bicentennial programs—Philadelphia, New York, and Washington.

The Boston Tea Party is only the beginning—just as in 1773.

THE BOSTON TEA PARTY

(By Benjamin W. Labaree) *

On the night of December 16, 1773, a small group of Bostonians climbed abroad three vessels moored at Griffin's Wharf and threw their cargo of tea into the harbor. The Boston Tea Party, as it has been called, is one of the most famous episodes in American history not only because it was so dramatic but also because it had such momentous consequences. For the Boston Tea Party, more than any other single event, precipitated the outbreak of the American Revolution.

In the years following the French and Indian War Great Britain expected the American colonists to help pay for the troops needed to protect the frontier. To raise the money the British ministry decided for the first time to tax the colonists. In 1765, Parliament passed the Stamp Act, which levied an excise tax on newspapers, legal documents, and other items. Almost immediately the colonists objected to what they called "taxation without representation." Some turned to violence. In Boston a mob wrecked the office of the stamp distributor and then gutted the fine home of Lieutenant Governor Thomas Hutchinson. He would not forget this act of vandalism. American merchants threatened to boycott all English goods. The next year Parliament repealed the Stamp Act, but in 1767 it placed new taxes on various commodities imported into America including tea, which had become a very popular drink among the colonists. Again Americans objected to being taxed without their consent, and again they boycotted English goods. Parliament repealed most of the duties, but it retained the one on tea to maintain its "right" to tax colonists. This decision would prove to be a serious mistake.

Boston's relations with the mother country grew steadily worse. In 1768 British troops were moved in to quell disturbances along the waterfront but instead of restoring order they brought greater disorder. In March 1770 an unruly crowd taunted a platoon of soldiers into opening fire; five men fell dead in what was called the Boston Massacre. Tension eased somewhat thereafter until the spring of 1773, when Governor Hutchinson got into a serious quarrel with the Massachusetts legislature. The House formally asked King George III to recall him. From then on Hutchinson was in no mood to compromise with Sam Adams and his fellow patriots.

Meanwhile, the English East India Company fell into financial difficulties. To help out Parliament allowed the Company to export some of its tea directly to America but decided not to repeal the tax. One skeptic predicted "if you don't take off the duty, they won't take the tea." He was dead right. In September 1773 the East India Company shipped 600,000 pounds of tea to four American ports, including Boston, where it was consigned to several merchants including Thomas and Elisha Hutchinson, sons of the unpopular governor.

On November 28 the first tea vessel, the ship *Dartmouth*, arrived in Boston, followed thereafter by the ship *Eleanor* and the brig *Beaver*. Under the law the duties had to be paid within twenty days (by December 17th) or else the customs officers could seize and land the tea themselves. Once that happened, the patriots feared, those Bostonians whose thirst was stronger than their political principles would willingly purchase the tea, dutied or not, thereby recognizing Parliament's right to tax Americans. The only way to avoid such a surrender was to prevent the tea from landing. Mass meetings at the end of November demanded that the owners send their vessels back to London with the tea, but without official clearance, the vessels could not leave the harbor. As the deadline approached the owners were told that their ships could not be cleared until the tea duties were paid; only the governor could make an exception. On the final day, December 16, thousands of inhabitants gathered at Old South Meeting House to demand that the owners seek a special clearance. But Governor Hutchinson was now on the verge of a great triumph over his longtime adversaries, for he knew that on the morrow the officials would seize the tea. He therefore flatly refused to issue a clearance. But the morrow never came.

The patriots had prepared for Hutchinson's decision. They poured out of Old South into the evening darkness midst cries of "On to Griffin's Wharf!" and "Boston harbor a teapot tonight!" When they reached the waterfront, bands of twenty men or so, roughly disguised as Indians to avoid recognition, climbed aboard each of the vessels. They hoisted the heavy chests of tea out of the holds, smashed them open, and dumped the contents into the harbor. Hundreds of spectators looked on in silent approval. Altogether 340 chests of tea worth nearly £10,000 were destroyed that night in Boston harbor.

When officials in London learned of the Tea Party, they were furious. Boston was in their view one of the most disreputable communities in the empire; this most recent act of defiance could not be brushed aside. Unable to discover the actual participants, the ministry decided instead to punish the entire town.

In March 1774, therefore, Parliament voted to close the port of Boston to all shipping until the town paid for the tea. Other measures designed to put a tight rein on Massachusetts altered the governmental charter, stiffened the administration of justice, and authorized the garrisoning of troops among the people. Together these measures became known as the "Coercive Acts." British authorities assumed that other Americans would waste little pity on the fractious Bostonians. But again they were wrong.

When Bostonians learned of their fate, they called upon colonies elsewhere for sympathy and assistance, and they got both. Towns and counties throughout America sent food and adopted resolutions condemning the Coercive Acts. They realized that Great Britain could at its whim punish them as well. By the summer of 1774 Boston's cause had become the cause of all. In September delegates met at a Continental Congress in Philadelphia. There they agreed to boycott English goods and to petition the king for a redress of grievances. But it was now too late for compromise. George III himself declared that "blows must decide whether they (the New England colonies) are subject to this country or independent." In April 1775 British troops stationed in Boston marched out to capture munitions stockpiled at Concord, but their way was blocked by the colonial militia. Then and there the War for American Independence began.

By their violent opposition to Parliamentary taxation Bostonians goaded the British into a serious blunder. The Coercive Acts brought about the one result they hoped to avoid—colonial unity. For by standing together the Americans successfully defied British efforts to assert unlimited sovereignty over them.

THE BOSTON TEA PARTY—1773–1973

Two hundred years ago, a Tea Party in Boston Harbor helped usher in the American Revolution. This December, as the first major event of America's bicentennial celebration, the Mayor's Office of the Boston Bicentennial is planning a commemorative weekend in honor of the 200th anniversary of the Boston Tea Party.

The most spectacular event of the weekend, December 14–16, will be a mimed re-enactment of the Tea Party aboard the brig Beaver II, a replica of one of the three original Tea Party ships, currently being sailed from England.

Other events include a Tea Party Ball; a Tea Party Tent Festival; an 18th century music concert; a Tea Party Forum; a special service at Boston's Old South Church; an exchange of proclamations with other "Tea Party" cities (who followed Boston's lead in disposing of English tea); and dedication of the U.S. Custom House at Boston as an historic building.

The Tea Party Weekend is the first major event of Boston 200 and the first commemorative event of Festival American, one of five major planning areas outlined by the Office of the Boston Bicentennial—developer of the Boston 200 program. Festival American will include all commemorative, cultural, and community celebrations during the bicentennial years, developed in cooperation with the Mayor's Office of Cultural Affairs and Boston's Metropolitan Cultural Alliance.

Other planning areas for the bicentennial in Boston include Physical and Environmental Improvements (planned through the Boston Redevelopment Authority), Visitor Services, Economic Development, and Citygame—a network of trails, paths and walking tours designed to exhibit the city to residents and visitors alike.

During the fall of 1973, a program of forums, lectures, and literary and artistic competitions is planned to increase public awareness of the Boston Tea Party and its political and historic significance—just as meetings and forums in 1773 kindled the spirit for the original Tea Party. The Boston Center for Adult Education will hold a course on the Tea Party. An essay contest has been developed for Boston junior and senior high school students on the significance of the Boston Tea Party. With the cooperation of Junior Scholastic Magazine, children in elementary schools across the country are being asked to design posters depicting the events that led to the night of December 16, 1773, and a slide show will be prepared from their art work.

The Massachusetts Council on the Arts and Humanities has contributed a $1,000 prize to a Boston artist for the winning design of a poster competition to commemorate the Tea Party. This will be the first in a series of Boston 200 posters. The judges' selections will be exhibited through the auspices of the Office of Cultural Affairs at City Hall in December.

The Museum of the American China Trade in Milton, in cooperation with the Massachusetts Horticultural Society, will join the activities in October—and will present an exhibit on the Teas of China, to last through May, 1974.

In mid-fall, the brig Beaver II, a 75′ x 22′ two masted wooden vessel, will sail into Boston harbor from England to be moored near the Congress Street Bridge in the Fort Point Channel. Beaver II, developed and privately financed as an educational and historical exhibit, is the first bicentennial exhibit to

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be recognized by Boston 200. The total exhibit will include a museum (sponsored by Salada Foods, Inc.) and a gift shop, which will be located in the former bridgekeeper's home adjacent to the bridge site.

On Wednesday, November 14, Boston's famous Shreve, Crimp and Low, specialists in fine jewelry, will host a tea party at which a special Boston 200 teaspoon will be introduced.

The official Tea Party Weekend begins Friday, December 14 at 2 p.m. with the dedication of the Boston Custom House as an historic custom house on the site at 2 India Street. At 8 p.m., a group of noted historians, including Professors Benjamin Lebaree of Williams College, Hillard Zobel of Boston College, and Pauline Mayer of the University of Massachusetts will discuss the significance of the Tea Party in a forum at Faneuil Hall. Immediately following, a reception will be held in the Ancient and Honorable Hall, Faneuil Hall, for the Tea Party Forum speakers and winners of the Tea Party essay contest held during the fall.

Saturday, December 15, a Tea Party Tent Festival will be held in front of the Old South Meeting House, Boston, from 10 a.m. to 6 p.m. where tea will be served continuously all day. The tent will also contain the Tea Party pictures submitted during the fall by elementary school students across the country, and a slide presentation of Boston 200 will be shown.

At 2 p.m., an eighteenth-century music concert will be performed in the Old South Meeting House by students from the New England Conservatory of Music. That evening, the Tea Party Ball—a benefit for Boston 200 to be attended by some 3,000 people—will be held at the Boston Center for the Arts, 539 Tremont Street. Activities will include eighteenth century and contemporary dancing; the world premiere of The Boston Tea Party, a revue by Allan Albert, creator of *The Proposition*, Boston's and New York's improvisational theater; music of British and colonial fife and drum corps; displays of 18th century crafts at which guests can try their hand; and popular food and drink of the Revolutionary Period. Admission cost is $5 per person.

At 10 a.m. on December 16, the Old South Church, Boston, will hold an ecumenical service, with the sermon developed from themes brought out in the fall forums.

In the afternoon the Massachusetts National Guard with the help of the Charlestown Militia and other Greater Boston militia companies, will participate in a mimed re-enactment of the Boston Tea Party on the brig Beaver II. Rather than further polluting Boston Harbor by again dumping tea, Boston 200, in cooperation with the Sierra Club, will present an exhibit on ways in which America's waterways can be saved.

Preceding the re-enactment, an exchange of proclamations will take place with cities along the eastern seaboard who also had Tea Parties after Boston's—Philadelphia, Penn., New York, Charleston, South Carolina, and Annapolis, Maryland.

Other events in Boston December 14–16 include the annual Christmas festival and lights on Boston Common produced by the Office of Cultural Affairs and the Parks and Recreation Department; The Boston Ballet's production of *The Nutcracker;* Christmas exhibits at the Museum of Science, The Children's Museum, and the New England Aquarium, Boston; and on December 14, a performance by Pianist Rudolph Serkin at Boston's Symphony Hall. Other Christmas concerts will be held at various locations throughout the city.

THE ENERGY CRISIS AND THE DEVELOPING WORLD

Mr. BROOKE. Mr. President, the energy crisis and its linkage to the present Arab employment of oil diplomacy is of central concern to both the United States and its allies in the developed world. Western Europe, some 73- to 80-percent dependent on external sources for its oil needs; and Japan, over 90 percent dependent on external oil sources, have been the main focal points of attention in the immediate crisis now being faced.

While the main emphasis has been on the effects of the Arab boycott on the developed portion of the world, there has been far too little recognition of the debilitating effects of the energy crisis, and especially of rising costs of oil, on the developing countries.

In a recent issue of the Economist, there appeared an article summarizing what was termed "the calamitous effect of dearer oil on many of the struggling economies of the third world." I commend this article to my colleagues.

As the article points out:

> The rise in the underdeveloped countries' oil bill will just about wipe out the whole official aid effort of the United States, equal to 25 per cent of the foreign currency that the rich world now hands to the poor. Most of the underdevelopeds have backed the Arab cause politically, yet they are going to be at least 1.7 billion a year poorer in consequence.

It goes on to state:

> Much of the world aid programme has been eradicated at a stroke.

This assessment, of course, oversimplifies the problem. American aid is not given on a basis that makes it amenable for use as the recipient country sees fit. It is oriented toward funding of specific projects. Nevertheless, the general weakening of the economies of the LDC's brought on by the escalating prices of oil and its derivatives, will certainly have a debilitating effect on development programs throughout the Third World.

Saudi Arabia's oil minister, Sheikh Ahmed Yamani, sensitive to the effect that the so-called oil diplomacy may have on the Arab's Third World supporters, has suggested a possible two-tier pricing system that would mitigate the negative consequences of increased oil prices for the LDC's. However, there is no evidence as yet that such a system is in the offing. Moreover, non-Arab oil producers such as Nigeria or Venezuela, are likely to oppose any two-tier system that might cut into the growth in profits they are now experiencing.

Should the negative effects predicted in this article actually occur, the hopes and aspirations of a great number of earth's underprivileged peoples will be seriously eroded. In the long run, this would be one of the most tragic consequences to stem from the use of energy resources as a political weapon.

I ask unanimous consent that the Economist article entitled "Kicking the Poor," be printed in the RECORD.

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

KICKING THE POOR

> The rise in the underdeveloped countries' oil bill will just about wipe out the whole official aid effort of the United States, equal to 25 per cent of the foreign currency that the rich world now hands to the poor. Most of the underdevelopeds have backed the Arab cause politically, yet they are going to be at least £1.7 billion a year poorer in consequence. Some of them must wonder what would have happened if they had supported Israel instead. This sudden new strain on their balance of payments will stop a great deal of development in its tracks, as money that should be going into technical assistance will be diverted into the oil producers' bank accounts. Much of the world aid programme has been eradicated at a stroke. If the price of oil doubles in the next two or three years, which is more than likely, the underdeveloped will be twice as badly off.
>
> The setback has come just when things were looking up for much of the third world. The terms of trade have shifted in favour of the primary-producing nations for the first time for many years. In the past year the prices of commodity exports have outpaced those of manufactured goods, swelling the exchange reserves of the developing world at an unforeseen and unprecedented rate. The value of the commodity exports has grown around 30 per cent this year. The third world has actually notched up a balance of trade surplus, and its reserves have almost doubled in the past two years. That progress will now be whittled away.
>
> The 70 per cent rise in oil prices is putting the bite on the purses of Arab sympathisers in Africa and south-east Asia in such a way that Saudi Arabia's oil minister, Sheikh Ahmed Yamani, has mentioned a possible two-tier pricing system to give the poorer oil on preferential terms. But nothing has been done so far.
>
> #### WHERE THERE ARE FEW LUXURIES
>
> The third world is not a great consumer of oil. Its imports of crude scarcely amount to one-fifth of what is used by the industrialised nations, but most of it is bought for essential purposes, and imports would have been expected to rise with any rise in gnp. There is little cushion of luxury consumption, like central heating, air conditioning or motoring for pleasure that can be reduced without directly affecting industrial output. India's extra oil bill push import costs up by nearly 6 per cent, double what the new prices will add to Britain's imports. Brazil will have to pay out £100m in hard currency and so even will Moslem Pakistan £15m.
>
> The poor nations will have more reason to resent the Arabs' tactics when the recession looming over the west causes commodity prices to slump. It is only in the unprecedented boom of the past year that commodity prices have come back to what they were in the early 1950s during the Korean war. Although base metal prices are still pushing through new highs daily, a recession in the industrialised nations would send them sliding back, robbing the third world of the foreign currency needed to pay for its oil.
>
> Coming at the end of the commodity boom, the new oil prices have widened the economic gaps between different countries of the third world. The 25 least-developed are falling further behind, having few exportable commodities to set against the extra oil costs. Others have been putting up star-performances: Zambia, Zaire, Chile and Peru could stand to make an extra £1 billion this year with the copper price now over £1,000 a ton, more than double the average 1972 price. Malaysia, with £150m added on to its tin and rubber exports, has pushed its way to near the top of the development league, so that the gap between it and the industrialised west is closing as it leaves the other poor nations lagging further behind. Brazil, Cameroon, Colombia and Ghana have all got more out of the recent surge in coffee and cocoa prices than out of all of their official aid receipts.
>
> But because no commodity price will survive a world recession the primary producers ought to be the countries that should now be

most strongly lobbying the Arabs. Most commodity prices are fixed by the value of marginal supply. Prices are high now because of the immediate shortages of stock after the industrial boom of the past year (and partly because at times of uncertainty people rush to hoard), but they cannot continue at their present peaks. These are already distorted by delivery problems. A high commodity price without oil to let the stuff be shipped is of no use to the developing world.

The new tycoons of the third world are, of course, the oil producers. Nigeria will be making an extra £320m a year and Indonesia £150m. Because these two countries have large populations of 60m and 120m respectively they, unlike some Middle East producers, have ready uses for their new earnings. While Arab money could go on lying in European banks (some of it actually in Holland), Nigeria and Indonesia will have the opportunity to become the major economic and political powers of Africa and southeast Asia, with large markets and money to satisfy them.

These new producers are unlikely to sympathise with any Arab plans for a two-tier system, or let their neighbours have oil on preferential terms. Nigeria told Ghana and other west African countries last week that they would not only have to wait their turn in the queue but pay the full price, black brothers or not. Indonesia, which exports much of its crude to be refined in Singapore, Thailand and the Philippines, is increasingly anxious to use its political weight in southeast Asia.

THE RICHER POOR . . . AND POOREST POOR

	Commodities as percent of exports	GNP per head	New oil prices
Venezuela	96	£426	+£625m
Nigeria	93	£55	+£320m
Indonesia	53	£34	+£150m
Zambia	90	£175	−£5m
Malaysia	53	£175	−£20m
Philippines	58	£90	−£45m
India	22	£48	−£50m
Brazil	33	£183	−£100m

Note: GNP under £40 per head: Afghanistan, Burundi, Ethiopia, Mali, Pakistan, Tanzania, Bangladesh, Chad, Haiti, Nepal, Rwanda, Upper Volta, Burma, Dahomey, Malawi, Niger, Somalia, and Yemen.

THE GENOCIDE CONVENTION: UNDERSTANDING ON MENTAL HARM

Mr. PROXMIRE. Mr. President, one argument often raised against ratification of the Genocide Convention is the purported vagueness of the phrase "serious mental harm" as used in article II of the convention. Article II includes as an act which constitutes genocide "causing serious mental harm" to members of a national, ethnical, racial, or religious group with intent to destroy the group, as such, in whole or in part.

The second understanding to the Genocide Convention recommended by the Committee on Foreign Relations refines the concept of serious mental harm. Although the committee reported that it "had no particular problem with the meaning of these words," it recommended that the words "mental harm" be construed to mean "permanent impairment of mental faculties."

This understanding refutes the charges of those who believe that a liberal construction of the language of the convention could allow a hostile foreign power to dream up supposed examples of American foreign involvement which somehow was culturally disadvantageous for a national group and, therefore, caused them "serious mental harm." It should be made clear again, then, that such fears on the part of opponents of the convention are unfounded.

The Genocide Convention has nothing to do with such questions as discrimination, religious intolerance, or harassment of minority groups—even though such acts are themselves reprehensible.

What the Genocide Convention does is to outlaw actions which are part of a deliberate policy to destroy, in whole or in part, a national, ethnical, racial, or religious group.

Mr. President, we must reaffirm our commitment to the principles of the Genocide Convention by ratifying it promptly.

AUTO EMISSIONS LEGISLATION

Mr. BAKER. Mr. President, the Senate Public Works Committee earlier this week filed its report on S. 2772, a bill to amend the Clean Air Act. S. 2772 is a responsible and balanced measure. I support it. This legislation would continue for 1 additional year the 1975 interim standards for controlling automobile emissions. That means that the statutory deadline for attending a 90-percent reduction from 1970 levels of hydrocarbons and carbon monoxide emissions would be postponed from model year 1976 to model year 1977. I am satisfied that S. 2772 insures continued progress toward the goal of clean air, while accommodating our current national need to maximize energy efficiency.

The 1975 interim standards require a reduction, in comparison with the 1974 models now on sale, of 50 percent in hydrocarbons—HC—emissions and 46 percent on carbon monoxide—CO—emissions. This would be the most significant advance in pollution reduction since passage of the 1970 act.

Holding the interim requirements for two model years means that the auto companies will not need to employ catalytic converters to meet standards on many models. Rather, manufacturers will retain considerable flexibility, gaining experience with catalyst-equipped cars while continuing to develop and experiment with alternative types of engines.

The automakers agree that, in the short run, the catalyst system appears to be the only technology available to achieve major reductions in emissions. Time is needed to determine if the catalyst will be a dependable, long-term solution or if alternative approaches—particularly some form of the stratified charge engine—would be superior. S. 2772 provides a period of stability that we sincerely hope will result in further development of both catalyst and alternative systems. And it will simultaneously assure to the public the significant reduction in auto emissions which each of the auto companies acknowledges can be achieved in their 1975 models.

Many members of the committee expressed concern about possible health hazards due to sulfates and sulfuric acid emitted from catalyst-equipped cars. In hearings on November 5 and 6, witnesses told committee members that there was the possibility of irritating or hazardous levels of these pollutants in certain localized areas under certain conditions. Data on the problem was sketchy and inconclusive. The available evidence and informed opinion—supported in testimony by EPA Administrator Train and others—suggests that such hazardous concentrations would be unlikely. And if a problem should develop, courses of action other than eliminating the catalytic converter are available. In short, I and the other committee members believe the prospect of harmful emissions from catalyst-equipped cars—emissions which can be controlled should the need arise—does not justify a halt in our journey down the road toward cleaner, healthier air.

I want to point out that the committee did concentrate on questions relating to the energy consumption of the various standards. There had been suggestions that the Congress postpone implementation of the 1975 interim standards, retaining the 1974 levels—perhaps the worst choice for fuel economy. While there is some uncertainty over what effect the use of catalysts will have on total crude oil and gasoline consumption, the evidence indicates that, at a minimum, there will be a modest improvement in fuel economy through adherence to the 1975 interim standards.

That gain should be enhanced if the Congress allows the industry to use the 1975 interim standard as its yardstick for its 1976 models. Such an extension will provide the auto manufacturers with the experience needed to further improve and tune their 1976 engines for greater fuel efficiency.

In its decision to retain the 1975 interim emissions standard for an additional year, the committee made no decision on ultimate permissible emission levels for oxides of nitrogen. The committee is aware that the auto companies need a decision on this issue as soon as reasonably possible so they can focus their research and development programs toward alternative engines.

Nevertheless, we also recognized that many questions remain unanswered about possible health effects as a result of any relaxation of the existing statutory standard for NOx. As outlined in the committee report, we intend to bring together all available information on this question through hearings very early in the next session. This should give the committee and the Senate the information to act knowledgeably and expeditiously.

Mr. President, even before the current energy shortage impelled us to reexamine a wide range of existing laws and practices, members of the Public Works Committee had committed themselves to a timely review of all the requirements of the Clean Air Act, including the auto emissions standards. We recognize that early resolution of these issues, especially those involving deadlines for compliance with national standards, holds great im-

portance for our Nation. The committee has set for itself a schedule to allow careful examination of these questions, and we intend to present our recommendations to the Senate before the States, communities, and industries must make final commitments to any particular course of action required by the 1970 act.

S. 2772 is the committee's third response to the pledge to reexamine the Clean Air Act. The committee has contracted with the National Academy of Sciences for a review of many of the bases of the act. Then, last month, the Senate passed the committee's proposal to provide adjustments to meet the current energy shortage by including title IV in the Energy Emergency Act.

Mr. President, I urge the Senate to support S. 2772 when it is called up, for I consider it a responsible approach planned by the Public Works Committee toward the whole issue of assuring cleaner air without undue sacrifice of our national goals.

SPECIAL PROSECUTOR

Mr. CRANSTON. Mr. President, this week the Senate will begin consideration of the Special Prosecutor legislation which has been reported from the Committee on the Judiciary.

In attempting to compare the competing proposals I have noted some areas of agreement and some areas of disagreement, in particular on the most important question of all—the scope of authority of the Special Prosecutor.

Specifically, the question is this: Will we preserve the existing authority of the Special Prosecutor to investigate fully all offenses alleged to have been committed by the President, his appointees and members of the White House staff?

Or, will the Senate restrict the power of the Special Prosecutor to investigate only allegations of wrongdoing within the White House related to the 1972 Presidential campaign?

The real issue before the Senate is not only the constitutionality of legislation establishing the Special Prosecutor's Office, but whether the prosecutor will have the full power to investigate and prosecute all wrongdoing linked to the White House.

The Hart-Bayh bill (S. 2611) which I have cosponsored, preserves the original jurisdiction of the Special Prosecutor as established in regulations issued by Attorney General Richardson and reissued by Actng Attorney General Bork.

The Percy and Hruska-Taft proposals (S. 2734 and S. 2642), on the other hand, severely limit the Special Prosecutor's area of responsibility.

A major purpose of any special prosecutor legislation must be to preserve in statute form the existing powers of the Special Prosecutor against attempts by the Executive to limit the exercise of his powers or the scope of his inquiries.

I believe it would be a serious mistake to enact legislation to protect the incumbency of the Special Prosecutor while at the same time reducing his power and authority.

The public believe that we are acting to preserve the Special Prosecutor's powers, not to diminish them, and that we are acting to protect him against possible White House threats to his jurisdiction, not to restrict his jurisdiction.

I have the impression that this substantive issue has been overlooked during the arguments about the relative constitutional merits of the competing proposals. There has been very little discussion in the Senate so far about the scope of authority we should give the Special Prosecutor. Instead, the emphasis has been upon excellent legal memoranda on the constitutional and procedural aspects of the bills with respect to appointment and removal. The two reports submitted by the Committee on the Judiciary thoroughly discuss the constitutional arguments, but make little mention of the substantive differences in jurisdiction as set forth in S. 2611 and S. 2642.

There is a very real danger that we can end up with a constitutionally safe Special Prosecutor who will have severely limited powers. In fact under S. 2642 and 2734, he would have less authority than Mr. Jaworski has at the present time.

The key provision on which the three major proposals differ is in regard to the so-called third head of jurisdiction as originally stated in the regulations issued by Attorney General Richardson and reissued by Acting Attorney General Bork. That provision, as set forth in the regulations, reads in full as follows:

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, members of the White House staff, or Presidential appointees, and any other matters which he consents to have assigned to him by the Attorney General.

The point at issue lies in the clauses:

The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of . . . allegations involving the President, members of the White House staff, or Presidential appointees . . .

S. 2642 limits the jurisdiction this way:

Sec. 5(a)(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff in relation to the 1972 Presidential campaign and election; . . .

S. 2734 states the authority of the Special Prosecutor in the same way.

The effect of the limiting language in these jurisdictional provisions of S. 2642 and S. 2734 is to prevent the Special Prosecutor from investigating fully the activities of the plumbers, alleged improprieties contained in the so-called Domestic Intelligence Plan of 1970 which was drafted by White House aide Tom Houston, and other existing or future allegations involving the President, White House staff and Presidential appointees. The distinguished Senator from Arizona (Mr. GOLDWATER) and I took steps to insure that the original Special Prosecutor would specifically have authority to investigate activities of the plumbers related to the Ellsberg break-in.

It is clear that the language of these provisions restricts the special prosecutor to less authority than he presently possesses under the regulations creating his office.

S. 2611, the Hart-Bayh bill, however, retains the full jurisdiction of the Special Prosecutor. The bill gives the Special Prosecutor the power to investigate and prosecute "offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff—section 3(b)(3).

This section is virtually word for word the same as the regulations currently giving the Special Prosecutor his powers.

The proponents of S. 2642 suggest in their report that the purpose of limiting the authority of the Special Prosecutor to investigate activities of the White House personnel solely in connection with the 1972 Presidential campaign is to put some reasonable restraint on the Special Prosecutor who, they suggest, might be asked to look into the improprieties of virtually anyone, including a small town postmaster.

Neither Mr. Cox nor Mr. Jaworski has done any such thing and it is not likely any other special prosecution will either.

I do not think that any proposal which cuts back on the existing jurisdiction of the Special Prosecutor will be acceptable to the American people. If we cannot enact authority into law, then we would do better to enact no law at all.

COMMUNITY DEVELOPMENT ASSISTANCE ACT

Mr. HUGH SCOTT. Mr. President, the Senate Committee on Banking, Housing and Urban Affairs is presently considering S. 1744, the proposed Community Development Assistance Act of 1973. This measure is designed to bring about a consolidation of existing community development programs into a single block-grant program.

When the Senate considered this proposal, as part of another bill in 1972, I supported it. In retrospect, however, one deficiency is apparent—and that deals with the basic entitlement for urban counties. Under S. 1744, as introduced, counties having in excess of 200,000 residents—excluding metropolitan cities within the county—are not entitled to block-grant funds.

The absence of this provision in S. 1744 causes me great concern since 11 Pennsylvania counties, out of 85 nationwide, would be eligible for Federal moneys if it were in the bill. I am pleased that Senator JOHN SPARKMAN, author of this bill and chairman of the committee, has indicated his willingness to include such a provision in the bill.

In my view, there is great merit in giving urban counties a share of Federal funds. One county in Pennsylvania which could benefit is York County, and the president of its board of commissioners, Charles Stein, wrote of the importance in so doing:

We, the county officials who are responsible for the management of urban counties, feel that our cause is justified in seeking to have

urban counties included as eligible recipients for community development block-grants. In many cases our state legislatures and you, the federal government, have mandated to us to perform functions and provide services which require the financial assistance of programs such as S. 1744. In other cases, the fact that people are migrating from the center cities to outlying areas, supports our premise that many of the services and problems which are found in the cities are now being transposed upon us.

The distinguished senior Senator from California (Mr. CRANSTON), who is a member of the committee, has proposed an amendment to S. 1744 to provide for the inclusion of urban counties in the bill's coverage. Nearly 75 million people in this country would benefit from continued funding, through block-grants, of programs relating to neighborhood development, open space, water and sewer, urban renewal, model cities and neighborhood facilities and rehabilitation loans. Urban counties must be allowed to participate in these vital programs.

The 11 counties in Pennsylvania which would qualify for block-grant funding are: Allegheny, Berks, Bucks, Chester, Delaware, Lancaster, Luzerne, Montgomery, Washington, Westmoreland, and York.

As I am not a member of the committee and will not have an opportunity to take part in any markup of the bill, I am today advising Senator CRANSTON of my full support for his amendment. I intend to work for its passage on the Senate floor when S. 1744 is considered.

NORTHEAST UTILITIES' TREASURE HUNT

Mr. RIBICOFF. Mr. President, of all the sectors of our economy hit by the energy shortage, among the hardest hit are the electric utilities. The significance of this for the general public is clear: if the utilities run out of fuel, the people run out of electricity.

The problem is most serious in those areas of the Nation where the utilities are located farthest from coal mines and oil and gas wells. My home State of Connecticut and the New England region are especially hard hit.

An article in yesterday's financial section of the New York Times reports that New England's largest supplier of electricity, Northeast Utilities, based in Berlin, Conn., is reducing voltage by 5 percent every 4 hours to save on fuel. The article details how Northeast Utilities has been scrambling to locate enough fuel to keep New England homes lighted and heated this winter—a treasure hunt in which I have been actively involved. I and my staff have been working closely with Leland F. Sillin, Jr., chairman and president of Northeast Utilities, to assure that Federal allocation programs treat New England fairly and that the major producers make as much fuel available as possible for power generation in the region.

I ask unanimous consent that the complete article be printed in the RECORD.

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

ELECTRIC UTILITIES HUNTING SEASON
THEY LOOK FOR BOTH FINANCING AND FUEL
(By Gene Smith)

BERLIN, CONN.—With the specter of power cutbacks looming ever larger, electric utilities are finding many obstacles in trying to give their customers the service they need. Already New England voltage is being reduced 5 per cent for four hours every day as a fuel-saving measure.

As if having to join the search for fuel weren't enough, the utilities must also pursue their perennial search for investors' money. And these problems are aggravated by the pressures of clean-air standards and rate regulation.

Although the threat of fuel shortages is a momentous challenge, Leland F. Sillin Jr., chairman and president of Northeast Utilities, feels that his industry's most critical issue now is "the maintenance of financial viability." Meanwhile, his company (the largest supplier of electric energy in New England) is down to a four- or five-week supply of coal.

All of the nation's electric utilities are taking steps to meet the growing problems of these days. They are trying to make sure of their fuel supplies while trying to find the billions of dollars required for their never-ending capital needs.

The search for fuel is particularly difficult for utilities remote from coal mines and oil and gas wells. The power companies are also hunting for substitute fuels to tide them over if normal supplies run short. That means they have to seek temporary relaxation of clean-air standards.

Northeast Utilities, which switched largely to oil a few years back, has found that coal (if it could be found in the open market) now costs about twice as much per ton as it did only 60 or 90 days ago. And the boiler fuel the company can obtain now costs about 80 percent a barrel more than it did last January.

And, always, the need for investment capital persists. In a recent speech, Mr. Sillin declared that Northeast Utilities "must expend in the next six years more than $2.3-billion for new facilities." This will more than double the system's total investment at the end of 1972, he added.

"As much as 75 per cent of this amount will have to be financed by new debt and equity issues," Mr. Sillin said. "With this high level of capital requirement, a fundamental challenge will be to maintain the earnings growth and interest coverage essential to attract the investment capital constantly required.

"Competitive money markets are impersonal, and no one has found a way of rationing the available investment capital other than by meeting the rigorous demands of the market for appropriate interest and dividend rates."

The major operating companies in the Northeast Utilities system are the Connecticut Light and Power Company, the Hartford Electric Light Company and the Western Massachusetts Electric Company. Last year they sought a total of $38,610,000 in electric rate increases and were granted $23,475,000. This year the system asked for $26,996,000 more and has received $6,589,000.

"To avoid aggravating already critical energy supplies, we and our regulators and our consumers must find ways to assure the capability of the utility industry in an orderly way to pursue financing of energy facilities," Mr. Sillin said. "The alternative would be an inevitable deterioration in providing its role in supplying these vital energy supplies."

The stability of this power system is vital to New England, particularly in this time of tight fuel supplies. Northeast Utilities provides electricity for 968,500 customers in Connecticut and western Massachusetts through its three major operating companies and the Holyoke Water Power Company.

The system itself represents about 30 per cent of the six-state region's total generating capability as a participant in the New England Power Pool, which is the generating and transmission planning and coordinating agency for all major New England utilities.

For the four weeks ending Jan. 2, Northeast Utilities has on hand or committed for its seven major fossil-fueled generating plants some 3,340,000 barrels of "legally conforming low-sulphur oil"—0.5 per cent to 1.25 per cent sulphur content in Connecticut and 1 per cent to 2.2 per cent in Massachusetts. This is 64 per cent of the system's storage capacity and represents about a 22-day supply at the present rate of demand.

Northeast Utilities also has received commitments for an additional 21-day supply of 1,105,000 barrels of conforming low-sulphur oil and 975,000 barrels of oil containing 1.2 per cent sulphur.

The utility system has been granted a variance by the Connecticut Department of Environmental Protection that will allow it to burn oil not to exceed 1.25 per cent sulphur content and coal not to exceed 2 per cent for 120 days from Dec. 1. Massachusetts issued an interim order permitting up to 2.2 per cent sulphur content.

Since the embargo of Middle Eastern oil began, Northeastern Utilities and the other members of the New England power pool have considered what to do in case legally conforming low-sulphur fuels run out or are placed under allocation quotas.

This means that operating companies must decide which plants could be converted to coal in the shortest time. Most plants were changed from coal to oil in the late nineteen-sixties because of the higher transportation cost for coal and because of the adoption of state air quality standards.

The Environmental Protection Agency has sent East Coast Governors a list of 41 power plants that "potentially could be converted to coal within 60 days." Northeast Utilities estimated that, although some on the list would take only one to three weeks to convert, two of them—its Devon and Norwalk Harbor plants—would take five weeks to two months.

Meanwhile, Northeast Utilities has been trying to find coal supplies.

The New England Power Exchange, which directs daily operations of the New England grid, reported that, as of Dec. 5, "current fuel inventories and expected fuel receipts" for the 28 days ending Jan. 2 show "a projected supply for only 30 days [and] total fuel inventories have dropped approximately 6½ days since the original weekly survey of Nov. 12."

The forecast of electricity demands have been lowered by 4 per cent, reflecting conservation programs in the six states of New England. Such efforts represent an estimated saving of more than 400,000 barrels of oil a month.

No one will estimate how much of the saving is due to the unseasonable weather that has prevailed. The weather bureau at Hartford reported that November was 20 per cent warmer than a year ago.

The total capability of the Northeast Utilities power network is 5,857,050 of which 2,846,150 kilowatts comes from oil- and gas-fired plants. An additional 643,500 kilowatts is from gas turbines, jet engines and diesel units that burn distillate oils.

Also, 1,100,400 kilowatts comes from the system's nuclear power plants.

"Two years ago, when I was asked what should be done to meet fuel problems, I urged a speedup in nuclear," Mr. Sillin said. "That constitutes one of the nation's principal energy options for meeting increasingly short petroleum supplies.

"Our studies have repeatedly concerned not only the safety of this technology but

also its being environmetally our best alternative. Our goal is obviously to have safe and improved reliability.

"By 1981 at Northeast we're planning to have about 60 per cent of our base load capacity in nuclear power facilities. This would mean that, after more than doubling our energy responsibilities, we would actually be using some 16 per cent less fossil fuels than we did back in 1971."

The company's Northfield Mountain pumped-storage plant, in western Massachusetts above the Connecticut River, is "particularly precious right now," a company spokesman said.

When the New England grid began its daily 5 percent voltage reductions on Nov. 26, he said, a television camera crew barely noticed a change in meters on the control panel. At almost the same moment, a 300,000-kilowatt unit in Massachusetts failed, and the pumped-storage plant took up the slack automatically as it was designed to do.

"That was more significant than the planned voltage reduction," the spokesman said "Again no one, except our operators, even noticed the action."

But Mr. Sillin was strongly opposed, particularly by environmentalists, when he identified three potential pumped storage sites for future development. These have since been narrowed down to two—one in northwestern Connecticut and one in southwestern Massachusetts.

Since 1969, the Northeast Utilities system has phased out all electrical selling and promotional activities in Connecticut and Massachusetts.

It has also reorganized its former sales group into an energy consulting services department to assist customers in conserving all forms of energy. The new department took on Northeast Utilities itself as the first customer to help.

SUPPORT FOR S. 1868

Mr. McGEE. Mr. President, as the Senate prepares for a cloture vote tomorrow—Tuesday, December 11—to end debate on S. 1868, it would behoove all Members of this body to give close consideration to an article appearing in this morning's Washington Post.

The article, written by David B. Ottaway, discusses Nigeria's emergence as the leading African nation on that continent. Mr. Ottaway's observations are particularly noteworthy as the Senate prepares to reverse this country's violation of U.N. sanctions against Southern Rhodesia.

Throughout the course of debate on this issue, I have continually pointed out that the United States could very well be denied access to critical raw materials in black Africa and potential export markets unless we altered our Southern African policies. The easiest and most positive manner in which we could demonstrate our concern for the sensitivities and needs of black African nations would be for the Senate to pass S. 1868.

The stakes are high for the United States relative to this issue. Mr. Ottaway makes the following points which I hope will not be lost on Members of this body. He notes:

There is little appreciation here for what Nigerians regard as an American policy of strong support for white-rule southern Africa and Portugal's colonial African wars.

With Nigeria now taking on a leadership role, chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.

American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.

In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil (daily) directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

Secretary of State, Dr. Henry Kissinger, noted the importance of Nigeria to U.S. interests when on October 3, 1973, he urged the Congress to vote to restore this country to compliance with U.N. sanctions against Rhodesia.

Secretary Kissinger noted:

The Byrd Provision has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

In essence, the issue with which this Nation could be confronted is whether we would rather have Rhodesian chrome or Nigerian oil. In light of the present energy crisis and the embargo the Arabs have already placed on oil exports to this country, our economic capacity would be critically impaired should the 700,000 barrels of Nigerian oil be cut off from us at this time. It would not only work a tremendous hardship on the people of this Nation, it would seriously impair our security.

I believe if the American people had to vote on this question, they would overwhelmingly agree that Nigerian oil is much more important to our economic health and national security than Rhodesian chrome.

I ask unanimous consent that the Washington Post article and Secretary Kissinger's letter be printed in the RECORD.

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

NIGERIA EMERGES AS AFRICAN LEADER

(By David B. Ottaway)

LAGOS, NIGERIA.—Only four years after a devastating civil war ended here, Nigeria is emerging as the preponderant power of black Africa.

With oil revenues of at least $4 billion next year, an army of 250,000 and a population of 70 million exceeding any country on the continent, Nigeria seems to have the prerequisites for becoming a regional superpower.

The country's growing might is all the more astonishing so soon after ethnic infighting tore apart the then federal government system in 1966 and led to a 32-month, abortive war of succession by the eastern Ibo people.

Since the end of the war in January 1970, Nigeria seems to have achieved a remarkable degree of reconciliation and stability, allowing the military regime of Gen. Yaflubu Gowon, which came to power on the eve of the civil war, to begin turning more attention to foreign policy.

Although aware of its growing economic muscle and increasingly self-confident, Nigeria is not throwing its weight around or agressively bidding for the leadership of Africa, according to Western diplomats here.

"There is a sense of manifest destiny about Nigerian foreign policy," remarked one diplomat. "Nigerians feel they don't have to go looking for a leadership role because it will come to them in due course of time anyway."

Nigeria is also still weighed down by enormous social and economic problems, particularly in its mushrooming cities where urban blight is markedly evident. The problems are likely to absorb much of the government's energies and attention in the next few years. Nigeria is already engrossed in debate over its future political institutions, with a return to civilian rule promised in 1976.

But almost in spite of itself, Nigeria's expanding influence and prestige in and outside of Africa have been particularly noticeable this year.

Lagos served as host to the second All African Sports Festival in January, spending $60 million on the event. It has been chosen as the site for the second World Black and African Festival of Arts and Culture in November 1975, which will probably cost the government close to $100 million for facilities to accommodate 100,000 participants and spectators.

Gen. Gowon, the country's popular leader, is currently chairman of the Organization of African Unity. The Nigerian oil minister, Ali Shettima Monguno, is head of the powerful Organization of Petroleum Exporting Countries.

In addition, the Nigerian trade minister, Wenike Briggs, has been named the official spokseman for Africa (excluding the white-ruled countries) in initial trade negotiations with the European Economic Community in Brussels.

The fact that Nigeria is leading these talks is significant, for it has been championing the cause of free duties for African goods entering the EEC without reverse preferences for European products coming into African countries. This position is opposed by some of the leading French-speaking West African nations, which have been arguing in favor of reciprocal preferences such as now exist between them and France.

The Nigerian proposal has so far not met with much success. It faces stiff opposition from Senegal's Leopold Senghor and Ivory coast, Felix Houphouet-Biogny, who are seeking to counter it by forming their own exclusive West African French-speaking economic community.

The Nigerians do not seem to be pushing their plan very hard, reportedly because they are confident the French-speaking nations will ultimately discover they need Nigeria to produce any viable West African economic community.

"The Nigerian feeling is that it will come to pass in the course of time. They don't need to push it. They don't need it. The others do," remarked one analyst of Nigerian foreign policy.

The Nigerians regard reverse trade preferences as a hangover from colonial times that must be done away with. But underlying the issue is the rivalry between the respective leaders of French- and English-speaking Africa.

The rivalry has been heightened this year by a Nigerian proposal to form a 14-nation West African economic community that would include both English- and French-speaking nations.

The plan, Nigeria's first major initiative in African diplomacy, is regarded among Western diplomats here as only a vaguely disguised Nigerian bid to wean the French-speaking nations away from France and form an economic bloc independent of all the former colonial powers, yet under Nigerian influence.

In the meantime Nigeria is trying to lure the small French-speaking West African states over to its side by offering them grants and loans. Although hard hit by drought

itself, the Nigerian government has given money to the six drought-stricken Sahelian states.

It has also given an interest free $3 million loan to neighboring Dahomey and built a 15-mile stretch of road in that country. Smaller loans have gone to Chad and Niger.

The big powers are also beginning to take notice of Nigeria and are courting Lagos for its oil, gas and extensive commercial markets. The Nigerians are keeping all suitors at arms length, according to Western diplomats.

"They are very cautious and pragmatic," said one diplomat. "They are self-satisfied, self-confident, and self-sufficient. This may be irritating but basically they are right."

Thus, the Nigerians do not show much interest in bilateral aid programs and are extremely sensitive to outside criticism about the way they go about doing or not doing things.

Although the United States has given more nonmilitary assistance to Nigeria than to any other African country, about $450 million since the mid-1950s, and still maintains one of its largest bilateral African grant and aid programs here, American-Nigerian relations seems only correct, not close.

Nor are the prospects for an improvement in U.S. ties with Nigeria particularly bright. There is little appreciation here for what Nigerians regard as an American policy of strong support for white-ruled southern Africa and Portugal's colonial African wars.

With Nigeria now taking on a leadership role, the chances for a more open clash between the two countries seem good and Nigeria is not without the means to pressure Washington over its African policy.

American business has a $1 billion investment here already, mainly in the oil industry. The amount is likely to double over the next few years, making Nigeria more important to U.S. investors than South Africa.

In addition, American industry, homes and cars are now getting over 700,000 barrels of Nigerian oil directly or through the Caribbean, establishing this country as a major source of fuel supplies for the United States.

ECONOMIC UNION PLAN PUSHED BY NIGERIANS

LAGOS, Dec. 9.—Nigeria will have a 14-man delegation at the meeting of 14 West African states beginning in Lome, the capital of Togo, Monday to discuss the establishment of an economic community of both French and English-speaking African countries.

A statement issued here yesterday said the proposal made jointly by Nigeria and Togo is for a community "which will cut across language and other barriers."

The Nigerian team will be headed by Adebayo Adedeji, economic development and reconstruction commissioner, the statement said. Nigeria and Togo have completed much preparatory work including a tour of 12 other West African states to explain the plan and test reactions.

Ivory Coast, Upper Volta, Mali, Mauritania, Niger and Senegal set up a French-speaking West African economic community last May, with headquarters in the Upper Voltan capital of Ouagadougou.

THE SECRETARY OF STATE,
Washington, D.C., October 3, 1973.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Subcommittee on Africa, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of October 1, also signed by Congressman Fraser, concerning H.R. 8005, a bill to restore the United States to full adherence to the United Nations' Rhodesian sanctions program.

I am pleased with this occasion to reiterate the assurance I gave in my confirmation hearings before the Senate Foreign Relations Committee September 7, that the Administration supports efforts in Congress to repeal that portion of the Military Procurement Act of 1971 commonly known as the Byrd Provision. Moreover, in a letter of August 2 to Chairman Morgan, Assistant Secretary of State for Congressional Relations Marshall Wright expressed the Administration's strong backing for the enactment of S. 1868/H.R. 8005. You may be interested to know that various agencies within the government were given the opportunity to review that letter prior to its dispatch, and that I had personally approved it as Assistant to the President for National Security Affairs. I am convinced now, as I was then, that the Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

You are, of course, familiar with the evidence that imports of Rhodesian chrome and nickel are no longer necessary for strategic reasons and that a request is currently before the Congress to eliminate our stockpile of nickel and to reduce greatly our stockpile of metallurgical grade chromite. It is also pertinent to note that contrary to the intention of the Byrd Provision, the percentage of imports of chrome from the USSR actually increased during the last two years.

On the other hand, the Byrd Provisions has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

Thus, I believe the enactment of H.R. 8005 is in the interest of the nation, and accordingly I support your efforts to secure its passage. Thank you for this opportunity to restate my views. I am also sending a reply to Congressman Fraser.

Sincerely,

HENRY A. KISSINGER.

RHODESIAN CHROME

Mr. CANNON. For the third time in 3 years, the Senate is debating the issue of Rhodesian chrome. The issue is the same now as it was last year and in 1971 when the Congress first adopted the Byrd amendment, which permits the importation of strategic and critical materials from Rhodesia as long as they can also be imported from Communist-controlled countries.

The issue is obscure and remote from the lives of most Americans. It is also complex, involving our national need for supplies of critical materials which are not produced in the United States or even in all of North America, and involving our relationships with the United Nations. It is an issue which needs careful and thoughtful discussion, rather than flights of oratory. My aim today, therefore, is to provide a careful, measured outline of my reasons for continuing to support the Byrd amendment and opposing the enactment of S. 1868 which would repeal it.

The principal commodity affected by the Byrd amendment is chrome ore, specifically metallurgical chrome ore, because in Rhodesia are located the free world's largest deposits of high-grade metallurgical chrome ore. Other types of chrome ore, including chemical grade and refractory grade, are found elsewhere in the world, but the metallurgical grade is by far the most important kind in terms of both economics and national security. The importance of metallurgical chrome is heightened because the world's other major sources are the Soviet Union and South Africa, although much smaller quantities are found in Turkey, Iran, and India.

Metallurgical chromite in the form of ore as it comes from the mine cannot be employed by the steel industry or by other industrial users. It must first be converted into one of several types of ferrochromium by a high-temperature smelting and reduction process. This process is carried out by the ferroalloys industry—which also converts manganese ore and silicon ore into various types of ferromanganese and ferrosilicon for use by steel producers and the aluminum industry.

METALLURGICAL CHROME AND THE NATIONAL SECURITY

Chromium is one of the most important and indispensable industrial metals. Current United States consumption of metallurgical chrome ore totals about 700,000 tons per year. None is mined in the United States or in North America.

Ferrochromium is irreplaceable for the production of stainless steel and other type of high-performance steels and superalloys, where the chromium imparts vital resistance to heat and corrosion. About 10 percent of domestic production of these steels goes directly to military and defense applications. Modern jet airplanes, nuclear submarines and warships, for instance, cannot be built without metallurgical chrome; 85 percent of stainless steel is devoted to other essential uses, such as oil refineries, hospital equipment, food processing machinery and chemical plants. Only about 5 percent of U.S. chrome usage goes to household appliances and kitchen tools.

When the United States began to designate strategic materials for stockpiling and defense purposes in 1939, chromium was one of the first four commodities to be listed. The stockpile consists of metallurgical grade chromite and of several types of ferrochromium.

THE STOCKPILE AND NATIONAL EMERGENCY NEEDS

It is appropriate to review the stockpile supply situation, especially in view of the contention of critics of the Byrd amendment that the supply is large enough to satisfy U.S. needs for many years, and last the defense industries for 24 years in the event of a conventional war.

In testimony to the House Armed Services Committee in June 1972, officials of the Office of Emergency Preparedness declared that the U.S. requirements for metallurgical chrome for a 3-year wartime national emergency would total 4,315,000 tons—or 1,438,000 tons per year. This is more than the current peacetime usage. This estimate of U.S. emergency requirements was set in 1970 by the Office of Emergency Preparedness with the assistance of the Departments of State, Defense, Commerce, and Interior. They analyzed the expected supply and requirements during a projected future emergency. Estimates of supply for the projected mobilization period are based upon readily available capacity and normal resources in the United States and upon other countries which are considered accessible by the National Security Council.

To meet national emergency needs, the current inventory of chrome in the national and supplemental stockpiles is about 5,300,000 tons. This amount includes more than 900,000 tons of excess chrome, the disposal of which already has been authorized by Congress. This 900,000 tons, however, is very low grade, low quality domestic ore. And the bulk of it is stored in Montana, 50 miles from the nearest railroad. It has little economic value today.

In March 1970, the Office of Emergency Preparedness reduced the stockpile objective for metallurgical chrome to 3,100,000 tons, and in 1971 requested legislation (S. 773) authorizing the disposal of 1,313,600 tons of metallurgical chrome and ferrochrome. In trying to explain how the United States could meet its wartime needs for 4,315,000 tons of chrome from a stockpile of only 3,100,000 tons, the OEP witness told the House Armed Services Committee—

> We estimate we can obtain from sources such as Rhodesia and the Republic of South Africa 923,000 tons during the next 3 years.

Members of the committee were unable to get satisfactory answers to their questions as to what would happen if Rhodesian ore were fully committed to customers elsewhere in the world or unavailable because of the U.N. sanctions, and the committee did not approve the bill.

In April 1973, President Nixon proposed a new stockpile disposal legislation based on stockpiling essential needs for a 1-year period. In the case of chrome, the stockpile objective would be reduced to 445,000 tons. The legislation is pending before the Armed Services Committee, but no hearings have been held.

Mr. President, with the press of other business before the Armed Services Committee this year, the Subcommittee on the National Stockpile and Naval Petroleum Reserves, which I have the honor of chairing, has not had an opportunity to schedule hearings on the President's proposals for considerably revising our stockpile objectives and policies.

Until we have rather thorough and complete hearings on the entire subject, and until the subcommittee and the full committee can give careful attention to the entire matter, I cannot say to the Senate that we do not need the present stockpile of metallurgical chrome and ferrochrome. I do not know what levels of supply we need in our stockpile in the interests of this Nation's security and, obviously, this is not a decision which the committee or the Senate should make without adequate hearings and careful deliberation.

If we use up the stockpile today for reasons of economic, political, or social policy, it will be done and it will not be available to meet the needs of national security should a real emergency occur.

Until we examine our stockpile reserves and measure them against our national security requirements in a careful, thoughtful fashion, it would be seriously irresponsible to contend that we can cut ourselves off from foreign sources of chrome and use up the stockpile.

Furthermore, we cannot ignore the fact that our principal source for metallurgical chrome ore is still the Soviet Union. Fifty-three percent of our imports of metallurgical chrome ore in the first 7 months of this year have come from Russia. There is no reason to cut off this supply, or to turn our back on it. But our interest in "détente" with the Soviet Union certainly does not mean that we can count on them as a continuing source of one of our most critical materials in every circumstance. We would be foolhardy to accept that kind of a bear hug.

PRICES OF METALLURGICAL CHROME

The prohibition against importation of chrome from Rhodesia in the 1967–71 period produced a market increase in the price of Russian chrome. The U.S. Bureau of Mines Mineral Yearbook for 1970 states:

> Metallurgical grade chromite prices rose for the fourth successive year, continuing the trend initiated in 1967, primarily as a result of continued United Nations economic sanctions against Southern Rhodesia.

The price of Russian chrome dropped sharply after the enactment of the Byrd amendment in 1972.

Its repeal is likely to result in a substantial increase. When repeal of the Byrd amendment was under consideration in 1972, suppliers of chrome forecast an immediate 20 percent price increase if imports from Rhodesia were banned again. If history repeats itself, repeal of the Byrd amendments in 1973 would also result in a 20-percent increase in the price of Russian and Turkish chrome ore.

EFFECTS OF BYRD AMENDMENT ON THE FERROCHROME INDUSTRY

By producing a reduction in the price of metallurgical chrome ore, the adoption of the Byrd amendment has directly and usefully benefited the domestic producers of ferrochrome. It has reduced the cost of their essential raw material—whether obtained from Russia, Rhodesia, Turkey, or elsewhere—and made them more competitive. Even if there has been no price reductions, the availability of alternate sources of ore is beneficial.

However, the U.S. ferroalloy industry has faced severe competition from imports of ferrochrome and ferromanganese for more than 15 years. Lower-cost imports from foreign countries have put, and are continuing to put, increasing pressure on the domestic industry. There are a number of causes for this import competition. Among them:

First. The natural desire in many mineral-rich countries of the world to upgrade their products as much as possible. The ore-producing countries, including those who produce both chrome and manganese ore, seek to upgrade their products into ferroalloys and retain for themselves the economic benefits of such processing. Rhodesia and South Africa are doing this. Russia, too, must also be thinking of such moves. It may be further encouraged to do so if the Congress agrees to "most favored nation" tariff treatment for Russian goods. Such a move would reduce the duty on Russian ferrochrome by 75 percent.

Second. Forward integration efforts such as these by mineral-rich countries are spurred by specific savings that can be realized in transportation costs which may, in the case of chrome, account for 25 percent or more of total costs. It takes 2½ tons of chrome ore to produce 1 ton of ferrochrome; the transportation rate per ton, however, is the same for the ferroalloy as it is for the ore. The ferroalloy producer who is located where the ore is found thus has a 50 percent or greater saving on his ocean freight costs.

Third. Electric power costs account for somewhere between 10 and 20 percent of the production costs for ferroalloys. The energy crisis in the United States is an important fact of life to the entire domestic ferroalloy industry which is power intensive and requires large quantities of electric energy. Rising costs of fossil fuels, the imposition of air pollution requirements on electric generating stations, and other factors are producing strong upward pressures on the costs of electric energy in the United States. In many of the producing countries today, the cost of electric power is significantly less than that in the United States.

Labor costs are, in contrast, not a very significant factor. For ferrochrome labor costs account for only about 10 percent of the production costs. While U.S. wage rates are much higher than those elsewhere in the world, U.S. productivity is much higher. Therefore, foreign ferroalloy producers do not have a significant labor cost advantage.

Imports of ferroalloys have accounted for somewhere between 20 and 40 percent of the domestic consumption of ferrochrome and ferromanganese over the past decade.

Lower-priced ferroalloy imports put a severe squeeze on the earnings of the domestic producers and denies them the funds needed for modernization and expansion. This reality has made it all the more difficult for the domestic industry to respond to the current requirements for air pollution control and to meet the rising levels of electric energy costs.

These problems existed for some years before the Rhodesian sanctions were imposed but the imposition of sanctions in 1967 significantly aggravated the situation for the domestic producers of ferrochrome. The sanctions deprived them of the best source of lower cost chrome ore and made them depend instead on higher cost Russian or Turkish ore. Their competitive position and economic health suffered correspondingly. Adoption of the Byrd amendment benefited the industry—but not enough to reverse these trends.

None of this is particularly new and the fact that imports of ferrochrome are a serious problem for domestic producers can hardly come as a surprise to anyone familiar with the industry or to those in the Government with responsibilities in this area. As early as 1963, the domestic ferroalloys industry petitioned for governmental relief and assistance under the National Security Provisions of the Trade Expansion Act. This petition and a subsequent one were both denied.

Another major factor which has affected the domestic ferrochrome industry was the increase in imports of stainless steel from Japan and elsewhere, which produced a significant and serious drop in the domestic production of stainless steel during the 1967–71 period and a

corresponding drop in ferrochrome demand.

Caught between increasing imports and a declining market, profits of the U.S. ferrochrome industry were seriously eroded to the point where, in some cases, production is no longer economically feasible.

Air pollution controls are also an important direct factor in the cost and competitiveness of domestic ferroalloys production. The uncontrolled production of ferrochrome and all ferroalloys results in the emission of very large quantities of particulate matter into the atmosphere and air pollution abatement in the industry is difficult and costly.

The cost of air pollution control is an especially important factor with respect to older, smaller and less efficient production facilities in the industry where the capital cost of air pollution abatement equipment and the high operating cost of such equipment can be enough to push a marginal facility into the red.

It is a combination of these factors which apparently has led to the decision of several domestic ferroalloy producers to announce plans to shut down some of their production facilities.

Prospective closing announcements have been publicly made with respect to five domestic ferroalloy plants by three different companies. All of these plants are small and old. All face the necessity for heavy investments for air pollution control. They are scheduled to be shut down by the end of this year or next year. However, none has been shut down as yet and there are indications that the decisions, in some cases, may be changed or deferred because of changing market conditions or the issuance of waivers with respect to air pollution requirements. Only one of these plants produces ferrochrome and its principal product is low-carbon ferrochrome, which is also a product under heavy pressure from imports, and that plant, apparently, will not be shut down at all.

THE STAINLESS STEEL AND SPECIALITY STEEL INDUSTRIES

The price and competitive availability of chrome—specifically, ferrochrome—are of critical importance to the stainless and speciality steel industry of the United States. Stainless steel has a chrome content of 18 percent. Some special steels contain much higher amounts than that. Obviously, then, the cost of chrome is a significant factor in production of these steels.

Its importance is heightened if foreign steel producers, who have freely evaded the U.N. sanctions against Rhodesia since 1967, are again able to procure their raw materials for as much as 30 percent below the cost to American steelmakers. Although chromium accounts for an average of only 16 percent of stainless steel content, it represents fully 25 percent of the raw material cost for stainless production. Reimposition of the embargo would give foreign producers an automatic 6 percent of cost advantage over American steelmakers. The penetration of foreign speciality steel into the American market would almost inevitably increase. Furthermore, Rhodesian chromium would enter this country, undetectable, in the form of stainless steel—as it did before enactment of the Byrd amendment, nullifying whatever effect the sanctions may have had.

SANCTIONS AGAINST RHODESIA ARE NOT PRODUCTIVE

The concept of general economic sanctions to achieve political goals has historically met with mixed success. Napoleon's effort to isolate England was a classic failure. The League of Nations' sanctions against Italy were a model of futility.

Prior to the sanctions resolution, Rhodesia relied upon agricultural products—primarily tobacco—for foreign exchange earnings. Manufactured goods were largely imported. Immediately following imposition of the embargo, the Rhodesian Government initiated a policy of self-sufficiency. Sanctions required extensive diversification of industry, but also granted a captive market to domestic suppliers. The results have been dramatic.

Since independence, Rhodesia's gross domestic product has sustained a growth rate of 10 percent a year. In 1971, manufacturing recorded a 15-percent advance to R$684 million, as textiles, nonmetallic minerals, foodstuffs, metals, transport equipment, and machinery registered gains of better than 10 percent. Between 1964 and 1971, Rhodesia's total industrial output increased 70 percent, while the value of new construction doubled. Even the mining sector, one of the prime targets of the embargo, has been growing at a record pace. The value of mining output grew 6.7 percent in 1972 alone and topped 1967 production levels by over 95 percent.

If the sanctions did not appreciably injure Rhodesia's economy or political system, they did have some deleterious effects on the very group they were intended to assist: The indigenous black population. In the agricultural sector particularly, black labor has previously been the backbone of the economy. When the embargo was imposed, the government's industrialization edict diverted capital from the farms to manufacturers, causing black workers to lose their jobs.

When cutbacks came, laborers were the first to be fired—the executives remained. The capital—and government subsidy—which was available for tobacco production benefited the ruling minority managers—often at the expense of the black workers. Almost half the allocated budgets for education for blacks was diverted into agricultural and industrial subsidization programs.

However callous these actions may appear, it is evident the intended beneficiaries of the embargo in fact became its victims. Despite, or even because of the sanctions the Rhodesian economy is stronger than ever, the ruling minority shows no apparent signs of falling, and black Rhodesians have suffered from whatever ill effects the embargo has caused.

How was Rhodesia able to accomplish what approaches an "economic miracle" in the face of a stiff worldwide economic embargo? The reaction of the Rhodesians to the sanctions is a model of propriety compared with the cynicism of other countries.

Since imposition of the sanctions, over a hundred cases of evasion have been reported to the United Nations by Great Britain. These represent only the tip of the iceberg; sanction-busting continues to occur on a monumental scale.

South Africa and Portugal ignored the embargo from the outset. They were soon followed by Eastern European countries and parts of the Middle East. Finally, Western Europe and Japan entered the Rhodesian market with a vengeance. West Germans, Dutch, Italian, Japanese, and Swiss companies have been blithely ignoring the embargo since 1968.

Despite the sanctions, therefore, this country of only 6 million inhabitants exported over a quarter of a billion dollars' worth of goods last year.

The sanctions have been so flagrantly violated, few knowledgeable people seriously argue its effectiveness.

When U.S. Ambassador to the United Nations, Christopher Phillips, charged widespread sanctions violations by several countries, none even bothered to respond.

It was with this perspective that President Nixon recently noted:

> The United States takes seriously its obligations under the United Nations Charter. Except for imports of small quantities of certain strategic materials exempted by U.S. public law—accounting for no more than a minute percentage of Rhodesia's exports—the United States, unlike many others, adheres strictly to the U.N. program of sanctions against Rhodesia. Many in the United Nations challenged our observance of the sanctions. But there should not be a double standard which ignores the widespread substantial—but unavowed—non-observance of sanctions by others.

AMERICAN OBLIGATION TOWARD RHODESIAN BLACKS

If the moral justification for the sanctions resolution was to gain political and economic power for the black Rhodesian majority, the embargo has backfired. Rhodesian blacks are no closer to self-government today than 6 years ago, and may have actually lost ground in their struggle for economic equality. This observation, however, begs the question: What can the United States do to improve the lot of Rhodesia's black majority?

The most practical method for Americans to assist the social and political aspirations of Rhodesian blacks is to provide more rather than less jobs to the black majority.

It is to become more involved in the Rhodesian social structure rather than allow the Smith regime rule by default.

These goals cannot be met by isolating America from the Rhodesian blacks. If progressive change is to come, it cannot be stimulated by hamstringing American influence in that country. Reimposition of the embargo would defeat the very goals the United States has attempted to achieve.

The events of the past few weeks in the Middle East have added a new dimension to our concern about the availability of critical raw materials, and given us new lessons on the dangers of relying on a limited number of sources for them. Chrome is not as widely used as oil, or as important to our national economy, but it is nonetheless vital to

the functioning of a modern industrial society like ours.

As a nation we have no realistic choice but to secure chrome from those areas of the world where it is found. It is an unfortunate, but inescapable, fact of geography and geology that the world's important sources of metallurgical chrome ore are located in countries with which many of us have important moral and political differences. We do not endorse the policies of South Africa or Rhodesia toward blacks. We do not support the attitude of the Soviet Union toward Jewish immigration, nor its treatment of other minorities. Our Nation's purchase of essential raw materials—like chrome—from them in no way indicates the support of the American people or the U.S. Government for these policies or practices, and it should not be so interpreted.

The United States, to put it plainly, would cut off its nose to spite its face if we refused to buy chrome produced in countries whose policies we do not agree with. We certainly do not refuse to buy from the Soviets in spite of their harassment of the Jews in Russia.

State Department officials have hinted in the past that the British and Rhodesians are going to make up and then we could go ahead and resume full trade with Rhodesia.

Let us go back, though. Remember, the State Department also insists that we are duty bound to any declarations or mandates of the United Nations Security Council.

Even if the British and the Rhodesians do settle their long dispute—and that, I might add, is not an immediate likelihood, it would still take an affirmative action by the United Nations Security Council to repeal the current anti-Rhodesian sanctions. I do not believe that such action will be taken—because the Soviet Union is in a position where it could very easily veto any such proposed end to the U.N.'s sanctions. It would veto it—first to curry favor with the black African nations who are Rhodesia's most bitter enemies and second to preserve a very advantageous position in which the Soviet Union finds itself today as a result of the sanctions—economically and strategically speaking—a situation in which the United States is heavily dependent upon the Soviet Union for a material which is vital to the defense of the United States—chrome ore.

The only excuse for the sanctions against Rhodesia was an official disapproval of the policies of its government. But we hardly approve of the policies of the Soviet Union either. What is wrong with buying what we need where we can get the best price and an adequate supply? Nearly everybody else does. My motive in supporting Rhodesian chrome importing is to protect the national security of the United States. I am unable to determine if the Russian prejudice toward Jews is more defensible than the Smith government's toward Africans.

Neither am I too happy about the resumption of the October Mideast war which was made possible by the Soviet Union quietly and consistently sending tanks, arms, and aircraft to the Arab Nations and, I might add, some of its most modern and sophisticated equipment. The individual shipments were not large enough to alarm the West, but the over-all flow of arms was steady and accumulated over the months to make the Arab strike possible. And we now have a resultant oil embargo and associated energy crisis and yet there are those who want the United States to once again become dependent upon the Soviet Union for chrome.

We cannot afford to have our economic strength used as a pawn in political or social contests, and we should not restrict our access to essential raw materials for reasons like that.

I shall vote against S. 1868 for all those reasons.

REVIVING OUR COMMITMENT TO EQUAL OPPORTUNITY

Mr. CRANSTON. Mr. President, in the early 1960's the American people, led by President Kennedy, vowed to end discrimination and to abolsh the rank poverty that exists amid general prosperity. Many millions of us set out to make real the basic American goal of equal justice and equal opportunity for all.

But because of its drain on our energies and our resources, the Vietnam war sadly diverted our Nation from pursuit of that goal.

Ten years after the death of John Kennedy, millions of Americans still face discrimination in employment—poor schools—slums—street crime—inadequate housing—improper health care—and injustices in our courts and before our administrative bodies.

The shortages of fuels and energy further threaten to deepen the gulf between the poor and the more well to do. Some of the "solutions" to the energy crisis I have heard would undoubtedly move us headlong toward a society of energy "haves" and energy "have nots," a society in which the rich would get richer and the poor would go without transportation, heat or jobs.

There has been some progress in recent years, most strikingly in politics. The election of Tom Bradley as mayor of Los Angeles is a national symbol of triumph over race fear and race prejudice. Many other cities in California and elsewhere, including the South, have elected officials from the ranks of the blacks, Chicanos, Asians and other minorities.

I believe the new political power that minority groups have properly gained must be translated into further economic and social gains—gains to be made not on the basis of artificial quota systems but on the truly democratic basis of equal opportunity.

Equal opportunity is the key—the operative concept—for economic and social progress in a free society.

The Federal Government, with its massive resources and the prestige and power of its national institutions, must exercise the moral leadership in bringing about equal opportunity for all. But all levels of government, and all private institutions, also have a responsibility to root out inequality and discrimination wherever they appear.

Elsewhere in this newsletter, I have outlined some of the areas of equal opportunity in which the Congress and the administration have been active; what we are doing and not doing, and where I think we need more emphasis. But here, in summary, are some of the things we have been working on in Washington:

WAR ON POVERTY

The Nation's major effort to fight poverty through the Office of Economic Opportunity—OEO—was a strong, positive step toward giving the poor the legal, educational and organizational tools they needed to claim the rights and advantages that were justly theirs. But the Vietnam war intervened, and in recent years the war on poverty has slowed down and, in some areas, was abandoned altogether.

I believe some major elements of the war on poverty have been eminently successful and must be saved. I especially have in mind the community action programs—CAPs. Involvement by the community is an absolute must for the success of any government antipoverty effort.

HEADSTART

This program of preschool nursery, kindergarten, health and nutritional services for poor children is one of the best run, most effective programs of the Federal Government. It is alive and well today because I and many others in Congress fought very hard to keep it alive.

LEGAL SERVICES

Every person, regardless of means, deserves equal treatment in the eyes of the law. This program has done that for thousands of individuals. A new bill to create a national legal services program independent of political domination now is moving through Congress.

JOB DISCRIMINATION

The Federal Government has made real progress—at the insistence of Congress—in opening up opportunities for minorities. But the sad fact remains: If you are black, Chicano or a member of a minority group, it is harder to find a job in private or public employment and it is harder to advance once you find a job. All of us have a long way to go in overcoming this injustice.

HOUSING

Some people say we have gone backwards in housing opportunities. Certainly slums seem to be worse. There is more concentration of minorities in central cities, fewer housing programs and less money.

EDUCATION

Some improvement — particularly through the Headstart program—but, as in jobs and housing, still a long way to go.

I, for one, have not lost faith in the good will of Americans and their desire to pursue the goals of equal justice and equal opportunity. I believe that "the dream" is attainable, and that progress toward it can, and should, be made right now.

It is time we got back on the track toward making those guarantees to all Americans. We owe it to ourselves.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 494, S. 2176, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 494 (S. 2176) a bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Accordingly, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment in the nature of a substitute and from the Committee on Commerce with amendments.

(See text of bill (Calendar No. 494, Rept. No. 93-409) as reported by the Committee on Interior and Insular Affairs and the Committee on Commerce.)

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

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

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of the pending measure, Mr. William Van Ness, Mr. Steven Quarles, Mr. Grenville Garside, Mr. Richard Grundy, Miss Lucille Langlois, and Mr. Jim Barnes of the staff of the Committee on Interior and Insular Affairs; and Lynn Sutcliffe, Henry Lippek, Barry Hyman, Kay McKeough, Nicholas Miller, Mike Brownlee, and Dave Clanton of the staff of the Commerce Committee; and Barry Meyer, Philip Cummings, Leon Billings, and Rick Herod of the Public Works Committee, be accorded the privilege of the floor during the consideration of S. 2176.

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

Mr. FANNIN. Mr. President, I ask unanimous consent that the following staff members be given the privilege of the floor during the debate and votes on the pending business: Harrison Loesch, Dave Stang, Roma Skeen, Brent Coombs, Knowland McKean, Ron Frank, and Carol Scoggins.

Mr. HANSEN. Mr. President, I ask unanimous consent that Margaret Lane and Jackee Schaffer be given the privilege of the floor during the debate on the pending business.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the committee amendments to S. 2176 be agreed to en bloc and that the bill as thus amended be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, I offer an amendment in the nature of a substitute for the bill and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "National Fuels and Energy Conservation Act of 1973".

(b) TABLE OF CONTENTS.—

STATEMENT OF PURPOSES, FINDINGS, AND POLICY

SEC. 2. (a) The purposes of this Act are: to declare a national policy of conserving fuels and energy resources through more efficient conversion and use; to make energy conservation an intergral part of all ongoing programs and activities of the Federal Government; to establish a Council on Energy Policy in the Executive Office of the President and an Office of Energy Conservation in the Department of the Interior; to promote energy conservation efforts through specific directives to agencies of the Federal Government and sectors of private industry; to encourage greater private energy conservation efforts through purchasing policies of the various agencies of the Federal Government; to encourage the allocation of energy resources to their most efficient economic use; and to provide for the development of additional energy conservation programs pursuant to the policy set forth in this Act.

(b) The Congress recognizes that (i) adequate supplies of energy at reasonable cost are essential to the growth of the United States economy and the maintenance of a high standard of living; (ii) the availability of low-cost energy has stimulated energy consumption and waste through inefficient use; (iii) expanding increases in energy consumption in the United States, which already uses almost one-third of the world's energy with only one-sixteenth of its population, raise serious policy issues; (iv) the finite nature of energy resources and diminishing reserves of fuels pose major questions of domestic and international policy; (v) increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems; (vi) a continuation of the present expansion of demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; (vii) the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing the rate of growth of energy demand and minimizing such adverse impacts; and (viii) realistic pricing of energy in all forms will have a major effect in reducing energy consumption and waste.

(c) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources, and protect the environment.

(d) Every agency of the Federal Government shall have the continuing responsibility of implementing the policy and purposes set forth in this Act. Each agency shall review its statutory authority, policies, and programs in order to determine what changes may be required to assure conformity with the policy and purposes of this Act and shall report the results of its review, together with recommendations for necessary changes, to the President and the Congress within one year from the date of enactment of this Act.

COUNCIL ON ENERGY POLICY

SEC. 3. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in nar-

row, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation, after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

(c) (1) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(2) All agencies of the Federal Government shall to the fullest extent possible—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(B) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports, to the extent that such recommendations and reports deal with or have a bearing on energy matters;

(C) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(D) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

(d) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

(e) (1) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(2) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(3) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an Energy Plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(4) The Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(5) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(6) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(7) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

(f) (1) In exercising its powers, functions, and duties, the Council shall—

(A) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(B) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlay or conflict with similar activities authorized by law and performed by other agencies.

(2) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for the level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(3) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(g) The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(1) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social environmental, economic, and other requirements of the Nation;

(4) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(5) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(6) a review and appraisal of the adequacy and appropriateness or technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(7) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

(h) (1) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in sec-

tion 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(A) to other Federal Government departments, agencies, and officials for official use upon request;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(i)(1) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (A) conduct studies of existing statutes and regulations governing Federal energy programs, (B) review the policies and practices of Federal agencies administering such programs, (C) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data to energy costs, demand, industry structure, environmental impacts and research and development, and (D) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(2) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(3) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(4) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics data information, and records referred to in paragraph (3) of this subsection.

(5) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(6) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of subsection (h)(2) if the information were held by the Council.

(j)(1) There are authorized to be appropriated to carry out the provisions of this section not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30 1975, and $4,000,000 for each fiscal year thereafter.

(2) All sums appropriated under this section shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

OFFICE OF ENERGY CONSERVATION

SEC. 4. (a) There is hereby established in the Department of the Interior the Office of Energy Conservation.

(b) The Office of Energy Conservation shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and such other officers and employees as may be required: *Provided*, That any incumbent Director occupying the office upon the date of enactment of this Act shall not be subject to the advice and consent of the Senate. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Secretary of the Interior, acting through the Office of Energy Conservation, shall—

(1) work with the Council on Environmental Quality in developing new energy conservation initiatives for the Federal Government;

(2) cooperate with private industry in developing energy conservation programs in industry;

(3) provide assistance to State governments in the development of State energy conservation programs;

(4) conduct and promote educational programs to foster public awareness of energy conservation needs and opportunities;

(5) conduct a continuing study of, and maintain current statistics on, patterns of energy consumption; and

(6) prepare an annual report to the President and the Congress on his activities and the activities of other Federal agencies in implementing the policy and purposes of this Act. The report shall also review progress in energy conservation for major categories of energy use, and recommend additional energy conservation measures for each such category.

RESEARCH AND DEVELOPMENT

SEC. 5. (a) The Director of the National Science Foundation shall coordinate the energy conservation research and development programs of the Federal Government, identify energy conservation research and development opportunities, and make recommendations to the President and the Congress for additional research and development programs necessary to achieve the policy and purposes of this Act.

(b) The Secretary of Commerce is authorized to establish within the National Bureau of Standards an energy conservation research and development program to stimulate, through process testing, field demonstrations, and other means, new or improved manufacturing and industrial processes; better building construction, materials, and techniques; and new or improved residential and non-residential appliances and equipment; and to foster more efficient methods of managing energy use.

(c) The Secretary of the Interior is authorized to establish, using existing facilities of the Federal Government for the production and transmission of electrical energy, one or more electrical equipment testing and development centers for the purpose of developing and testing more efficient methods and equipment for the production and transmission of electric energy.

(d) The research programs authorized by this section shall be coordinated to the fullest extent possible with existing governmental and industrial research and development programs.

(e) For the purpose of subsections (b) and (c) of this section, there are authorized to be appropriated $8,000,000 and $4,000,000, respectively, for each of the first three fiscal years following the enactment of this Act.

FEDERAL BUILDING AND PROCUREMENT POLICIES

SEC. 6. (a)(1) The Congress hereby finds—

(A) that federally owned and federally assisted facilities have a significant impact on the Nation's consumption of energy;

(B) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(C) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(D) that the cost of energy is significant and facility designs must be based on the lowest total life cycle cost, including (i) the initial construction cost, and (ii) the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(2) The Congress declares that it is the policy of the United States to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each facility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction for renovation cost.

(b) For purposes of this section:

(1) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(2) The term "facility" means any building on which construction is initiated six months or more after the date of enactment of this Act.

(3) The term "major facility" means any building of fifty thousand or more square feet of usable floor space on which construction or renovation is initiated six months or more after the date of enactment of this Act.

(4) The term "Federal facility" or "major Federal facility" means a facility constructed, or a major facility constructed or renovated, by a Federal agency.

(5) The term "federally assisted facility" or "major federally assisted facility" means a facility constructed, or major facility constructed or renovated, in whole or in part

with Federal funds or with funds guaranteed or insured by a Federal agency.

(6) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(7) The term "economic life" means the projected or anticipated useful life of a facility.

(8) The term "life-cycle cost" means the cost of a facility including (i) its initial cost, and (ii) the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(9) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

(c) (1) The Congress authorizes and directs that Federal agencies shall carry out the construction of Federal facilities, and the construction and renovation of major Federal facilities, under their jurisdiction or programs for the construction of federally assisted facilities and the construction and renovation of major federally assisted facilities in such a manner as to further the policy declared in paragraph (a) (2) of this section, insuring that energy conservation practices are employed in new Federal and federally assisted facilities and in new or renovated major Federal and federally assisted facilities.

(2) Each Federal agency having jurisdiction over any Federal or federally assisted facilities construction program shall require the preparation of a complete life-cycle cost analysis for each major facility (exceeding fifty thousand square feet of usable floor space), for the expected life of the major facility.

(3) This life-cycle cost analysis shall include but not be limited to such elements as:

(A) the coordination and positioning of the major facility on its physical site;

(B) the amount and type of fenestration employed in the major facility;

(C) the amount of insulation incorporated into the facility design;

(D) the variable occupancy and operating conditions of the major facility, including illumination levels; and

(E) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

(i) the comparison of two or more system alternatives;

(ii) the simulation of each system over the entire range of operation of the major facility for a year's operating period; and

(iii) the evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-cycle cost analysis performed for each major facility shall provide but not be limited to the following information:

(A) the initial cost of each energy-consuming system being compared and evaluated;

(B) the annual cost of all utilities;

(C) the annual cost of maintaining each energy-consuming system; and

(D) the average replacement cost for each system expressed in annual terms for the economic life of the major facility.

(5) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis of the economic life of the major facility.

(6) In the selection of locations for new Federal and federally assisted facilities consideration shall be given to proximity to existing or planned mass transit facilities.

(d) The life-cycle cost analysis and consideration of energy conservation practices required by subsection (c) of this section shall be included by the Administrator of the General Services Administration in any prospectus submitted to the Committees on Public Works of the Senate and the House of Representatives under section 7 of the Public Buildings Act of 1959, as amended.

(e) The Administrator of the General Services Administration shall prepare and submit biennial reports to the President and the Congress on the results of the program established pursuant to subsections (c) and (d) of this section. Such report shall include a description of equipment, methods of construction, and operating practices used to achieve energy conservation, including comparisons of energy consumption and costs for facilities in which such equipment, methods, or policies are and are not used.

(f) The Administrator of the General Services Administration is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(g) The provisions of subsection (c) and subsection (f) of this section shall apply to all the construction and procurement policies of the Department of Defense, except where the Secretary of Defense finds that combat or other specific, critical military needs require otherwise.

BUILDING STANDARDS

SEC. 7. (a) The Secretary of Housing and Urban Development is authorized and directed to develop, in cooperation with the National Bureau of Standards and the General Services Administration, improved general performance standards and specific design, lighting, and insulation standards to promote efficient energy use in residential, commercial, and industrial buildings.

(b) The Secretary, in cooperation with the National Bureau of Standards and the General Services Administration, is authorized and directed to prepare the most practicable standards possible for efficient energy use for different types and classes of buildings, in differing regional environments. Such standards for energy use shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein. The standards should be designed so that they may readily be incorporated in all currently available model building codes and such new model building codes as may be developed by the Bureau or any other entity.

(c) Within six months from the date of enactment of this Act, the Secretary shall review and revise the existing minimum property standards of the Federal Housing Administration to incorporate therein the most advanced practicable standards for efficient energy use, including the most advanced practicable space conditioning and major appliance standards. Such standards shall thereafter be reviewed and where necessary revised not less than once every three years to include new or improved techniques for more efficient energy use.

TRUTH IN ENERGY

S53. 8. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following: "(b)";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions in the decade following the date of enactment of this section. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant easing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems and household products such as water heaters, room air-conditioners, refrigerators, freezers, stoves, and clothes dryers use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems and products if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners of major energy-consuming products and climate conditioning systems do not know nor can they readily discover prior to purchase how much each such product or system will cost each year to operate (in terms of energy charges) nor are they able to compare, in terms of operating cost, competing products or systems using different energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and the demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the annual operating cost of certain products and systems, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 24 of this Act—

"(1) 'Annual operating cost' means, with respect to a major energy-consuming household product or climate conditioning system, the estimated cost of electricity or fuel needed for normal usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(2) 'Climate conditioning system' means any system which is designed to be installed or is installed in a previously occupied building for the purpose of artificially controlling temperature of humidity levels within such building or portion thereof. Such a system is characterized as being composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as air, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(3) 'Communications medium' means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications radios, televisions, films, or theater.

"(4) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a major energy-consuming household product or climate conditioning system.

"(5) 'Major energy consuming household product' means a product which: (A) is sold or intended to be sold for use in a residence; (B) is utilized or intended to be utilized for a major residential end use of energy; (C) function when connected to a readily available source of energy external to the product; and (D) requires, based on average patterns of usage as determined in accordance with section 20 of this Act, more than 200 kilowatt-hours per year or in the case of a product powered by fuel, more than 2,000,000 British thermal units per year.

"(6) 'Major residential end use of energy' means one of the following residential uses of energy: (A) space heatings; (B) water heating; (C) cooking; (D) clothes drying; (E) refrigeration; (F) air-conditioning; and (G) any other residential use of energy that the Commission, in cooperation with the National Bureau of Standards, determines, by a proceeding pursuant to section 20(j) of this Act, to be included to meet the purposes of sections 18 through 24 of this Act.

"(7) 'Supplier' means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer of any new major energy consuming household product, or any engineer or contractor who is designing a climate conditioning system for use in a previously occupied building.

"SEC. 20. ESTIMATES OF ANNUAL OPERATING COSTS.—(a) The Commission, in cooperation with the National Bureau of Standards, within 3 months after the date of enactment of this section, in a proceeding pursuant to section 553 of title 5, United States Code, shall identify those products which are major energy consuming household products.

"(b) The Commission, in cooperation with the National Bureau of Standards, beginning 12 months after the date of enactment of this section shall establish priority ranking of major energy consuming household products, based on the extent to which such products contribute to residential energy consumption; and shall, in a proceeding pursuant to section 553 of title 5, United States Code, adopt interim procedures for determining and disclosing annual operating costs of major energy consuming household products. Such interim procedures shall be adopted in the order of such priority ranking and shall remain in effect until the effective date of the procedures promulgated in accordance with subsections (c) through (i) of this section.

"(c) For each major energy consuming household product identified under subsection (a) of this section, the Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall define an average-use cycle, and devise a procedure for testing or for calculations based upon tests by which an average-use cycle of a product may be simulated and the energy utilized during such cycle measured. In developing such definition and procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the manufacturers of major energy consuming household products in order to enable the Commission to make the best possible utilization of appropriate existing testing procedures and professional expertise.

"(d) The Commission shall direct each manufacturer and importer of each major energy consuming household product identified under subsection (a) of this section to conduct tests on all applicable models of such products in accordance with the procedures established under subsection (c) of this section. Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

"(e) The Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall develop and maintain, on a regional, national, or other basis which the Commission finds appropriate in such proceeding, information on the estimated (1) number of average-use cycles performed annually by each major energy consuming household product identified under subsection (a) of this section; and (2) average unit cost of energy for those circumstances under which such products are expected to be utilized. Such costs shall be computed on the basis of energy cost figures which shall be supplied to the Commission by the Federal Power Commission and the Secretary of the Interior.

"(f)(1) The Commission shall, beginning 18 months after the date of enactment of this section and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy consuming household products the information developed under subsection (e) of this section. Such information shall be accompanied by instructions and computational aids for determining the annual operating cost of a given major energy consuming household product in accordance with the procedure established under subsection (g) of this section.

"(2) If, for any particular major energy consuming household product, the Commission develops such information on a national basis, the determination of the annual operating cost shall be made by the manufacturers or importers, and the annual operating cost figures shall be included by the manufacturers or importers as part of the material shipped with each such product to all the suppliers who carry such product.

"(3) For major energy consuming household products, other than those referred to in paragraph (2), the manufacturers and importers shall forward such information, instructions and computational aids to all the suppliers who carry such product. Suppliers engaged in the business of selling new major energy consuming household products for purposes other than resale shall make the determination of the annual operating costs.

"(4) Within 36 months after the date of enactment of this section, and periodically thereafter when a revision is deemed necessary or appropriate, a compilation of information provided to or developed by the Commission under subsections (d) and (e) of this section shall be published by the Commission in a public document to be placed on sale at the Government Printing Office. The Commission shall take steps to encourage the widest possible distribution of such document and any revision thereof.

"(g) The annual operating cost of any major energy consuming household product shall be determined by multiplying the energy utilized per average-use cycle, as determined under subsection (d) of this section, by the number of average-use cycles per annum multiplied by the average unit cost of energy, as determined under subsection (e) of this section.

"(h) Within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, the Commission, in cooperation with the National Bureau of Standards, shall establish model calculation procedures for use by suppliers in determining the annual operating costs of climate conditioning systems. In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning industry so as to allow the best possible utilization by the Commission of the appropriate existing calculation procedures and professional expertise. The model calculation procedures developed under this subsection shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

(i) The annual operating cost shall be determined at the time the price is stated or advertised upon the basis of the most recent information provided the supplier in accordance with subsections (d) and (f) of this section.

"(j) Except as elsewhere provided in this section, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code, except notice and a public hearing are required, and a record of the proceeding shall be maintained. Interested persons shall also be given an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submission. A transcript shall be kept of any oral presentation.

"SEC. 21. LABELING AND ADVERTISING.—(a) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act, it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product or climate conditioning system for which such procedure has been adopted, unless the annual operating cost of such product or system is disclosed by the supplier prior to any such sale. Such disclosure shall appear on the same label, tag, shelf, display case, counter, contract, estimate, proposal, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated, in accordance with rules established by the Commission: *Provided*, That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(b) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium any new major energy consuming household product for which such procedure has been adopted, if such advertisement states the purchase price or acquisition cost of such product, unless the advertisement includes a statement of the annual operating cost of such product in accordance with rules established by the Commission: *Provided*, That if annual operating costs as determined in accordance with section 20(g) of this Act are significantly different in different sections of the country, price advertising covering more than one such section shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(c) It shall be unlawful for any supplier to give false or misleading information to the Commission or any prospective purchaser with respect to the annual operating cost of any new major energy consuming household product or climate conditioning system or, in the case of a manufacturer or importer, with respect to tests conducted in accordance with section 20(d) of this Act.

"(d) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(e)(1) No requirement with respect to disclosure of the annual operating cost of a new major energy consuming household product shall be applicable to any such product which is shipped in commerce by a manufacturer or importer prior to the date of applicability of any requirement with respect to disclosure of the annual operating cost of such product.

"(2) The Commission may by rule prohibit a supplier from stockpiling any new major energy consuming household product prior to the date of applicability, under paragraph (1) of this subsection, of any requirement with respect to disclosure of the annual operating cost of such product. For the purposes of this paragraph, 'stockpiling' means shipping a new major energy consuming household product between the date of promulgation of a testing procedure for such product and 15 months after the date of enactment of this section at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was shipped during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the testing procedure.

"(f) Nothing in this section shall be construed to give rise to a cause of action for rescission of any contract or for damages, unless the supplier fraudulently or knowingly gave the client or purchaser false information on annual operating costs, and such client or purchaser reasonably relied thereon to his detriment in entering upon such contract.

"(g) Nothing in this section shall be deemed to prohibit a supplier or an advertiser from representing orally or in writing that the annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual purchaser.

"SEC. 22. (a) PROHIBITED ACTS AND ENFORCEMENT.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subjected to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c)(1) Any person may commence a civil action on his own behalf against (A) any supplier who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) or the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any supplier or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate supplier and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 24 of this Act or regulation thereunder or any other relief.

"SEC. 23. PREEMPTION.—(a) It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy consumption, energy efficiency, efficiency ratio, or annual operating cost of any new major energy consuming household product or climate conditioning system if there is in effect and applicable a Federal disclosure requirement with respect to such product or system.

"(b) Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers greater than that provided in the applicable Commission rule; (2) is required by compelling local conditions; and (3) does not unduly burden commerce. The Commission shall maintain continuing jurisdiction with respect to those States or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption granted by the Commission may be withdrawn by it whenever it is determined that the State or political subdivision thereof is not efficiently enforcing its requirements or that such exemption is no longer in the public interest.

"SEC. 24. REPORT, TERMINATION, AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 24 of this Act.

"(b) The provisions of sections 18 through 24 of this Act shall terminate upon the adoption of a concurrent resolution by the Congress with a determination that the findings set forth in section 18(a) of this Act are no longer applicable.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 24 of this Act, not to exceed $2,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

AUTOMOBILE FUEL ECONOMY STANDARDS

SEC. 9. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FUEL ECONOMY

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automobile Fuel Economy Act'.

"DECLARATION OF POLICY

"SEC. 502. (a) FINDINGS.—The Congress finds and declares that—

"(1) A serious shortage of refined petroleum products is emerging in the United States.

"(2) The need to import petroleum from foreign nations is causing the Nation substantial international trade deficits in fuels.

"(3) This shortage and trade deficit necessitate reducing wasteful and unnecessary use of petroleum and petroleum products.

"(4) Automobiles are a major user of petroleum products.

"(5) The low fuel economy of many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing environmental or safety standards and without restricting travel patterns.

"(b) PURPOSES.—Therefore, it is hereby declared to be the purpose of the Congress to—

"(1) encourage the development, manufacture, and sale of automobiles which are more economical to operate in terms of the amount of fuel consumed per mile traveled;

"(2) increase the industrywide average fuel economy for new automobiles by at least 50 per centum by 1984 in comparison to the industrywide average fuel economy for new automobiles in 1974, so that the contribution made by the automobile to the rate of growth of the total annual consumption of petroleum products in the United States will be minimized;

"(3) make the Nation self-sufficient in fuel supplies for automobile transportation; and

"(4) promote and encourage new technologies which may aid in further realization of the foregoing objectives.

"DEFINITIONS

"SEC. 503. As used in this title—

"(1) 'Automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term 'automobile' includes a light duty truck rated at 6,000 pounds gross vehicle weight or less, and a multipurpose passenger vehicle which has as its primary intended function the transportation of not more than ten individuals, other than a motor home constructed on a truck chassis, truck chassiscab, or special chassis, or constructed through utilizing a truck or similar van.

"(2) 'Commerce' means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

"(3) 'Dealer' means any person engaged in the business of selling new automobiles to purchasers who buy for purposes other than resale.

"(4) 'Fuel' means any material or substance capable of propelling an automobile, including, but not limited to, regular and high-octane gasoline, diesel oil, kerosene, natural gas, and propane.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with test procedures established by the Environmental Protection Agency pursuant to the Clean Air Act, as amended.

"(6) 'Industrywide average fuel economy' means the average fuel economy of all new automobiles sold or expected to be sold in all States in a given model year, which may or may not be weighed in accordance with regulations of the Secretary.

"(7) 'Manufacturer' means any person engaged in manufacturing, importing, or assembling automobiles.

"(8) 'Model' means an automobile of particular brand name, body dimensions, style, engine, and drive train.

"(8) 'Model year' means the period that runs from the date a model is introduced in commerce or first offered for sale to purchasers for purposes other than resale, to no later than December 31 of the next calendar year.

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

"(11) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"MINIMUM STANDARD AND LONG-RANGE PLAN

"SEC. 504. (a) ESTABLISHMENT.—The Secretary shall, within eighteen months after the date of enactment of this title, establish by rule pursuant to section 553 of title 5, United States Code, a minimum fuel economy standard for new automobiles introduced into commerce during and after the 1978 model year.

"(b) FACTORS.—In establishing the standard under subsection (a) of this section, the Secretary shall take into consideration the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Such standard shall be set at a level which, in the judgment of the Secretary, represents, to the extent that is technologically and economically feasible, the first step in an orderly progression toward achievement of the national purpose stated in section 502(b) of this Act.

"(c) LONG-RANGE PLAN.—The Secretary shall submit to Congress, no later than 18 months after the date of enactment of this title, a plan (which may include proposed minimum fuel economy standards for new automobiles introduced into commerce during model years subsequent to 1978, and recommendations for new legislation) for achieving the national purpose stated in section 502(b) of this Act. In the development of such plan, the Secretary shall consider the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Any proposed minimum standards for fuel economy included in such plan shall be technologically and economically feasible and shall be promulgated by the Secretary pursuant to section 553 of title 5, United States Code, unless either House of Congress, between the date of transmittal of such plan and the end of a 60-day period following such transmittal date, passes a resolution stating in substance that it disapproves of such plan.

"(d) AMENDMENT.—The Secretary may from time to time, upon the basis of new information, amend, modify, or revise any standard or plan established under subsection (a) or (c) of this section. Any amended standard shall be technologically and economically feasible and shall be issued at least 18 months prior to the commencement of the model year for which such amendment is to be applicable.

"(e) EXCEPTIONS.—Standards established in subsection (a) or (c) of this section shall not apply to any automobile which is intended solely for export (and is so labeled or tagged on the vehicle itself and on the outside of the container, if any) and which is exported.

"(f) JUDICIAL REVIEW.—

"(1) GENERAL.—Any person who may be adversely affected by any rule promulgated under this section may at any time prior to 60 days after such rule is promulgated file a petition in the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk of such court to the Secretary. The Secretary shall thereupon cause to be filed in such court the record of the proceedings upon which the rule which is under review was based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced in a hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his rule, with the return of such additional evidence.

"(3) FURTHER REVIEW.—The judgment of the court affirming or setting aside, in whole or in part, any such rule of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) OTHER REMEDIES UNIMPAIRED.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"DUTIES AND POWERS OF THE SECRETARY

"SEC. 505. (a) GENERAL.—(1) For the purpose of carrying out the provisions of this title, the Secretary, or his duly designated agent, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such agent, deems advisable. The Secretary, or his duly designated agent, shall at all reasonable times have access to, and for the purpose of examination, the right to copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title. The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as he may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary, or his duly designated agent, issued under paragraph (1) of this subsection, issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) INSPECTION.—(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary may reasonably require to enable the Secretary to carry out his duties under this title and under any rules or regulations promulgated pursuant to this title. A manufacturer shall, upon request of a duly designated agent of the Secretary, permit such agent to inspect finished automobiles and appropriate books, papers, records, and documents. A manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inspection is carried out or requested may, in the case of contumacy or refusal by any manufacturer to accede to any reasonable requirement or request of the Secretary, or his duly designated agent, issued or made under paragraph (1) of this subsection, issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(c) PUBLIC DISCLOSURE OF INFORMATION.—The Secretary is authorized and directed to disclose as much of any information obtained under this section to the public as he determines will assist in carrying out the purposes of this title, except that any information reported to or otherwise obtained by him which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, which if disclosed would result in significant competitive damage, shall not be disclosed to the public (other than officers or employees concerned with carrying out this title), unless such information is relevant to any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from any committee of the Congress.

(d) REPRESENTATION—Notwithstanding any other provision of law, in any action under this section, the Secretary may direct attorneys employed by him to appear and represent him.

"LABELING AND ADVERTISING

"SEC. 506. (a) STICKER.—Beginning no later than 90 days after the enactment of this title, each manufacturer shall cause to be affixed and each dealer shall cause to be maintained on each new automobile, in a prominent place, a sticker indicating the fuel economy which a prospective purchaser can expect from such automobile, and the estimated average annual fuel costs associated with the operation of such automobile. The form and content of such sticker shall be determined by the Federal Trade Commission, pursuant to section 553 of title 5, United States Code.

"(b) DISCLAIMER.—Nothing in this section shall be deemed to prohibit a manufacturer or dealer from representing orally or in writing that the fuel economy or estimated average annual fuel costs required to be disclosed by this section are based on representative driving cycles as determined by the Administrator of the Environmental Protection Agency and should not be construed as a precise calculation of fuel economy or estimated average annual fuel costs to be experienced by an individual purchaser.

"(c) ADVERTISING.—The Federal Trade Commission shall by rule, pursuant to section 553 of title 5, United States Code, direct that the information regarding fuel economy and average annual fuel costs which is required under subsection (a) of this section be a conspicuous part of any advertisement for new automobiles which mentions purchase price or acquisition cost of such automobile.

"(d) CONFORMING AMENDMENTS.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by striking out in the first paragraph 'disclosing the following information concerning' and inserting in lieu thereof 'disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning'.

"PROHIBITED CONDUCT

"SEC. 507. The following conduct is prohibited—

"(a) the failure to comply with any provisions of this title or any standard, rule,

regulation, or order issued by the Secretary or Commission pursuant to this title;

"(b) the failure to provide information as required in accordance with this title;

"(c) the failure to permit inspection pursuant to this title;

"(d) the manufacture, processing, sale, distribution, or importation into the United States of any automobile whenever such manufacture, assembly, sale, distribution, or importation is known to be or should have been known to be for use in violation of this title or any standard, rule, regulation, or order issued under this title. Each such act constitutes a separate violation of this section.

"ENFORCEMENT

"SEC. 508. (a) UNFAIR TRADE PRACTICE.—It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person subject to the provisions of section 506 of this Act to fail to comply with any requirement imposed on such person by or pursuant to such section.

"(b) EQUITABLE REMEDY.—The district courts of the United States shall have jurisdiction over any action brought by the Secretary or any attorney designated by the Secretary for such purpose, for a mandatory or prohibitive injunction to enforce any provision of this title or any standard, rule, regulation, or order thereunder or for equitable relief to redress a violation by any person of any provision of section 507 of this Act. The courts shall have jurisdiction to grant such relief as the equities of the case may require. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided*, That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the judicial district in which the court is held, and to that end process may be served in any district. Upon the request of the Secretary, the Attorney General is authorized and directed to bring and maintain an action under this subsection.

"(c) CRIMINAL VIOLATION.—Any person who willfully violates any provision of section 507 of this Act shall, on conviction, be fined not more than $25,000 for each violation, or be imprisoned for not more than one year, or both.

"(d) CIVIL VIOLATION.—(1) Any person who violates any provision of section 507 of this Act other than willfully shall be liable to the United States for a civil penalty in an amount which is not greater than $25,000 for each violation: *Provided*, That the amount of such civil penalty shall not exceed such person's ability to pay. The amount of such civil penalty shall be assessed by the Secretary after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with the provision violated.

"(2) Upon the failure of the offending party to pay such civil penalty, the Secretary may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

"RELATIONSHIP TO STATE LAW

"SEC. 509. After the effective date of any standard, regulation or requirement under this title relating to fuel economy or fuel economy labeling of automobiles, no State or political subdivision thereof may adopt or enforce any standard, regulation or requirement relating to such matters, except that a State or political subdivision may adopt and enforce controls and regulations governing the use or operation of automobiles such as speed limit controls designed to conserve the use of fuel.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 510. There is hereby authorized to be appropriated for the purposes of carrying out the provisions of this Act such sums as are necessary, not to exceed $1,000,000 for the fiscal year ending June 30, 1974, and not to exceed $3,000,000 annually for the fiscal years ending June 30, 1975, and June 30, 1976.".

UTILITY ENERGY CONSERVATION REPORTS

SEC. 10. (a) Within six months from the date of enactment of this Act, the Federal Power Commission shall, by rule on the record after opportunity for a public hearing, promulgate regulations requiring electric and gas public utilities to submit to the Commission annual reports on energy conservation policies. The Commission shall make such reports readily available for public inspection.

(b) Each such report shall include—

(1) a statement of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate srtuctures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission and distribution; and

(5) such other relevant information as the Commission may require.

FEDERAL GOVERNMENT ENERGY RATE STUDIES

SEC. 11. (a) Each agency of the Federal Government which produces or sells electrical energy or which certificates or licenses any person to produce electrical energy for sale is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act a comprehensive study of the impact of the rate structure and the policies of such agency on the efficiency of generation and on the consumption and conservation of energy. Each such study shall evaluate all relevant factors, including, but not limited to—

(1) an identification of subsidies and other incentives which promote inefficient generation and unnecessary and wasteful energy consumption;

(2) an indication of how various rate structures, rate changes, and methods of pricing might affect the efficiency of generation and consumption within the regions studied. Such methods shall include fuel cost adjustments, marginal cost pricing, and other pricing measures which may encourage increased efficiency of generation or decreased consumption of electrical energy;

(3) an exploration of the price elasticity of electrical energy consumption within each region studied;

(4) an analysis of the rate structure within each region studied, including its effect on design and use of less efficient power generation equipment;

(5) an indication of whether metering or other measures might be improved or instituted to inform purchasers of electrical energy of their cost and of peak demand responsibilities;

(6) an estimate of the impact various rate changes might have on regional consumption and efficiency of generation; and

(7) recommendations for legislative, executive, and administrative actions in furtherance of the national policy declared in section 2 of this Act.

(b) The Council on Energy Policy established pursuant to section 3 of this Act, upon reviewing reports prepared pursuant to section 10 and subsection (a) of this section and in consultation with Federal and State agencies which establish or regulate rates for or prices, production, or importation of electricity or other forms of energy, shall prepare and submit to the Congress within two years of the date of enactment of this Act a study of the impact of such rates and energy prices generally on the consumption and conservation of energy. Such study shall discuss the factors set forth in subsection (a) of this section and any other factors deemed appropriate by the Secretary, and shall contain such recommendations for legislative and administrative action as the Secretary deems necessary.

TRANSPORTATION STUDIES

SEC. 12. (a) The Secretary of Transportation is authorized and directed to prepare and submit to Congress, within nine months from the date of enactment of this Act, a report evaluating the potential for energy conservation in the transportation sector. Such report shall include the results of—

(1) a comprehensive study of motor vehicle characteristics and their effects on and the relationships between fuel economy, safety, reliability, damage resistance, materials used in construction, and cost to motor vehicle purchasers. Such study shall include but not be limited to the cost benefit aspects of the foregoing factors, both to the individual motor vehicle owner and to the Nation, and shall identify combinations of such factors which provide for optimum motor vehicle characteristics;

(2) a study of automobile usage in the United States in relation to other transportation modes and systems. The study shall include, but not be limited to, consideration of travel patterns and ways to better integrate the automobile into urban and intercity transportation systems, including the prospects for dual mode transportation systems, and the extent to which a need exists for public assistance for research and development with respect to transportation modes other than the automobile;

(3) an investigation of the advisability of limiting maximum achievable speeds of motor vehicles and of imposing lower maximum speed limits on various types of roads in various parts of the country;

(4) an evaluation of the impact on fuel consumption of national and regional systems of freight transportation and, to the extent relevant studies do not already exist or are in preparation, commercial passenger transportation. Such study shall include—

(A) an evaluation of the relationship between existing patterns of freight and commercial passenger transportation and energy use;

(B) an evaluation of the role of Federal, State, and local government transportation policies in creating and maintaining existing patterns of freight and commercial passenger transportation;

(C) an evaluation of the role of Federal rate regulation in encouraging freight and commercial passenger transportation practices which are inefficient in terms of fuel use; and

(D) an evaluation of the technological and economic feasibility of achieving at least a 50 percentum improvement within ten years of the industry-wide average fuel economy for transportation vehicles, including airplanes, automobiles, buses, motorcycles, recreational vehicles, trains, trucks, and vessels. At the time of submission of the plan required under section 504 of the Motor Vehicle Information and Cost Savings Act, the Secretary shall also submit to Congress a

plan (including recommendations for new legislation) for achieving such improvement.

(b) The Secretary of Transportation shall solicit the views of the Secretary of the Interior, the Administrator of the Environmental Protection Agency and other officers and agencies of the Federal Government during the course of such studies; and his report shall include their views and recommendations, if any, for legislation needed to establish the policies and programs identified in such report.

AUTOMOTIVE RESEARCH AND DEVELOPMENT

SEC. 13. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by Section 9 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE VI—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Automotive Transport Research and Development Act of 1973'.

"FINDINGS AND PURPOSES

"SEC. 602 (a) FINDINGS.—The Congress finds that—

"(1) Existing automobiles are inadequate to meet all of the long-term goals of this Nation with respect to providing safety, to protecting the environment, and to conserving energy.

"(2) With additional research and development, several advanced alternatives to existing automobiles have the potential to be mass produced at a reasonable cost with significantly less environmental degradation and fuel consumption than existing automobiles while remaining compatible with other requirements of Federal law.

"(3) Insufficient resources are being devoted to research and development of advanced automobiles and automobile components both by the Federal Government and the private sector.

"(4) An expanded research and development effort into advanced automobiles and automobile components by the Federal Government is needed to increase such efforts by the private sector and encourage automobile manufacturers to seriously consider such advanced automobiles and automobile components as alternatives to existing automobiles and automobile components.

"(5) Because of the urgency of the energy, safety, and environmental problems, such advanced automobiles and components should be developed, tested, and prepared for manufacture within four years from the date of enactment of this title.

"(b) PURPOSES.—Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives; and (2) to interpret and carry out this title to preserve, enhance and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 603. As used in this title—

"(1) 'Advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) presents, consistent with environmental requirements, the least total amount of energy consumption with respect to the amount of fuel consumed, the type of fuel consumed, or the production, use and disposal of such automobile, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance.

"(2) 'Damage resistance' refers to the susceptibility to physical damage of an automobile when involved in an accident.

"(3) 'Developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production prototypes of an advanced automobile or automobiles.

"(4) 'Fuel' means any energy source capable of propelling an automobile.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

"(6) 'Intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(7) 'Low-Emission Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"(8) 'Production prototype' means an automobile which is in its final stage of development and is capable of being placed into production for sale at retail in quantities exceeding ten thousand automobiles per year.

"(9) 'Reliability' refers to the ease of diagnosis and repair of an automobile and its systems and parts which fail during use or are damaged in an accident and the average time and distance that proper operation can be expected without repair or replacement.

"(10) 'Safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk or accident and against unreasonable risk of death or bodily injury in case of accident.

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

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"DUTIES OF THE SECRETARY

"SEC. 604. The Secretary is authorized and directed to insure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment of this title. The Secretary and the Administrator of the Environmental Protection Agency shall to the fullest extent practicable coordinate motor vehicle research programs and the Administrator is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development. In furtherance of the purposes of this title and to promote such development by private interests, the Secretary is further authorized and directed to—

"(a) make grants for research and development efforts likely to lead or contribute to the development of an advanced automobile or automobiles, in accordance with the provisions of section 606 of this title;

"(b) make loan guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or automobiles, in accordance with the provisions of section 607 of this title;

"(c) conduct and accelerate research and development programs within the Department of Transportation for the purpose of contributing to the research and development of a production prototype of an advanced automobile or automobiles;

"(d) test or direct the testing of production prototypes and secure certification as advanced automobiles those which meet the applicable requirements, in accordance with section 608 of this title;

"(e) collect, analyze, and disseminate to developers information, data, and materials relevant to the development of an advanced automobile or automobiles;

"(f) prepare and submit studies as required under section 611 of this title; and

"(g) receive and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the development of an advanced automobile.

"POWERS OF THE SECRETARY

"SEC. 605. In addition to the powers specifically enumerated in any provision of this title, the Secretary is authorized to—

"(a) appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this title, including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

"(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his duties under this title, with any government agency or any person; and

"(e) purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; accept gifts or donations of any property or services in aid of any purpose of this title.

"GRANTS

"SEC. 606. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles.

"(2) The Secretary is authorized to make such grants, and contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and make recommendations to him on applications for funding under this section.

"(c) PROCEDURE.—Each grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 602 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"LOAN GUARANTEES

"SEC. 607. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, an obligation to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles. Each application for such a loan guarantee shall be made to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a commitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applicants for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commmitments.

"(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

"(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary not to exceed $200,000,000 to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided,* That the outstanding indebtedness guaranteed under this section shall not exceed $200,000,000.

"TESTING AND CERTIFICATION

"SEC. 608. (a) ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested in a facility subject to his supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this Act, or referred to him for such purpose by the Secretary to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by him. The Administrator shall submit all test data and the results of such tests to the Low-Emission Vehicle Certification Board.

"(b) SECRETARY.—The Secretary shall test, or cause to be tested in an independent facility subject to his supervision, all new production prototypes of automobiles which he or a developer may submit to the Low-Emission Vehicle Certification Board for certification under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to sale at retail of such automobile under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All new automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. The Secretary shall submit all test data and the results of all tests conducted by him or subject to his supervision to the Low-Emission Vehicle Certification Board together with his conclusions and reasons therefor as to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Low-Emission Vehicle Certification Board and shall furnish to such Board any other information which it requests or which he deems necessary or appropriate.

"(c) BOARD.—The Low-Emission Vehicle Certification Board, shall, upon application by a developer or by the Secretary and the receipt of test data and test results submitted pursuant to subsections (a) and (b) of this section, issue or deny certification as an advanced automobile. Each determination as to certification shall be made in accordance with such rules and regulations as such Board shall prescribe in accordance with this title. Each application for certification shall be made to the Board in writing in such form and with such content and other submissions as the Board shall require.

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 609. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—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.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses shall be granted on a royalty-free basis of charges designed to recover part or all the costs of the Federal research. The Secretary, in administering patents pursuant to this title, shall make government patent rights available on nonexclusive, reasonable and nondiscriminatory terms to qualified applicants unless he finds in writing on a case by case basis that making such rights available on such terms is contrary to the public interest and the purposes of this title.

"(3)(A) Where a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in and are requisite to the proposed development project, the Secretary shall en-

ter an agreement which will provide equitable protection to the participant's rights: *Provided*, That any such agreement must provide that when the advanced automobile development project reaches the stage of possible commercial application any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information necessary to possible commercial production of an advanced automobile developed under this title, will be made available to any qualified applicant on reasonable nondiscriminatory 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 advanced automobile 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 title for or under the sponsorship or cosponsorship of the Secretary 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 title.

"(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1) (A) in the implementation of the requirements of this title a right under any United States letters patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, 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 Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination and, if the district court upholds such determination, shall issue an order requiring the person who owns such patent to license it on such reasonable and nondiscriminatory 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.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 610. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 611. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include an account of the state of automobile research and development in the United States, including the number of grants made, and number of loans or other obligations guaranteed, and the progress made in developing production prototypes of advanced automobiles within four years after the date of enactment of this title; and suggestions for improvements in automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 612. The Administrator of General Services shall consult with the Low-Emission Vehicle Certification Board periodically to determine the earliest date at which production prototypes of an advanced automobile will be available. When the Low-Emission Vehicle Certification Board determines that an advanced automobile may soon be available, it shall propose a system of guidelines recommending to any Federal agency using and procuring automobiles the procurement of such automobiles. After a production prototype has been certified by such Board as an advanced automobile, the Board is authorized and directed to prescribe such regulations as are necessary requiring all Federal agencies to procure and to use such advanced automobile to the maximum extent feasible.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 613. (a) AUTHORIZATION.—There is hereby authorized to be appropriated to carry out the purposes of this title other than section 607 of this title not to exceed $30,000,000 for the fiscal year ending June 30, 1974, not to exceed $50,000,000 for the fiscal year ending June 30, 1975, and not to exceed $60,000,000 for the fiscal year ending June 30, 1976.

"(b) (1) RATIO NOT REDUCED.—Funds expended for each fiscal year for the purposes of this title and funds expended for such fiscal year for all energy research, development, and demonstration activities shall be in the same ratio as the funds appropriated for such fiscal year pursuant to this title bear to funds appropriated for such fiscal year for all energy research, development, and demonstration activities of the Federal Government.

"(2) For the purposes of this subsection, the term 'energy research, development, and demonstration activities of the Federal Government' includes, but is not limited to—

"(A) the planning, management, and coordination of the energy research, development, and demonstration activities of the Federal Government;

"(B) research, development, and demonstration of coal as an energy source including coal gasification, coal liquefaction, and improved mining techniques;

"(C) research, development, and demonstration of oil shale as an energy source;

"(D) research development, and demonstration of unconventional energy sources including solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, the use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, electric energy storage methods, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

"(E) research, development, and demonstration of new methods of converting fossil fuels into electrical energy.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 614. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730) as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

TRANSPORTATION ENERGY CONSERVATION DEMONSTRATIONS

SEC. 14. (a) GENERAL.—The Secretary of Transportation is authorized and directed to enter into such contracts or other arrangements as may be necessary or appropriate for research and the development, establishment, and operation of demonstration projects to determine the feasibility of programs to conserve energy utilized in the transportation of individuals, including fare-free urban mass transportation systems; low-fare urban mass transportation systems; and arrangements such as reduced fees for multipassenger automobiles on toll highways, bridges, and tunnels.

(b) FEDERAL SHARE.—Federal grants or payments for the purpose of assisting projects pursuant to subsection (a) of this section shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs, if any, for any fiscal year as to which such contract or other arrangement is in effect.

(c) CRITERIA.—The Secretary of Transportation shall select cities or metropolitan areas for projects assistance under this section upon the basis of applications in writing in such form and with such content as he shall require and in accordance with the following criteria:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent transit system, a decaying central city, automobile-caused air pollution problems, or an immobile central city population;

(2) projects shall be selected from cities or metropolitan areas of differing size and characteristics, including population density and distribution;

(3) preference shall be given to projects that will introduce a high level of innovative transportation service to such cities or metropolitan areas consistent with the needs of residents for convenient access to employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different techniques, methods, and modes of transportation energy conservation shall be approved. Recipients of project assistance under this section shall make periodic reports and evaluations of each such project to the Secretary of Transportation in such form and with such content as the Secretary shall require.

(d) EVALUATION.—The Secretary of Transportation shall study transportation energy conservation methods and systems assisted under this section to determine—

(1) the effects of such methods or systems on energy and fuel conservation;

(2) the effects of such methods or systems on motor vehicle traffic and attendant air pollution, congestion, and noise; the mobility of urban residents; and the economic viability of central city business establishments;

(3) the techniques, methods, and modes of mass transportation that can best meet desired national objectives; and

(4) in the case of fare-free or low-fare systems, the extent to which frivolous ridership increases; the extent to which such systems may reduce the need for urban highways; and the best means of financing such systems on a continuing basis.

(e) ANNUAL REPORT.—The Secretary of Transportation shall make annual reports to the Congress on the information gathered pursuant to this section and shall make a final report, including recommendations for legislation, not later than June 30, 1976.

(f) ADVISORY COMMITTEES.—In carrying out the provisions of this section, the Secretary of Transportation may provide for advisory participation by interested State and local government authorities, mass transportation systems management personnel, computerized data processing experts, employee representatives, commuters, and such other persons as he deems necessary or appropriate.

(g) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this section not to exceed $20,000,000 for fare-free demonstrations, and $10,000,000 to effect the other purpose of this section, for each of the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively.

CARPOOL INCENTIVE PROJECTS

SEC. 15. Chapter I of Title 23 of the United States Code is amended by adding the following new section 154:

"CARPOOL INCENTIVE PROJECTS

"SEC. 154. (a)(1) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary shall approve projects designed to encourage the use of carpools in urban areas throughout the country while not adversely affecting bus and other mass transportation ridership in such areas.

"(2) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of subsection (d) of section 105 of this title. The Secretary shall approve for funding those projects which offer reasonable prospects of achieving the objectives stated in subsection (a)(1).

"(3) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities; preferential carpool highway lanes or shared bus and carpool lanes; and preferential parking for carpools.

"(4) A project under this section shall be carried out in accordance with procedures of law and regulations applicable to urban area traffic operations improvement projects pursuant to section 135 of this title, except that the Federal share of the cost of such work shall be 90 per centum, and that the Federal share shall not exceed $1,000,000 for any single project.

"(b) The Secretary shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study authorized by this subsection."

ENERGY CONSERVATION TAX INCENTIVES STUDY

SEC. 16. (a) The Secretary of the Treasury shall undertake a study of the feasibility and the costs and benefits of employing modifications in the Federal tax structure to encourage energy conservation, including, but not limited to, a study of—

(1) a progressive tax on increments of electricity consumed in excess of basic or ordinary residential and commercial use;

(2) measures to encourage the manufacture and purchase of energy-efficient automobiles;

(3) measures to encourage the use of efficient insulation in new structures and the installation of improved insulation in existing structures;

(4) measures to encourage research and development on technology for the removal of sulfur from fuels; and

(5) measures to encourage the installation of stack gas cleaning and other continuous emission reduction systems for the control of sulfur oxide emissions in fuel burning stationary sources.

(b) The Secretary shall submit to Congress a report of this study, together with any legislative recommendations he deems appropriate, no later than two years from the date of enactment of this Act.

PRODUCTS IMPORTED AND EXPORTED

SEC. 17. (a) Any product offered for import into the United States shall, as a condition of such importation, meet the applicable requirements of this Act.

(b) Any person importing into the United States any products to which the requirements of this Act are applicable shall be subject to the imposition of appropriate fees to defray expenses incurred in assuring compliance with such requirements.

(c) The requirements of section 8 of this Act shall not apply to any major energy consuming household product which is intended solely for export and which is exported.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. In addition to the sums authorized to be appropriated by specific sections of this Act to implement certain provisions of this Act, there are authorized to be appropriated each fiscal year such sums as may be necessary to carry out other provisions of this Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

Mr. JACKSON. Mr. President, the Senate today considers S. 2176, the National Fuels and Energy Conservation Act of 1973. This is the first comprehensive energy conservation measure to be considered by Congress. It lays the foundations for a serious, long-term effort to reduce energy waste and promote efficient energy use.

In reality, this bill is the joint product of the three Senate committees participating in the National Fuels and Energy study authorized by the 92d Congress. It represents many hours of hearings, executive sessions, and hard work by the staffs and members of the Commerce, Interior, and Public Works Committees. I want to thank the distinguished chairmen of these committees, Senators MAGNUSON and RANDOLPH, for their cooperation and contributions to this joint effort. The legislation in its present form also includes the substance of legislative proposals made by Senators BUCKLEY, DOMENICI, HART, HOLLINGS, MOSS, TUNNEY, and RANDOLPH.

S. 2176, which I introduced on July 13 of this year, has been cosponsored by 35 Senators. After the bill was reported by the Interior Committee on September 13, it was rereferred simultaneously to the Commerce and Public Works Committees for consideration of the provisions of S. 2176 within their respective jurisdictions. As a result of amendments proposed either by these committees or individual Senators, the bill before the Senate now is, I believe, more comprehensive and more effective than the original legislation.

The amendment in the nature of a substitute which I have submitted with Senators MAGNUSON and RANDOLPH includes some of the provisions of my original bill, with major additions proposed by the Commerce Committee on such subjects as appliance labeling, automobile fuel economy standards, and the development of more energy-efficient vehicles. The Commerce Committee has also incorporated a modified version of the Senator from South Carolina (Mr. HOLLINGS) bill to create a Council on Energy Policy which passed the Senate last spring.

The substitute amendment also includes modified provisions of S. 2479, legislation proposed by the Senator from West Virginia (Mr. RANDOLPH) to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. Senator RANDOLPH's proposals enlarge and strengthen the original provisions of my bill on this subject.

Mr. President, when I first proposed this legislation last February, I discussed the urgent need for a sustained national effort to end our reckless waste of energy and stop the soaring growth in our energy consumption. I argued that the time had come to start questioning the legitimacy of energy demand: To ask whether we must ravage hills in Appalachia to air-condition sealed glass towers in New York—to ask whether we must put ourselves in hock to Middle East sheikdoms in order to keep our roads clogged with gas-hungry vehicles. And I urged that the time had come to make "conservation" and "efficiency" an integral part of national energy policy, with Congress taking the initiative in directing a broad range of actions by the executive branch to achieve this end.

Events of the past few months have made these arguments more valid than ever. We are now confronted with fuel shortages unprecedented in our history. In the absence of effective emergency measures, we could face shortages equal to 25 percent of the demand for petroleum products in the first quarter of 1974. And stringent energy conservation measures offer the single most important option we have for minimizing the economic impact of these shortages.

The Senate has, of course, already authorized a number of short-term conservation measures in the Energy Emergency Act passed last month. That legislation is designed to achieve immediate savings through such emergency conservation programs as limitations on nonessential uses and restrictions on the energy consumption of commercial establishments.

The conservation measure before us today is, on the other hand, designed to achieve fundamental changes in our traditional approach to energy use, and thereby slow the relentless increase in energy demand we have experienced in

recent years. It is that demand for energy which, after all, is the root cause of our energy emergency today. As Senators are well aware, the United States has the highest per capita energy consumption in the world. Between 1940 and 1970, annual per capita energy consumption rose from the equivalent of 33 barrels of oil to 60 barrels of oil.

In the 10-year period between 1962 and 1972, consumption of gasoline in the United States rose 49.7 percent; consumption of heating oil rose 18.4 percent; consumption of natural gas rose 65.1 percent and consumption of electricity rose 104.6 percent.

The annual growth of energy consumption during the past decade has averaged 4.3 percent, double the growth rate in the immediate postwar period. Electricity consumption has been increasing at a rate of 7 percent a year.

Gasoline consumption is now increasing at a rate of 5 percent each year. If this rate of increase were to continue, we would be using 350 billion gallons of gasoline annually by the year 2000, an intolerable level of consumption by any standard. We have simply failed to recognize and anticipate the consequences of exponential growth in energy consumption.

Historically, energy in this country has been consumed free of restraints on supply, without questioning the legitimacy of the demand or the efficiency of the use of nonrenewable energy resources. Government policies have been directed to the satisfaction of energy needs through increased supplies. A series of Federal programs ranging from leasing of public lands to hydroelectric power projects have as their unquestioned purpose the satisfaction of energy demands. Federal policy has never focused on the nature and merits of those burgeoning energy demands, including their long-term economic social and environmental consequences.

The National Fuels and Energy Conservation Act is designed to change this traditional Federal policy toward energy demand. It does this by setting forth a congressional declaration of national policy that the Federal Government shall "foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources and protect the environment."

The act makes energy conservation the responsibility of every Federal agency, requiring them to propose changes in their policies and programs to assure conformity with the act. It provides a statutory base and specifies certain functions for the Office of Energy Conservation in the Interior Department. It requires that efficient energy use become a major consideration in all Federal procurement.

The act authorizes specific energy conservation research programs to develop new or improved industrial processes, better building construction, and more efficient production and transmission of electrical energy.

The act also directs the preparation of several significant studies to lay the groundwork for future congressional action. These include studies of utility rate structures, methods of freight transportation, and a significant study of possible tax incentives for energy conservation proposed by the Senator from New York (Mr. BUCKLEY).

The provisions of the act added or strengthened by the Commerce Committee include the requirement that estimated annual operating costs of major energy consuming appliances be disclosed to prospective purchasers and the requirement that minimum fuel economy standards be developed in order to achieve the goal of improving industry-wide fuel economy for new automobiles by at least 50 percent over a 10-year period.

Mr. President, it should be noted that the executive branch is already beginning to act on some of the programs authorized by this legislation. For example, some research is already being done in the energy conservation area. Federal building policies are beginning to reflect energy conservation needs. A voluntary appliance-labeling program has been proposed. And an Office of Energy Conservation has been created by Executive order. But despite these modest beginnings, there has been little evidence of a basic commitment to a serious, long-range conservation effort by this administration.

The fact is, Mr. President, that energy conservation must become a keystone of national energy policy for the next generation. Voluntarism alone will not do the job that must be done to reduce energy demand. And major programs and policies affecting every Federal agency for years to come should not be established by Executive order. Congress must assume responsibility for declaring a national energy conservation policy and detailing a program to support it.

Mr. President, the conservation objectives of S. 2176 cannot be achieved overnight. But the policies and programs set in motion by this act can, if effectively administered, help reduce our energy needs to manageable proportions in the next decade.

It is too late to forestall the energy shortages that will plague us in the 1970's. But it is not too late to build a national energy policy that restores us to energy self-sufficiency. The National Energy Research and Development Policy Act passed by the Senate last week is a vital first step in that direction. But we cannot hope to achieve any real degree of self-sufficiency merely by working to satisfy energy demands. We must also seek to change the wasteful and ill-considered policies and practices which lead us to consume one-third of the world's energy. That is why Congress must take the initiative to make energy conservation a national imperative by adopting the National Fuels and Energy Conservation Act before the Senate today.

Mr. President, I ask unanimous consent to have placed in the RECORD a brief summary on a section-by-section basis of the pending amendment in the nature of a substitute.

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

SUMMARY OUTLINE OF AMENDMENT 757 TO S. 2176

Section 2. Statement of Purposes, Findings and Policy.

Establishes a national policy of energy conservation and directs all Federal agencies to review their policies and programs and to recommend changes needed to assure conformity with this Act.

Section 3. Council on Energy Policy.

Establishes a three man Council on Energy Policy to coordinate all Federal activities dealing with energy. This section is similar to S. 70, which passed the Senate earlier this year. The three man Council on Energy Policy would play a role similar to the Council on Environmental Quality or the Council of Economic Advisers. The Federal Energy Administration proposed by the President is a day-to-day operating agency and its relationship to the proposed Council on Energy Policy is analogous to the relationship between the Environmental Protection Agency and the Council on Environmental Quality. One of the primary tasks of the Council on Energy Policy will be to prepare a long-range Energy Plan.

Section 4. Office of Energy Conservation.

This section gives statutory authority to the Office of Energy Conservation in the Department of the Interior.

Section 5. Research and Development.

Establishes a $12 million R & D program on energy conservation, involving the Bureau of Standards and the Department of the Interior, and giving overall coordination of Federal R & D program in energy conservation to the National Science Foundation.

Section 6. Federal Building and Procurement Policies.

All Federal agencies are directed to utilize energy conservation practices in the design of Federal and federally assisted building facilities, and require a life cycle cost analysis to be performed for new Federal or federally assisted facilities exceeding 50,000 square feet of usable floor space. It also directs that GSA give major consideration to efficient energy use in all Federal procurement policies.

Section 7. Buildings Standards.

This section calls for HUD, GSA, and the Bureau of Standards to develop standards for efficient energy use in buildings. Also called for is a review and a revision of the minimum property standards of the FHA.

Section 8. Truth in Energy.

This section is in the form of amendments to the Federal Trade Commission Act. Under this section, the estimated annual operating costs of major energy consuming household products and air conditioning and heating systems will be required to be disclosed to customers prior to purchase. Only those household products which consume on the average more than 200 kilowatt hours per year are covered. This essentially limits coverage of the bill to refrigerators, air conditioners, ranges, freezers, water heaters, and clothes dryers. Also covered by section 8 are central air conditioning and heating systems being installed in a previously occupied building. The administration of this program is given to the Federal Trade Commission; with assistance from the National Bureau of Standards in the development of the technical aspects of the testing and calculation procedures. Labels based on interim procedures will start to appear 18 months after date of enactment on the most energy intensive household products. These interim procedures will be phased out as more sophisticated testing and calculation procedures are developed over a thirty-six month period. The estimated annual operating costs would also be included in all advertisements which mention purchase price of the affected products. Enforcement provisions of section 8 include

declaration of unfair deceptive trade practices, injunctions, and civil penalties. Section 8 also pre-empts any state or municipality laws dealing with energy efficiency or operating cost disclosure of major household energy consumer products.

Section 9. Automobile Fuel Economy Standards.

This section, in the form of amendments to the Motor Vehicle Information and Cost Disclosure Act, establishes a goal for improving the industrywide fuel economy for new automobiles by at least 50% over a ten year period. In order to achieve that goal the Secretary of Transportation is directed to establish as a first step, a single minimum fuel economy standard for the 1978 model year. The Secretary is further directed to develop a plan for achieving the congressionally established goal. If such a plan includes additional minimum standards of fuel economy, such standards would be promulgated according to a rule making procedure unless either house of Congress specifically disapproves of the plan. In addition to establishment of minimum standards, the bill requires fuel economy information to be displayed on a show sticker and in advertisements which mention price. The use of the words "at least" a 50% improvement reflects the intent that the maximum improvement which is technologically and economically feasible is expected. Enforcement of the provisions of section 9 is civil and criminal penalties. Automobiles not meeting the minimum standard could not be sold.

Section 10. Utility Energy Conservation Reports.

Every gas and electric public utility is directed to submit annual reports on energy conservation policies to the FPC.

Section 11. Federal Government Energy Rate Studies.

Each agency of the federal government which is involved in the production of electrical energy is to prepare a study of the effect of their various policies on the consumption and conservation of energy.

Section 12. Transportation Studies.

This section calls for a series of studies examining the potential for energy conservation in the transportation sector.

Section 13. Automotive Research and Development.

This section, in the form of amendments to the Motor Vehicle Information and Cost Savings Act, establishes a $140 million federally funded research and development program leading to production of prototypes of advanced technology automobiles. The emphasis is on utilizing new engine concepts which promise to provide significant gains in reducing exhaust emissions and fuel consumption. The provision also establishes a system of loan guarantees to those companies who need financial assistance to get these prototypes into mass production.

Section 14. Transportation Energy Conservation Demonstration.

This section establishes a $30 million program to finance demonstration projects in urban areas involving fare-free and low-fare urban mass transit systems.

Section 15. Carpool Incentive Projects.

This is an amendment to the Federal Highway Act which permits use of certain highway monies for the development and promotion of carpool incentive programs in urban areas.

Section 16. Energy Conservation Tax Incentives Study.

This section directs the Secretary of the Treasury to conduct a comprehensive study of possible modifications in the Federal tax structure designed to encourage energy conservation.

Section 17. Products Imported and Exported.

All products imported into this country must meet applicable requirements of this Act; products intended solely for export are not required to meet such requirements.

Section 18. Authorization of Appropriations.

Authorized to be appropriated such funds may be necessary in addition to specific appropriations made in individual sections of the Act.

Mr. FANNIN. Mr. President, I commend the distinguished Senators from Washington and South Carolina for their work on this legislation. Their goal is commendable.

While I feel keenly about this legislation and its need, at the same time, I am vitally concerned about some of the provisions which are perhaps duplicative or which are not in line with the goals we seek. I sometimes wonder whether providing for tough and punitive regulations to the extent of some of these stipulations is necessary to accomplish the objective we all have in mind, which is to help meet the energy crisis, and certainly to provide protection to the consumer.

Mr. President, the Committee on Interior and Insular Affairs has worked very hard developing legislation to meet the energy problems our Nation now faces. Under the leadership of the distinguished Senator from Washington this body has passed in this session the emergency petroleum allocation bill (S. 1570), the National Energy Emergency Act (S. 2589), the Federal Lands Right-of-Way Act (S. 1081), and the National Energy Research and Development Policy Act (S. 1283). Other committees of the Senate are presently handling the Federal Energy Administration bill and the administration's energy research and development bill.

A large part of the contents of S. 2176, the National Fuels and Energy Conservation Act is encompassed by one or other of these bills which are now in the legislative pipeline. Those parts of S. 2176 which are not covered by these specific energy bills appear in their own right in independent legislation. In short, we will simply confuse both the energy picture and the organizational necessities of the executive branch by passage of S. 2176 at this time.

I, therefore, oppose S. 2176 and urge the Senate to reject it pending more mature consideration.

Taking the major provisicns of S. 2176 as they appear in the bill, it appears that establishment of the proposed Council on Energy Policy—section 3 will not only conflict with and complicate the efforts of the Federal Energy Administration but will perpetuate in the energy field the more severe problems which the establishment of the Council on Environmentaltal Policy has caused in environmental fields. As for the Office of Energy Conservation—section 4—its establishment is already a fact, it will be folded into FEA and locking it in statutorily can only result in a loss of the flexibility necessary to properly administer in the energy field.

The amendments to the Federal Trade Commission Act—section 8—and to the Motor Vehicle Cost Savings and Information Act—sections 9 and 13—should receive full and free debate in the Senate as independent legislation and should not be hurried through under the guise of emergency legislation in the closing days of an already hectic session.

In these days of energy shortage with an urgency to solve the energy problems facing us, any bill carrying an energy conservation title receives a knee jerk favorable reaction. I urge my colleagues not to be stamped by this reaction but to consider whether S. 2176 does not in fact negate delay, and confuse the attainment of the goals to which our other energy legislation are directed.

Mr. President, once more I commend the distinguished Senator from Washington for the great effort he has put forth in carrying forward these pieces of legislation. I am concerned that we are not giving proper consideration to integrating legislation and integrating it into a common goal in order best to achieve what we all have in mind.

Now there are other parts of this legislation which I could discuss this morning but I realize it is very complex and lengthy. As the day proceeds, I hope that we can discuss many of the provisions of the legislation.

Mr. President, I yield the floor.

Mr. BAYH. Mr. President, I ask unanimous consent that Howard Paster of my staff be permitted access to the floor during debate on this bill.

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

Mr. MAGNUSON. Mr. President, the effect of the energy crisis on the American consumer has been multiplied by the administration's mishandling and outright bungling. It is therefore, indeed heartening to have S. 2176, as amended, before the Senate today. This bill, representing another significant step forward by Congress to develop a rational, long-range energy policy for this country, is the product of joint efforts by members of the Committees on Commerce, Interior, and Public Works. The legislation began to take shape in early spring of this year and has moved forward in a rational and deliberate manner, with inputs coming from a broad spectrum of interested groups, including industry, environmentalists, and consumer groups. The bill has evolved after extensive hearings, markup sessions, and subsequent agreement by members of the three committees. It represents the results of many months of discussion and compromise.

Many of us in the Senate realized, long before the administration did, that energy conservation had to become a national policy, and we have worked long and hard to develop S. 2176 as the cornerstone of a comprehensive energy conservation policy. It is particularly important to note that our deliberations did not take place in a crisis atmosphere. On the contrary, S. 2176 represents the results of carefully thought out and reasoned proposals. There is an obvious contrast between these efforts and the administration's helter-skelter attempts to develop an energy conservation policy. As S. 2176 was being developed earlier this year by the three committees, its various provisions were being opposed by the administration. At the same time, the administration was trying to figure out

what they should be doing about this matter. I am reminded of the famous baseball double play combination from Tinkers to Evers to Chance. This year we have seen the administration put its consumer combination into action—from Schultz to Love to Simon. The administration has not only made three errors in one inning, but they have struck out and bobbled the energy conservation ball.

The thrust of the administration's proposals is for the American consumer to make sacrifices—to turn down his thermostat, to slow down on the highways, to modify his travel plans, to pay more for heating oil, and to give up his Christmas tree ornaments. There is no doubt that such efforts can lead to savings in energy, and we all need to cooperate, but the biggest users of energy need to do their share to. Businesses and industries which consume energy in their manufacturing processes, and manufacture energy consuming products, must take the responsibility to improve their processes and to design their products and systems to make the most efficient utilization of energy that is technologically and economically feasible.

Industry uses over 40 percent of the country's energy. Many expert analyses have demonstrated that a significant portion of energy consumption in the commercial and industrial sectors is a result of wastage, and that major savings in energy consumption can be achieved without reducing production, productivity, or increasing cost. Our investigations have shown that major improvements in energy utilization can be made in buildings, household appliances, factories, and transportation vehicles. The thrust of the long-range energy conservation proposals contained in S. 2176 is that the technological resources of the Federal Government and American industry be utilized to the fullest extent possible to eliminate such shamefully wasteful uses of energy. As a result of S. 2176, we will see in the years to come, major reductions in the energy requirements of buildings, electric generating facilities, automobiles, household appliances, and transportation systems.

Energy conservation, contrary to what the administration would have us believe does not mean a lowering of the quality of life, or the hampering of the mobility of American consumers.

Many Senators have made major contributions to this legislation. I would particularly like to praise several members of the Commerce Committee—Senator HOLLINGS, Senator TUNNEY, Senator HART, and Senator Moss who played key roles in the development of S. 2176.

Mr. MUSKIE. Mr. President, the Senate has placed before it today a very important measure designed to make significant changes in the way our country consumes energy. S. 2176 addresses very important issues. The theme of this bill is that conservation of energy—one of our limited, scarce resources—must be the first step in the campaign needed to adjust our lifestyles and societal practices to the energy crisis now upon us. Waste of energy in our society has been large. Of the energy we consume, only 40 percent actually ends up turning wheels, heating homes, producing electricity, and providing the other end uses intended. The other 60 percent is lost as waste.

This legislation shows that broad issues overlapping committee jurisdictions can be handled rapidly yet with care by those committees involved. This legislation is the result of extensive committee deliberations on the part of the Senate Committees on Interior, Public Works, and Commerce. The cooperative attitude displayed should be useful for future legislation in this area.

A new substitute amendment, No. 757, was introduced Tuesday, December 4, by the principal sponsors of the bill, Senators JACKSON, MAGNUSON, and RANDOLPH.

This substitute amendment contained substantial changes from S. 2176 as reported by the Commerce Committee on November 15. A legislative history clarifying the changes made by the introduction of this substitute package needs to be stated.

I would particularly like to point out the improvements that have occurred in title 6, the Automotive Transport Research and Development Act of 1973. Amendment 757 relates this title in a coherent and coordinated fashion with ongoing programs presently in process in the Environmental Protection Agency. The earlier version of S. 2176 called for an elimination of EPA's Advanced Automotive Power Systems program. This activity was to be transferred to the new Department of Transportation program authorized under title 6 of S. 2176. The new substitute amendment completely revises this action. Instead of transferring any programs, title 6 now leaves the AAPS program within the Environmental Protection Agency. Cooperation replaces transfer: "The Administrator of the Environmental Protection Agency is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development." (sec. 604).

This is the result of the agreement of the committees involved that regulatory activities establishing exhaust emission standards necessitate a program within EPA that will provide the in-house expertise necessary to judge independently the technical basis of improved automotive design suggestions. It is anticipated that as the AAPS program in EPA uncovers new automotive engine systems or important new breakthroughs in design of present engines, this new information will be conveyed rapidly to the Department of Transportation's program.

Another item in the legislative history of S. 2176 needs clarification. Pages 75–76 of Senate Report 93–526, which accompanied the earlier version of this legislation, gives the impression that a slowdown has occurred in research and development programs for alternative engine systems by private automobiles companies, and that the Clean Air Amendments of 1970 are a substantial part of the cause.

While I deplore the low amount of funds devoted to such research by Detroit, the errors in this report must be corrected. Since the passage of the 1970 act, expenditures for research and development of alternative power systems have more than tripled.

The Clean Air Act of 1970 has stimulated such research, not blocked it. The Act has also forced new expenditures of a greater magnitude for changes in the internal combustion engine, but in both cases, the act helped bring about needed increases in research and development programs.

I have been informed that the Commerce Committee did not intend to create the impression that pages 75–76 of their report may convey to some regarding the role of the Clean Air Act. I think it is important to make that correction now and to specifically repudiate any possible impression that the failures of the auto industry might in some way be blamed on a law which has forced that industry to perform in the public interest.

The concept of the U.S. Government independently creating an advanced automobile designed to improve fuel economy, safety, reliability, and damage resistance, consistent with environmental regulations established under present pollution control statutes, is a very worthwhile endeavor.

Those of us who have attempted to require rapid improvements in American automobiles have frequently been frustrated by the monopoly of information held by private automobile manufacturers. The advanced automobile power systems program authorized by section 104 of the Clean Air Amendments of 1970 was the first step in establishing an independent capability in the Government to analyze automotive technology. A complementary program directed toward other important aspects of automobile construction and design, which this bill authorizes the Department of Transportation to commence, is a very worthwhile addition.

Many other important changes have occurred in the revised version of S. 2176 contained in substitute amendment No. 757. These have been discussed by the floor managers of the bill and other Members here on the floor today, so I will not mention them further.

This bill is a first step in turning this country around on the subject of energy use. It will make us mindful of the very obvious ways available to us for conserving energy resources.

Mr. JACKSON. 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. GRIFFIN. 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. GRIFFIN. Mr. President, I wish to focus attention on one particular section of the bill now before the Senate. I refer to section 9, which directs the Secretray of Transportation to establish fuel economy standards for automobiles.

The Secretary of Transportation would be required, under the proposed legisla-

tion, to set a minimum standard for fuel economy for 1978 model cars and to develop a plan for improving fuel economy by 50 percent during the next decade.

However, before setting a standard and developing the plan, the Secretary must consider the impact of other Federal regulatory actions affecting the automobile, as well as technological and economic feasibility.

Any further regulation by the Federal Government carries with it a certain amount of concern and apprehension as to what its effect will be. But I also want to point out quickly that those who live in my State and in other States that produce auomobiles are also interested in doing whatever can be done to improve fuel economy, so far as automobiles are concerned.

I think one of the most remarkable features of section 9 is what it does not do. It does not mandate the implementation of unproven technology by legislative fiat. Under normal circumstances, it is quite appropriate and rather unremarkable for Congress to establish broad goals, leaving the details to be fashioned by administrative action.

But in the wake of the economic brinksmanship displayed when Congress wrote stringent mandatory auto emission standards into the 1970 Clean Air Act, it is, frankly, a welcome relief to know that Congress is at least recognizing in this legislation that it may not be infallible.

If a more prudent course of action had been followed in 1970, for example, it is very likely that Congress would not be in the embarrassing position today of having to postpone the inflexible standards which were engraved in the 1970 act.

Although no one can argue with the need for cleaner auto emissions, it should not be forgotten that Federal standards have increased oil consumption in this country by nearly one million barrels per day—approximately one-third of the shortfall expected this winter. An additional million barrels of oil per day may be required if the nitrogen oxides standard for 1977 cars is not changed.

I think the Committee on Commerce is to be commended for developing section 9 of the proposed legislation because it does not play roulette with the jobs of millions of working men and women. The committee wisely recognizes that specific standards should not be set in concrete in the law itself, and that efforts to improve fuel economy cannot be divorced from efforts to improve safety, emissions, damageability, and other factors. I shall read a statement from the report of the Committee on Commerce which is instructive.

The timetable for the implementation of section 9 is carefully structured so that the controversy surrounding the emission standards established by the Clean Air Act Amendments of 1970 hopefully will have been settled by the time that the first standard . . . is to go into effect. The Secretary of Transportation is given 18 months after the date of enactment of the Act to issue the first standard for fuel economy. This standard will not go into effect until the 1978 model year. In addition, section 12 of the bill directs the Secretary to conduct a comprehensive study of the various Federal regulations affecting fuel economy, emission levels, safety, noise, and damageability. Thus, more than adequate lead time is provided for the gathering of data to determine the level at which the standards should be set, and for determining the interaction of this section with other existing and proposed Federal regulations.

Mr. President, while automobiles use a great amount of fuel, especially in view of the fact that there are an estimated 100 million of them in operation, other modes of transportation must share in the consideration of methods to improve fuel economy. As the Commerce Committee report points out, "both recreational vessels and commercial aircraft are less efficient than automobiles," even after taking into consideration passenger loads.

A recent Department of Transportation research report estimated that by 1985, aircraft would use up approximately 35 percent of the fuel consumed by transportation, compared with 40 percent for automobiles. At the present time, aircraft use only 14 percent of all transportation fuel, while autos consume 47 percent.

Thus, there is need for a long-range program to increase the fuel efficiency of all types of transportation, not just automobiles. For this reason, I am pleased that the Commerce Committee adopted my amendment, which I offered in committee, to require the Secretary of Transportation to develop a plan for increasing the fuel economy of all transportation vehicles, including aircraft, recreational vehicles, trains, and vessels, by 50 percent in the next 10 years. This plan would have to be submitted to Congress within 18 months after enactment of S. 2176.

The point is that unless each mode of transportation is required to achieve the maximum energy efficiency feasible, competition will be affected and jobs will be lost unfairly and inequitably. This bill makes a small, but first, step in applying a sensible and reasonable rule with respect to the development of fuel economy standards; a sensible and reasonable approach which, unfortunately, was not embodied in the 1970 Clean Air Act.

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, within the last few weeks the Senate has enacted two major comprehensive energy bills. On November 20, the Senate passed S. 2589, the National Energy Emergency Act of 1973. Last Friday, the Senate unanimously passed S. 1283, the National Energy Research and Development Policy Act of 1973. Both of these bills represented broad coordinated approaches to deal with two aspects of the energy crisis. S. 2583 provides for emergency measures to deal with events during the next year, while S. 1283 lays the groundwork for a long term research and development program to meet our energy requirements in the decades to come.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Will the Senator withhold his statement until the Senate is in order? The Chair regrets having to interrupt the Senator. The Senate will be in order.

The Senator may proceed.

Mr. HOLLINGS. This morning we have before us, S. 2176, the National Fuels and Energy Conservation Act of 1973. This bill deals with the midterm problem; that of establishing those energy conservation policies which will be needed to carry the Nation forward until the fruits of the research and development on new forms of energy have proved themselves and can be relied upon.

S. 2176 follows the examples of S. 2589 and S. 1283, in that it encompasses a broad spectrum of energy conservation efforts, with each individual energy conservation program serving as part of the foundation for a comprehensive national energy conservation policy. S. 2176 also follows the examples of the previous bills in being the product of a coordinated joint effort of many individual Senators. S. 2176 was introduced on July 13 by Senator JACKSON. It now has 34 cosponsors. Many refinements have been made in the bill since its introduction to reflect the inputs of the Committees on Commerce, Interior and Insular Affairs, and Public Works. On behalf of the three Committees, Senators JACKSON, MAGNUSON, and RANDOLPH introduced amendment 757, an amendment in the nature of a substitute, on December 4.

The purpose of the bill is to declare a national policy of conserving energy resources, to make energy conservation an integral part of all programs of the Federal Government, and to encourage an energy conservation ethic among American industry and consuming public. The legislation proposes to achieve this in several ways.

At the Federal level, each agency of the Federal Government is directed to adopt energy conservation policies and practices. A new Federal agency, the Council on Energy Policy, is established to coordinate all Federal activities dealing with energy. Specific directives are given to the General Services Administration to utilize construction, management, and leasing policies which make the most efficient use of energy in the design, construction, and operation of all Federal buildings; to the Department of Housing and Urban Development and the National Bureau of Standards to develop performance standards that would promote efficient energy use in residential, commercial, and industrial buildings; to the Federal Power Commission and other Federal agencies, to conduct studies and submit reports to the Congress on methods for conserving energy in the generation, transmission, and distribution of electricity; and to the Department of Transportation to conduct a series of

studies and to submit recommendations for implementing methods of energy conservation in the automotive and commercial passenger and freight transportation systems.

Supplementing these efforts to modify existing Federal Government policies and practices are several provisions of the bill which are intended to improve the energy efficiency of major household appliances, central heating and airconditioning systems, automobiles and other forms of transportation, while at the same time creating consumer awareness regarding the potential for saving energy and money by more informed purchase decisions and use habits. These provisions include a requirement for the disclosure of estimated annual operating costs of major energy consuming household products, central heating and air-conditioning systems, and automobiles, as well as the establishment of minimum fuel economy standards for automobiles. In addition, provision is made for a large-scale Federal commitment to the development of prototypes of advanced automobiles which are highly efficient and low-polluting; and a program for the establishment of demonstration projects in urban areas designed to encourage people to use mass transportation and carpools for much of their work-related trips.

Mr. President, S. 2176 is a fitting partner to S. 1283 and S. 2589. It rounds out a comprehensive energy program and establishes policies that can guide our Nation for many years into an era of energy sufficiency and prosperity. I urge all my colleagues to vote for this measure.

I would like now to allude particularly to section 3 of S. 2176, which incorporates the language of S. 70, the Energy Policy Act of 1973, which passed the Senate on May 10, 1973. Section 3 would establish a three member Council on Energy Policy to centralize the collection and analysis of energy information, coordinate the energy activities of the Federal Government and prepare a long-range comprehensive plan for energy development, utilization, and conservation. This proposal would provide a single place for Congress and the President to seek energy information and policy recommendations. It assures us a single entity would have responsibility for examining the overall energy picture.

The introduction of S. 2776, the Federal Energy Administration Act, proposes the establishment of a new, line agency principally to administer the fuel allocation and rationing programs designed to meet the current energy emergency. My proposal to establish a Council on Energy Policy is fully compatible with the establishment of a Federal Energy Administration.

The administration will be primarily concerned with the day-to-day operations of a highly complex and important energy allocation program. Because of the hardships and dislocations that will occur as a result of fuel shortages, the administration of such programs will consume virtually all of the resources and talent of the Energy Administration. The Energy Administration is an essentially temporary effort to put together an entity that can run the emergency programs necessary to alleviate the current shortages. Such an agency will have little time to devote to long-range planning, and the development of a comprehensive and credible system of energy statistics. Its energies will be consumed trying to answer the millions of complaints and attempting to secure fuel supplies to maintain productivity and employment.

For this reason it is imperative that we establish a permanent ongoing Council to focus on providing sophisticated policy analysis and designing a national energy plan that will provide guidance to all agencies of the Federal Government and the private sector.

The Council on Energy Policy parallels in the energy area the successful organizational structure of the Council of Economic Advisers and the Council on Environmental Quality. Energy, like economics and the environment, cuts across the responsibilities and operations of virtually every department and agency of the Federal Government. For example, major opportunities exist for energy conservation depending upon the Department of Housing and Urban Development's building and installation standards. If the Department of Transportation encourages mass transit instead of highway construction or rail shipments instead of truck or air shipments, major energy savings can occur, yet HUD and DOT are not part of the Federal Energy Administration. Tax incentives administered by the Treasury Department, such as depletion allowances, foreign investment tax credits, and intangible drilling expense deductions all have a very significant impact on energy production, yet of course the Department of Treasury cannot be transferred to the Federal Energy Administration. The foreign policy of the Nation is very much inmeshed with energy because imports are an important share of our energy supply. But the Department of State is not part of the Federal Energy Administration. Last week on December 7, the Senate passed the National Energy Research and Development Policy Act of 1973. The direction and funding of energy research and development can play a critical role in the Nation satisfying its energy requirements in the future but the energy research management project, which would direct these efforts, is not part of the Federal Energy Administration. Yet all of these important energy functions in virtually every agency and department of the Federal Government must be effectively coordinated and a rational energy plan must be established. This task cannot be performed by a Federal Energy Administration that will have its hands full trying to run the allocation and other emergency programs designed to cope with the immediate shortages of energy.

Therefore, I urge for prompt enactment of these provisions to establish an agency to be responsible for energy policy—a single place to provide information, make policy recommendations and engage in long-range planning. Let us not waste another day attempting to reach energy policy decisions in the dark.

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. 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. TUNNEY. Mr. President, the bill before us contains two sections to which I should like to address myself. One is the truth in energy provisions, and the other is the automotive research and development provisions. Both sections incorporate bills which I introduced earlier this year, and for which we had many days of hearings in the Committee on Commerce.

Section 8—the Truth in Energy Act—has evolved from S. 1327, a bill which I introduced on March 22 of this year. It is an energy conservation measure and a consumer education measure at the same time. This legislation will require that the estimated annual operating costs of major energy consuming household products be disclosed to consumers prior to purchase.

The response of Americans to the current energy crisis is heartening. The vast majority of people have responded to appeals to lower their thermostats a few degrees. There are other ways to conserve energy in daily household activities. If Americans were energy conscious as well as cost conscious in their selection of new refrigerators, air-conditioners, and other major household products, significant savings in energy would be realized. The problem is that it is extremely difficult for a consumer to determine the energy characteristics of any particular appliance and to compare various brands and models against each other in terms of their energy consumption. Section 8 would provide that this information on the energy characteristics of major household products would be available to shoppers at a glance, in the form of estimated annual operating costs displayed on the price tag. The cost data will be developed on the basis of information supplied by the Federal Government and the appliance manufacturers, and will be presented in a form that will be useful to consumers for comparison shopping purposes.

Providing this information to consumers is in the best tradition of the free enterprise system, and I am sure that American consumers will use this information to make wise purchase decisions; decisions which would foster energy conservation practices as well as resulting in financial savings to the individual consumer.

Two days of hearings were held on S. 1327 in July and I have been working closely with many interested parties in the development and refinement of the

language. We have received input from consumer groups, representatives of appliance manufacturers and retailers, and engineering experts. I am grateful for the widespread support we have had on this legislation and I am particularly pleased that it has been incorporated as section 8 of Senator JACKSON'S omnibus energy conservation bill, S. 2176. In developing the language of S. 2176 we were particularly concerned that any procedure for calculating annual operating costs does not impose a burden on small retailers. We have been very careful to give the responsibility to the Federal Government and the manufacturers—where the capabilities and the resources for making the calculations are available. If a retailer is required to make any calculations, he will be provided with an easy to use chart, table, or other computational aid which will allow him to combine his local cost of energy with the information provided by the manufacturer to make the determination of operating cost. The calculation will be no more complicated than that made by retailers in their computation of their sales tax.

It is also important to realize that the purpose of this bill is to provide the information to the consumer at the point of sale. If a retailer has cartons of appliances stored in the back room or in a separate warehouse, and the purchase decision is made by the consumer on the basis of a display model, obviously the only place where the operating costs would have to be disclosed is on the display model.

We have also taken precautions to assure that this legislation applies only to the major energy consuming household products, by establishing a threshold value of at least 200 kilowatt hours per year in average usage in order for a product to qualify for coverage. There is no way that this program could be interpreted to apply to small household products such as tooth brushes, electric can openers and other similar products. It should also be quite clear that retailers will have to display annual operating costs information on labels only for those products which were shipped to them after the manufacturers have completed their testing and energy consumption calculations, and have included the results of the calculations in the shipment.

Mr. President, I am convinced that section 8 will be a major step forward in the creation of consumer awareness regarding the importance of energy conservation.

I particularly want to thank my colleagues on the Committee on Commerce, the Committee on Public Works, and the Committee on Interior and Insular Affairs for their assistance and cooperation in the development of this legislation.

I would like to point out in addition, Mr. President, that I think that the energy crisis we are facing could be used, if we are not very careful, as a means of establishing governmental control over the private initiative that we have known in this country throughout its history in peacetime. We are all familiar with controls over the economy in wartime, such as existed in World War II. But I am fearful that if we are not very careful we may establish a central Federal control over the individual in business and the operation of the free enterprise system which would be very difficult to discard at some later time when we do not have an energy crisis.

I think that the value of this Truth in Energy Act is that it will allow the free market to operate in a way so that the consumer will be able to choose for himself the product he considers to be most energy efficient, which will mean that we will have a cutback in the amount of energy used as a result of a free market decision and not as a result of Government control.

There are a number of ways we could have gone about establishing more energy efficiency in appliances other than utilizing free market forces. We could have required that manufacturers meet a certain standard of energy efficiency for each product. That would mean more Government control over the decision-making process on the part of businessmen as to how they would manufacture their products.

We went the other route. We gave the consumer the option to buy the most efficient product. We think that the supply and demand market will take care of the problem of those manufacturers who would be inclined to produce a cheaper but more energy consumptive product because those products simply would not be bought.

Mr. President, S. 2176, the National Fuels and Energy Conservation Act as amended by amendment No. 757, sets as its purpose to declare a national policy of conserving energy resources and to make energy conservation an integral part of our lives. Section 13 would help to achieve this goal by encouraging, through Government action, the means to develop an alternative to the internal combustion engine that will be energy efficient and yet will be able to meet the clean air standards as established by law in 1970.

Mr. President, S. 2176, the National Fuels and Energy Conservation Act of 1973 is a crucial step in changing the energy policies of the United States. It sets as its purpose to declare a national policy of conserving energy resources and to make energy conservation an integral part of our lives by encouraging through Government action an energy conservation ethic among American industry and the consuming public.

In fostering such a program it is only natural that a spotlight of concern has fallen on the automobile. Approximately 25 percent of all energy used in this country is attributable to transportation, and the automobile is responsible for the largest part of this consumption.

Yet extensive Commerce Committee hearings have led to the inescapable conclusion that current efforts within the private sector and the Federal Government to develop an energy-efficient, low-polluting automobile are totally inadequate. It was for this reason that it was determined to be absolutely essential that the Federal Government immediately commit itself to a national research and development program to develop the technology for a motor vehicle that is clean, quiet, economical, energy-efficient, safe, and durable. Only by such quick consolidation of our national scientific and industrial resources, can we avoid being placed in an either-or situation where we must choose between clean air and our energy needs or abandonment of automobile transportation.

The automobile has been the centerpiece of our national transportation system, often determining where we lived, worked, and how we spent much of our time and money. It has offered the individual unparalleled freedom of movement, but it is abundantly clear that we can no longer afford its benefits at the cost of polluted air, wasted energy resources, and outrageously high prices for the average driver.

We can have clean air while providing all our citizens with energy efficient and economical cars. But to reach these goals we can no longer depend solely on the major American auto-manufacturers, who have billions of dollars invested in perpetuation of the status quo. We must not allow these few powerful manufacturers to dictate our approach to solving this problem. Presently, the American auto industry is heading inexorably toward total reliance on the catalytic convertor to solve our air pollution problems. Yet, even Detroit concedes that their devices are troublesome and unreliable—and will not meet our long term transportation goals, while at the same time utterly failing to make the all-out effort necessary to develop adequate alternatives.

Today the Senate can take the critical steps to affirm as an essential national priority that we quickly develop a clean and energy-efficient car. The provisions of the legislation now before us will commit the Nation to this goal, and it sets strict and reasonable time limits for attainment. At the same time, adequate authorization of funding—$140 million in grants and $200 million in guaranteed loans—are provided. These provisions set forth coherent requirements to assure that, as we continue to strive to meet our clean air goals through development of alternatives to the present internal combustion engine, our energy, economy, safety, noise, and other related goals are met as well. Furthermore, once this legislation is approved and money is appropriated for the program there are built-in safeguards in this legislation to insure against crippling impoundment of these funds by the administration.

The Commerce Committee has worked closely with the Senate Public Works and Interior Committees to assure that this legislation is coordinated with the Clean Air Act of 1970 and other environmental and related legislation. Now it is time

for the Senate to place its imprimatur on this crucial goal.

Mr. HOLLINGS. Mr. President, section 9 of S. 2176 is an outgrowth of S. 1903. I introduced S. 1903, the Automobile Fuel Economy Act, on May 31 of this year. Three days of hearings were held in June and additional comments were received from many sources subsequent to the hearings.

Developments in the past few months have made it clear that the automobile industry was caught totally unprepared for the energy shortages. Within the next few months, we will see that this Nation's reliance on the automobile for a major portion of its mobility will lead to many inconveniences as a result of the shortage of gasoline. The situation will not go away. It will be necessary that the Nation develop long-range plans for the improvement of the fuel economy of automobiles. This is precisely what section 9 does, in declaring as a national goal that over a 10-year period the industry-wide fuel economy for new automobiles is to be improved by at least 50 percent. The only constraint on the magnitude of the improvement required is that it must be technologically and economically feasible.

Many experts, from within the automobile industry, from Government agencies, and from the engineering profession, provided input which convinced us that a 50-percent improvement over the next 10 years is the absolute minimum that should be called for. Almost all of this improvement can be achieved utilizing technology which is currently on the market. All it takes is a commitment by the automobile industry to utilize this technology. The information available to us also indicates that such improvements in fuel economy can be achieved with little or no increase in the sales price of automobiles.

Up until a few months ago, it was projected that by 1985 his country would be importing over 11 million barrels of crude oil per day from the Middle East and Africa. If the minimum goal established in section 9 is met, it will permit the United States to reduce our petroleum requirements by 5.6 million barrels of crude oil per day. Thus this single measure represents a giant step forward in reducing this country's dependence upon foreign oil over the next decade. This savings can be achieved without any sacrifice on the part of American consumers. Not only is this an energy conservation measure, but it will save billions of dollars in balance of payments.

Since the onset of the energy crisis we have heard many calls for saving energy, by the increased use of mass transit and carpools, and decreased highway speed. While these measures make a contribution to the short-term energy conservation effort, several studies have shown that by far the most effective step that could be taken to save gasoline is to improve the fuel economy of automobiles. Section 9 establishes such an effort as a national goal, and establishes the framework of a long-range national plan for its achievement. Section 9 was developed in coordination with other sections of S. 2176 which are devoted to saving energy in other components of the transportation sector of our economy.

We cannot afford to be caught unprepared again. The Congress must move now to preserve the mobility of the American people, and to conserve our precious fuel resources.

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. TUNNEY. 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. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On p. 37, line 13, omit the words "section 20" and insert in lieu thereof, the words "either subsection (b) or subsections (c) through (i) of section 20"

Mr. TUNNEY. Mr. President, this is a technical amendment that is being offered to clarify what could be an ambiguity in the language of section 8.

Section 8 provides that, beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs, the retailers will have to label their major household appliances, giving those annual costs on the label.

However, section 20 of the act has two different sets of procedures for establishing annual operating costs. One set of procedures is contained in section 20(b), which provides that, beginning 12 months after the date of enactment of the bill, interim procedures have to be developed for disclosing annual operating costs of major household products. Then, sections (c) through (i) provide for a 30-month period in which the manufacturers must develop test results for establishing annual operating costs of major household appliances.

The 12-month period relates to interim procedures; the 30-month period relates to more permanent procedures. So what we do in this technical amendment is to make very clear that the labeling provisions of this act will apply 6 months after both the 12-month interim procedures are announced by the Commission; and the 30-month period for determination of test results by the manufacturers in accordance with the permanent procedures announced by the Commission. It is a technical amendment. It just clarifies the language of the proposed legislation, and it is supported by the Committee on Commerce.

The PRESIDING OFFICER. Who yields time?

Mr. HASKELL. Mr. President, this seems to be an appropriate amendment, and the floor manager of the bill will accept it.

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

Mr. STEVENS. Mr. President, is the time under control?

The PRESIDING OFFICER. No.

Mr. STEVENS. I should like to ask the Senator from California some questions.

As I understand this amendment, which is in the nature of a substitute, the burden is on the supplier rather than on the manufacturer of a product to disclose to the consumer the energy consuming information that is required by the amendment.

Mr. TUNNEY. That is correct.

Mr. STEVENS. Is the manufacturer of the product at all responsible, under the Senator's amendment?

Mr. TUNNEY. The manufacturer is responsible for supplying the information to the supplier, which information will be placed on the label and will be available to the consuming public when they go in to purchase the product.

I might point out that there are two sets of information that the manufacturer can supply. If the Commission decides that the cost of energy should be determined on a national average basis, the manufacturer would be able to supply the information himself to the supplier, as to the annual operating cost of the appliance, and could actually make up a label which then could be used by the supplier.

If, on the other hand, the Commission feels that there are sufficient regional differences in energy cost, the manufacturer would supply to the retailer the information as to the number of average use cycles the appliances would use a year, the amount of energy the particular appliance used in each use cycle, and the supplier would then have to make a determination, on the basis of energy costs in his particular region, of what the cost of operating that appliance for a year would be.

It would be a simple mathematical computation, similar to determining what the sales tax is; but in that case, the supplier would have to make up the label.

Mr. STEVENS. Mr. President, as I note the provisions of section 20(f), the burden is on the manufacturers to determine the energy use and to provide the information to suppliers. It then gets down to the point that, as I understand this, if a small hardware store in Fairbanks wants to put an ad on a local television station, advertising products in general, and shows one of these energy-consuming appliances, it is going to be a crime, in terms of advertising that product, unless the advertisement states the annual operating cost of the product in accordance with the rules established by the Commission.

Am I correct in that?

Mr. TUNNEY. Yes. But there is a proviso:

That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall

include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

In other words, in that particular case the advertisement would indicate the detail as to the cost in that particular region of the country and the annual operating cost would be supplied by the supplier for the particular area upon the request of the consumer.

Mr. STEVENS. I must state to the Senator from California that it was my understanding we were going to place this burden on the manufacturer. It seems to me that to place this burden on the supplier, particularly in the event of an advertisement, is placing the burden in the wrong place. The person or the entity that has the information available is the manufacturer. To have the supplier subject to criminal action or injunctive process seems to me to be wrong.

I do not know about the Senator from California but I have seen many advertisements on our local television stations where they take the camera into a hardware store or a department store, and they go through those stores and show all the things available. As I understand it, every time they come across a range or coffee pot they would say, "This costs so much a year for energy; this coffee pot costs so much."

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

Mr. STEVENS. I shall yield in just a moment. I wish to finish my train of thought, first.

It is my opinion that the burden should be on the manufacturer to supply that information on the item he manufactures—the cost of the item and the amount of energy it will use. To place the burden on the supplier up in Fairbanks, to have some consumer advocate come in and take him to court because he had a television show that did not show that information, is placing the burden in the wrong place.

Think of the multiplicity of suits involved in one manufactured item. For instance, let us take coffeepots.

Mr. TUNNEY. Coffeepots are not covered. It covers only major household appliances.

Mr. STEVENS. Very well. Take a GE range. I do not know how many suppliers there are in the country. The burden should be on GE and not the supplier to carry this information to the consumer. I am against attacking these small businessmen and harassing them in terms of paperwork and putting them in court on the concept that they are the ones violating the law. They do not have the ability to do this.

My people up in Alaska with their small appliance stores just barely survive. They cannot take on this burden; the manufacturer should take on the burden.

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

Mr. STEVENS. I yield.

Mr. TUNNEY. Where is the additional cost?

Mr. STEVENS. The additional cost is in complying with this act.

Mr. TUNNEY. What is the cost of complying with the act?

Mr. STEVENS. On page 37 it is stated:

Such disclosure shall appear on the label, tag, shelf, display case, counter, contract, estimate, proposal direct mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated in accordance with rules established by the Commission.

How are all of our small appliance dealers going to learn about these rules published in the Federal Register? This should be done by the manufacturer and not the small businessman.

Mr. TUNNEY. As it will be. Apparently the Senator misreads the legislation. What the requirement does is to develop a simple label as to cost and that information is supplied to the retailer by the manufacturer. All of the information is supplied by the manufacturer. All that is required is a simple mathematical computation by the supplier, which is no more difficult than determining the sales tax and pasting it on the particular major household appliance. There is no cost involved except perhaps a few seconds of time in making a mathematical computation that would be involved anyway. So that when the Senator talks about cost, there are no significant costs involved.

A supplier does not have to develop or obtain any of this information. That information has to be supplied by the manufacturer.

Mr. STEVENS. Then the manufacturer ought to be responsible. On page 41, the person against whom a civil action may be commenced is "any supplier." Notification is to be given to the supplier. Why should it not go against the manufacturer? Why should it go against the supplier?

Mr. TUNNEY. A manufacturer is a supplier, as stated in the legislation. A manufacturer is a supplier as much as a retailer. Both are included.

Mr. STEVENS. I just would not support a bill that places this kind of burden on a local retailer as a supplier of appliances that he acquires through a wholesale process and then proceeds to retail. I think it is placing a fantastic burden on the small appliance dealers.

I think the proposed legislation should be limited to imposing on the manufacturer of these products a requirement to state the energy consumption. Let him figure out the normal cost of the electricity or energy. Energy costs a great deal more up my way than it does in California. I do not think suppliers should have placed on them the burden that this bill proposes. Not one single household appliance could be sold without figuring out the local rate for energy. It would have to be figured differently in every city of my State.

Mr. TUNNEY. Only larger appliances are covered. Only if an appliance consumes 200 kilowatts per annum will it be covered, by definition that means stoves, clothes dryers, washing machines, and the like. The mathematical computation that has to be made is no more difficult than a determination of what the sales tax is.

I suppose the Senator would like to enter into an argument that the sales tax computation puts a tremendous burden on the retailer; that it is unfair for him to figure out what the sales tax is. This proposal is no more a burden on the retailer than to figure out what the sales tax is. If there is a requirement to charge a consumer for the sales tax, the seller has to figure it out. I suggest that this proposal imposes no unnecessary burden on the retailer. To say that it does is just not correct; it is unfair.

Mr. STEVENS. I am sorry to disagree with the Senator from California, but I still say that if a store is going to have an advertisement on local television stations to advertise dryers, washers, refrigerators, and freezers, and he knows that all the things that would be involved in the household advertisement may take a minute, he would have to show these costs—so such to operate this, so much to operate that, so much operate the other thing. That, to me, is not proper.

Many of my people buy these things in Anchorage and have to take them to Kenai or Seward, where there are small electric companies. They are going to ask, "What is your rate?" It is not the same as the retail rate in the big cities.

I think that the information ought to be in a little booklet which shows how much the electricity would cost to run a refrigerator or a milker. Why put this burden on the retail operator, someone who is running a mom-and-pop store? That burden ought to be on the manufacturer, not on the small businessman.

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

Mr. TUNNEY. I yield.

Mr. FANNIN. I would like to have the Senator from California repeat his amendment. I believe perhaps it is misunderstood. I agree wholeheartedly with the Senator from Alaska that this bill does exactly what he is talking about. I am opposed to the legislation. But concerning the amendment that the Senator from California is offering, the opposition of the Senator is not covered exactly.

Mr. TUNNEY. The amendment I am offering is a technical amendment. It has nothing to do with the point covered in the colloquy of the Senator from Alaska.

Mr. STEVENS. I thought the Senator was putting together sections 21 and 22.

Mr. TUNNEY. No; we are introducing a technical amendment.

Mr. STEVENS. Then I have no objection.

Mr. TUNNEY. I would be happy to engage in a further colloquy with the Senator from Alaska. Perhaps we can get the amendment acted on first. It is a technical amendment. I am glad to yield back my time on the amendment, if the manager of the bill is prepared to

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California to the amendment in the nature of a substitute.

The amendment to the amendment was agreed to.

Mr. TUNNEY. Mr. President, will the Senator from Colorado yield me about 2 minutes to reply to the Senator from Alaska?

Mr. HASKELL. Mr. President, I yield any amount of time necessary to the Senator from California.

Mr. TUNNEY. Mr. President, one thing I would like to say to the Senator from Alaska, when he talks about a television camera panning various products on the shelf and requiring the supplier to tell what the annual operating cost of the product will be, is that he misstates the case. What is required is a statement of annual operating cost only if the price of the appliance is advertised. So, if the price of a stove is advertised at $250, the answer would have to be that the annual operating cost, for example, is $30 a year. It is that simple. And if the supplier wants to advertise what the cost of an appliance is, there is no reason why he should not tell the consumer what the operating cost is going to be, considering that today in Massachusetts and in New York we have appliance bills which have passed—the laws are on the books—and other jurisdictions are beginning to pass laws that relate to appliance labeling.

The major manufacturers have to comply with those laws, and with the local ordinances and laws as they apply to appliance labeling.

We have a preemption clause in this measure, and I can assure the Senator that the major manufacturers are happy about that, because they do not want to have to comply with a different law in Massachusetts, a different law in New York, a different law in California, and other areas are also beginning to put legislation on their books as they pertain to appliance labeling and energy consumption.

This bill simply creates a national standard. There is nothing wrong with that, especially when we consider the difficulty there is in trying to meet 50 different State laws, and there could be an additional 50 other local jurisdictions that could pass legislation as it relates to this subject matter.

Mr. STEVENS. Let me tell my good friend from California that I am not arguing for any manufacturer. I am talking about the small businessman and his relationship to the consumer. It would seem to me there is a good way to apply this law—legislate for the national manufacturer and then Alaska will legislate for the distributing system. This legislation may make sense in New York City and Los Angeles, but in rural Alaska it does not make sense.

The information the Senator seeks I applaud. The concept he seeks, I applaud. But to extend national legislation down to the level of the retailer and call him a supplier, along with the manufacturer, importer, wholesaler, and so forth, makes no sense. On page 31 of the proposal it states:

> "Supplier" means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer of any new major energy-consuming household product.

As far as I am concerned, putting a retailer in that category is entirely wrong. I believe there is still an area for State legislation, and that in dealing with the local retailers the local jurisdictions will know. My people will know the burdens that the local retailer can take on in addition to those the proponents want to put on the manufacturer.

If my colleagues want to do this to help the manufacturer so they will not run into one law in Idaho, another law in Alaska, another law in California, I applaud that, but that does not mean that we have to put this burden on the small businessman. He is the one who is going to sell appliances to the consumer. He is the one who should not have to go to court.

Mr. TUNNEY. As I understand the Senator's objection, he bases it on the postulate that this is going to be a tremendous burden on the retailer. I would like to ask the Senator how many retailers he has talked to, because the Committee has talked to many retailers, retailers associations, and associations representing merchandising chains, and they say there is no burden on the retailer. I would like to ask the Senator to tell the Senate how many retailers he has talked to when he talks about this horrendous burden.

Mr. STEVENS. I ask the Senator from California how many rural retailers he has talked to. He has been talking to all these national people. How many rural retailers has he talked to? How does he know what goes on in the small television stations when they have to advertise for the small department stores or local appliance stores? I happen to know what goes on there. They go on television when they go on sale.

The Senator says that when they mention the sale price, they also must mention the cost of operating the appliance. That information ought to be on the appliance, and I support his amendment to that extent, but it should not be a burden on the retailer to be included as a supplier, and be included as GE and Westinghouse are. The Senator is saying that Westinghouse must do that. I agree. They can print that information on a card with their dryer or refrigerator, or whatever appliance it is. The local supplier cannot do that. He has to get the information that comes from the manufacturer. He has to put a tag on it. If he does not do it, he is not going to comply with the Federal law. I think it is too much of a burden to pass on to the local retailer.

Again, when we discussed this matter in committee, I thought we were talking about manufacturers, wholesalers, distributors, people who have the wherewithal to meet the requirements such as these on a national scale.

Mr. TUNNEY. I would like to refer the Senator to the legislation, which makes it very clear that the retailer does not have to provide this information himself. The information is provided by the manufacturer. All he has to do is go through the simple mathematical computation of putting it on the label. The information is provided by the manufacturer. On page 33 of amendment No. 757, which is section 20(d), it states:

> Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

All the information is supplied to the retailer by the manufacturer. The retailer is not asked to do anything except multiply, and he has to make a very simple mathematical computation that is no more difficult than figuring out what the sales tax is.

Mr. STEVENS. Mr. President, I could continue this debate for some time. I do not agree that retailers should be included with suppliers on national legislation of this type. I think the duties of the local retailers can be adequately set forth by State legislation. To include this in this legislation at this time, it seemes to me, is wrong.

It would seem to me that the least that could be done would be to delete retailers from the definition of suppliers as it appears in section 19, subparagraph (7) on page 32 so that it would not contain this type of activity.

I have seen a lot of things in the appliance field that have been supplied by manufacturers. They are complying with the Federal law in terms of the concept of fair trade and in terms of the concept on financing.

I do not see any reason why this burden should not be met at the level of the manufacturers. I seriously question whether wholesalers should be responsible.

Do I correctly understand that if a wholesaler supplies deep freezers in Alaska, he has to supply this information after it moves from the wholesaler to the retailer?

Mr. TUNNEY. Mr. President, as to the wholesaler, all that he would have to do is transmit to the retailer the operating cost information that is supplied by the manufacturer. That is all.

Mr. STEVENS. Mr. President, I wonder what that accomplishes. The buyer is in, say, Seattle. The man selling it does not know where it is going to go. If it is going to go, say, to a distributor in the State of Alaska, then it will be spread out over an area that is one-fifth of the area of the United States. Why should not the manufacturer have this responsibility? He is the one creating the device and he puts on a label required by the Federal law. He puts on a little tag and gives the various criteria.

Why is that not the place to put it? It would say that this machine uses X number of units of energy per hour or per month.

Mr. TUNNEY. It would put a substantial burden on the manufacturer. Energy costs in different parts of the country are different. If a manufacturer placed a label on a stove destined for the Seattle market, it would have an annual operating cost there of $20, perhaps. If the manufacturer might decide that instead of sending it to the Seattle market, he had a call for such a stove in the New York market and wanted to ship it there, he would then have to stop the shipment until the label had been removed, and a New York label put on. That puts too much of a burden on him.

There is no reason why each manufacturer cannot supply all the computation aids. Then, if the retailer uses it, he will not even have to go through any additional subtraction or multiplication to put it on.

It seems to me that we are not asking too much of the retailers in asking that they put that label on when all of the information is supplied. That would mean that the manufacturer would have the ability to move the product in commerce to the different markets at will without having to be concerned about placing on another label.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. TUNNEY. I yield.

Mr. MAGNUSON. Mr. President, I think that we are missing one point there. The manufacturer is to be responsible for saying that this stove, or whatever it may be, consumes so many kilowatts per hour or per month. He cannot say how much that would cost a year. If it went to one market, it might cost more than in another market. It might be cheaper elsewhere. Somewhere along the line, they have to take into consideration the cost of kilowatts in a given area.

If a person were to buy a stove, he would say, "Yes, I understand that consumes so many kilowatts per hour. However, how much is that in terms of the cost of kilowatts in a particular area?" It might be up to $30 a month in one area and cheaper in another area, perhaps $20 a month. The manufacturer cannot figure that out.

There are probably 5,000 or 6,000 different kilowatt costs in the United States. That varies. As the Senator has said, the information has to be given according to the cost of the kilowatts.

Mr. TUNNEY. Mr. President, the Senator is correct. I could not agree more with the Senator from Washington.

Mr. MAGNUSON. Mr. President, if we are going to have a labeling program, we have to have someone at the end of the line who knows the price of kilowatts in that area. If it were to consume in average use, 200 kilowatts a month, the retailer would add in the cost of electricity and tell the customer the operating cost.

I think the average buyer is going to say, "Yes, I know that the GE stove is going to consume so many kilowatts." A typical customer might say, "Yes; but how much is that in terms of this area." It is a different cost if it is sold in Seattle than if sold in Alaska. Those are very important figures.

The man selling the product is in a position to know those figures. He has to know them, because he uses kilowatts himself.

I do not know. I thought at one time in the committee that we ought to exempt certain retailers that have a small gross or a very small gross. However, how we arrive at that figure, their annual sales, or something else, I do not know. I do not know where we should cut it off or put it on.

If there is a small retailer in Alaska or some other place, he would have to know the price of a kilowatt. And if it consumes 20 kilowatts or 200 kilowatts, or whatever the manufacturer says, he could use that figure and get the costs.

A housewife wants to know the cost. She does not understand what the cost will be when a man says it will consume 20 kilowatts or 200 kilowatts. The woman wants to know how much this would cost her for an average use per month, per kilowatt hour.

I think that the average retailer would be glad to furnish that information to show that he has the best product and that it consumes less kilowatts. He does not have to make a comparison between the products of competitors. He merely says to the housewife, "This is what this product will cost to operate."

The woman then goes to another store, if there is one, and asks what the competing product would cost to operate. She can then make a choice. However, that can only be done in the local electric area where the price of kilowatts is the same.

The cost of kilowatts vary all over the United States.

Mr. TUNNEY. Mr. President, I agree completely with the Senator from Washington. I think that the points he is making are very cogent.

Mr. MAGNUSON. Mr. President, they may not vary too much, but it is enough that the housewife should be able to find out the cost.

Mr. TUNNEY. Mr. President, there is a great deal of difference between the cost of power generated by Grand Coulee Dam and power generated by oil on the East Coast.

Mr. MAGNUSON. The housewife has to be able to find out the cost, and she should be able to discover that the use of this product would cost so much an hour.

Mr. TUNNEY. Mr. President, in the hearings we developed information with regard to air-conditioners—and this would not apply in Alaska—that there is a 60-percent variation in the annual operating cost, and over a period of 8 or 10 years, which is the average life of an air-conditioner, this could be a very major additional cost if the housewife were to purchase an air-conditioner that consumed more energy.

After all, we are talking about trying to save some energy. We hope that the housewife would be in a position to purchase an appliance that consumes less energy.

Mr. MAGNUSON. It gives them a little clue. It was hard to develop this. If a family with five children purchased a refrigerator, it will cost more to operate that refrigerator because the kids open the door every 15 minutes, whereas for a family that has one child or no children at all it is a different cost. But the manufacturer tries to give them a pretty good clue, and that has to be combined with the cost of a kilowatt in the area where it is being sold.

Mr. TUNNEY. That is right. And we are talking about a lot of energy consumption here. When we talk about climatic conditioning systems and the major household appliances such as stoves, water heaters, and clothes dryers, we are talking about a high percentage of the total energy consumed in the country. That is not insignificant. If we can have a significant saving in this area, it is going to mean a lot insofar as our energy resources are concerned.

Mr. MAGNUSON. I understand also, and I should have mentioned it, that the retailer is told, upon a simple query, the cost per kilowatt by the Federal Trade Commission on an average regional, national, or other basis.

Mr. TUNNEY. It does not even require a query. It is supplied to him without a query.

Mr. MAGNUSON. He does not even have to get the information himself. I suppose the retailer can write a letter to the Federal Trade Commission and get all the figures.

Mr. TUNNEY. He does not even have to write a letter. I would point out to my distinguished chairman that the information is provided to him whether he asks for it or not. It comes with the product.

Mr. MAGNUSON. Yes; the manufacturer puts it on.

Mr. TUNNEY. Yes; it comes with the information on it.

Mr. STEVENS. Mr. President, will the Senator from California permit me to get involved here?

Mr. TUNNEY. I yield.

Mr. STEVENS. I think what we really want to do is disclose, on every appliance, the energy use per hour. My good friend here has just reminded me of the differences in washers. I recall the day when we had five children under 5, and that washer ran 24 hours a day. Is the Senator trying to tell me that my wife, under those circumstances, could go down and get an annual operating cost on a new washer, and it would be relevant to her? How are you going to get an annual operating cost on a new washer for someone who has five little children, as compared with someone who is single? It has to be in terms of a cost per unit. My wife would say, "I ran the thing almost 24 hours a day back in those days." That would be a different matter from telling the customer it would cost $20 per month. In those terms, it would probably have cost her $80 a month.

I would like to get this in a position where it would be meaningful throughout the country to look at an appliance and be able to say," This takes so much energy per hour of use."

As the Senator from Washington says, if you have a refrigerator and those teenagers are opening it up every 3 minutes, you know it will cost you a lot more to run that refrigerator than if you are a single bachelor opening it up once in the morning and once at night.

But beyond that, I come back to the statement in every advertisement of the annual operating cost of every one of those appliances. That, to me, again is a burden I do not think the Senator from California recognizes in terms of the local television stations dealing with local retailers and trying to advertise a product in a minimum amount of time. I think we ought to change it and make it apply to manufacturers, and make the requirement, instead of an annual operating cost, an hourly energy consumption figure.

Mr. TUNNEY. Well, to discuss first the value of having an annual operating cost on the label: What we are talking about here is comparative shopping. If you know that an appliance, say a stove, with one brand name is going to cost you $30 a year to operate, on an average basis, and a stove of another brand name is going to cost you $50 a year to operate on an average basis, it is clear that the stove that costs $30 is cheaper to operate no matter how much or how little you use it. It is for comparison purposes that the annual operating cost is a significant factor.

Mr. STEVENS. Let me suggest that some of the discount houses I have seen in Los Angeles and elsewhere, those things that look like warehouses to me, or like a hangar when you walk into them, those people could make the comparison. I want my consumers to have some protection. But I think we ought to do it by a provision where the manufacturer states on each one of these appliances the energy use, and a retailer who does less than a million dollars business per year can rely on that information, and it is the manufacturer who has to answer to the consumer if it is not reliable.

I think we ought to consider the implication of the Senator's definition as far as an individual is concerned. As I understand this measure, if a young serviceman from California goes up to one of our military bases in Alaska, and decides to sell his household appliances when he leaves, he has to make the computation.

Mr. TUNNEY. No.

Mr. STEVENS. Tell me where the Senator's definition excludes it. I do not see any individual or resale exclusions.

Mr. TUNNEY. The point, of course, is that it applies only to the sale of a new appliance. I call the Senator's attention to section 21, page 37, beginning on line 13:

it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product

It does not apply to the man or the woman who wants to resell an appliance.

Mr. STEVENS. I thank the Senator from California. I had not noticed that. Does that apply to the other sections as well as section 21?

Mr. TUNNEY. Yes, that is correct. Is it the suggestion of the Senator from Alaska that he would like to offer some kind of an amendment with respect to the amount of dollar volume that a retailer would have to have in order to be included under the provisions of this act, exempting, for instance, retailers which are very small, and putting the burden on the manufacturers for those small retailers?

Mr. STEVENS. The Senator from Alaska would like to redefine the term "supplier" as the definition appears on page 31 to mean any manufacturer, importer, or wholesaler, and leave the retail distributors out.

Mr. TUNNEY. I do not accept that, because the hearings have clearly shown that the burden ought to be on that individual who sells the product, who is in an area where energy costs may vary from an adjacent area. It would be an undue burden on the manufacturer to require him to label, at the place of manufacture, every household appliance, when it may very well be he would want to be able to move an appliance from the Seattle market, for instance, to the New York or Los Angeles market, and would not be able, with any degree of facility, to change the label prior to the time that that particular product or appliance was sent out, or arrived at the end destination. I just think that puts too much of a burden on the manufacturer.

Mr. STEVENS. The Senator from Alaska would also like to change the annual operating cost to hourly operating cost, and to put the burden on the manufacturer instead of the supplier in terms of advertisements stating the hourly operating costs of such products. Then I could support the bill.

Mr. TUNNEY. If we put it on an hourly basis, that would make it far more complicated. It would become so complicated that it would kill the system. Everyone would recognize it was something out of Alice in Wonderland, and it would be defeated over on the House side.

Mr. STEVENS. As to the question of a yardstick, we could measure the hourly use on an individual appliance much easier than the annual use. I point out that we do not use a deep freeze as long as you do every year. On the other hand I do know of people that have airconditioners in Alaska and they do not use them as much as you do here every year. So what relevancy to an annual rate of operation would there be in those circumstances? It is the hourly cost that is important. On a daily basis, that might be, too, but in terms of a washer the relevancy would be on the hourly use to the housewife and not on the annual operating use.

Mr. TUNNEY. If washer A costs $10 a year to operate and washer B costs $20 a year to operate, no matter what the cost of the power, washer A is cheaper than washer B for comparative purposes. The housewife is able to see clearly that washer A is cheaper. You start getting into the hourly cost of energy and you are dealing with mills and not even a cent. I dare say that the average housewife has no way to decipher what the cost would be to her of operating a washing machine for a year if you are talking about the cost of energy per hour. That would complicate the thing so badly that the effect would be to kill the legislation because you would have hearings on the House side and it would make it clear that the thing was put together out of whole cloth. No one would accept it. The voluntary program that is now being conducted by the Federal Government talks about the annual operating cost. It does not talk about the mills or the cost per kilowatt hour. How relevant are mills per kilowatt hour to the housewife? How relevant is the cost?

Mr. STEVENS. I will tell the Senator how relevant the hourly cost is. Take your washer, one has an 18-pound load and the other has a 12-pound load. It will cost twice as much to run as the other. The 18-pound will cost twice as much as the 12-pound, but I think the average housewife would prefer to have the 18-pound washer and pay the extra cost because she can get the job done in half the time. The housewife does have the ability to compare the cubic footage of her deep freezes and refrigerators. They compare them. She compares the speed of sewing machines, one against the other. There are many other things the housewife is able to compare. I think that here we are giving them something which is entirely irrelevant to the comparisons because it is on an annual basis. It will only be relevant to those who plug something in and leave it on all year. They will use up energy all year. Then you have something relevant, but there is no relevance in an appliance that one can turn on and off. I believe the Senator has the wrong concept here dealing with the operating cost on an annual basis which will put the supplier and the local retailer in the position of carrying that burden. It will not give the housewife something relevant in terms of her actual usage of an appliance.

Mr. TUNNEY. I suppose there are two sides to every story, but the State laws are based on annual operating costs and so is the Commerce Department voluntary program based on an annual operating cost. Hearings were held, which I chaired, which made it clear that the annual operating cost is the simplest computation to make. We did not have any information available that mills per kilowatt hour would be relevant to the housewife and therefore I think we should stick to the bill as written.

Mr. HASKELL. Mr. President, I send to the desk an amendment which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 61, line 24, omit the word "Secretary" and insert in lieu thereof, the word "Council".

On page 62, line 2, omit the word "Secretary" and insert in lieu thereof, the word "Council".

Mr. HASKELL. Mr. President, this is a purely technical amendment. When the Council on Energy Policy was put in the bill, the appropriate change was made on page 61, line 13. But conforming changes were not made on page 61, line 24, and page 62, line 2.

Mr. HANSEN. Mr. President, there is no objection on this side of the aisle to the adoption of the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I have an amendment at the desk which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

AMENDMENT No. 757

On page 17, after line 10, of amendment No. 757, amend section 4c by adding a new subsection as follows:

"(7) provide assistance to the Congress in the preparation of energy conservation materials, including booklets and bumper stickers, for distribution to constituent groups.

Mr. BARTLETT. Mr. President, this amendment is designed to supplement the thrust of S. 2176 by making available various kinds of material that could be distributed through field offices and other Senate offices to constituents. It directs the Office of Energy Conservation in the Interior Department to produce appropriate material which will help educate the American people to conserve energy. It can take many different forms. In my case, our office received considerable inquiries for such material which we did not have available. I believe that this will help educate and bring to the attention of our citizens the critical nature of the energy crisis. I believe that this amendment is acceptable to the majority.

Mr. HASKELL. It is indeed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

The bill is open to further amendment.

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HART. Mr. President, I send an amendment to the desk.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 80, line 3, strike everything commencing with the word "PROPRIETARY", through and including the word "found.", on page 82, line 25, and insert in lieu thereof the following:

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 609. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—resulting in whole or part from federally assisted research shall be made available at the earliest possible date to the general public, including but not limited to nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses 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 Federal research. The Secretary shall make government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

"(3)(A) Whenever a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed development project, the Secretary shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: Provided, That any such agreement shall provide that when the advanced automobile development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial production of an advanced automobile developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in forms which shall take into account that the commercial viability of the advanced automobile was achieved with the assistance of public funds.

"(D) 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 title for or under the sponsorship or cosponsorship of the Secretary 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 title.

"(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1)(A) in the implementation of the requirements of this title a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonably equivalent methods to accomplish such purpose, and

"(2) 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 Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory 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.

"(c) COMPETITION AND SMALL BUSINESS.—The Secretary shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

Mr. HART. Mr. President, this amendment is offered on behalf of Senator LONG and myself.

This amendment, in large part, of a technical and conforming nature. It conforms the patent provisions of this bill to the patent provisions adopted December 6 by this body to the energy research and development bill (S. 1283).

Section 609 of this bill contains the basic patent principles adopted by the Senate last week in S. 1283. This amendment conforms the language and makes the intent explicit. It seeks to make clear that patents and know-how arising out of government-funded research and development are made available at the earliest possible date to the general public on nonexclusive and nondiscriminatory terms.

Mr. President, I am pleased to report that this amendment is supported in all respects by the Department of Justice. The Department's analysis of the policy issues are quite perceptive, and I ask unanimous consent that the Department's letter, together with several attachments, be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., December 10, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This report is to set forth the views of the Department of Justice on section 112 ("Patent Policy and Mandatory Licensing") of S. 1283, the "National Energy Research and Development Policy Act of 1973," as amended by Amendment 766 (Hart-Long-Nelson). It is understood that similar provisions are under consideration in connection with S. 2176, the "National Fuels and Energy Conservation Act of 1973," where they would comprise section 609. For purposes of convenience, reference will be made throughout this report to section 112 of S. 1283, in the form that bill passed the United States Senate on December 7, 1973.

I. SUMMARY OF SECTION 112

Subsection (a) provides for the administration of patent rights and other technology in connection with government research contracts and demonstration projects under the Act. Paragraph (1) is a statement of policy that technological information developed under the Act shall promptly be made available for utilization by the public. Paragraph (2) requires the head of the government agency overseeing such projects to make such technology available to all quali-

fied applicants on nonexclusive and nondiscriminatory terms; in doing so, he is to determine on a case-by-case basis whether to grant licenses for this purpose on a royalty-free or royalty-bearing basis. Paragraph (3) requires the agency head to insure, in such research and development contracts into which he enters, that the equitable rights of the public and the private contractor be protected; in this connection, background technology reasonably necessary to the commercial utilization of the technology developed under the contract is to be made available to all qualified applicants on reasonable and nondiscriminatory terms.

Subsection (b) defines procedures and rights in respect to technology relating to projects conducted by the joint Federal-industry corporations to be established pursuant to the Act. Such corporations, participants therein, and other Government agencies or instrumentalities, are to receive royalty-free, unrestricted licenses to practice any invention or discovery employed in any demonstration project or commercial facility provided for by the Act. Such corporations are to receive any royalty income generated through the licensing of patents.

Subsection (c) provides that if the head of the government agency overseeing the project determines that mandatory patent licensing is necessary to implement the Act, he is to certify the matter to an appropriate district court of the United States. If the district court upholds this determination, the court is then to issue an order to the patentee requiring licensing on reasonable and nondiscriminatory terms.

Subsection (d) is a statement of policy that the head of the agency overseeing the project, in determining license terms, is to "give weight" to the effects of such terms on competition and small business.

II. EXISTING LAW AND POLICY AFFECTED BY SECTION 112

Section 112 involves acquisition of title to and disposition of government-financed inventions and technology, as well as access to "background" patents and technology reasonably necessary to permit commercial utilization of such government-financed inventions and technology; and mandatory licensing of patents reasonably necessary to the utilization of energy systems to be developed pursuant to the Act.

A

As to the first point, to the extent that the Congress has acted in the past, it has provided, in a number of specific circumstances, that whenever the government finances the research work of an inventor, then the government is entitled to any patent arising from such research (and, in some circumstances, to a license to any background patents, as well, needed for utilization of the first patent). See, e.g., 42 U.S.C. 1959d(d) and 3253(c), 30 U.S.C. 666 and 951(c), 22 U.SC 2572

The rationale for these provisions, apparently, has been based on several considerations: First, if the government hires a contractor to perform certain research work for it, it is said that the government should receive and take title to what it has bought. Having bought the technology at tax-payer expense, the government should then disseminate the technological information as widely as possible to benefit whoever can use it. It has been deemed unfair to the public to give the private contractor whom the government has hired private monopoly privileges in the subject matter of his publicly-funded government contract. In this connection, it has been suggested that the normal incentive toward research supplied by the patent system is inapplicable, for the government has underwritten the process and risk of the whole venture. E.g., "Economic and Legal Problems of Government Patent Policies," Report for the Subcommittee on Monopoly, Senate Select Committee on Small Business, June 15, 1963; Hearings on Patent Policies of Departments and Agencies of the Federal Government before the Senate Select Committee on Small Business, December 8–10, 1959.

Although such statutory provisions occur in several specific areas of government-funded research, there is at present no general such legislation in respect to government-funded activity. Absent more general legislation dealing with the acquisition and disposition of government-sponsored technology, President Nixon issued a Statement of Government Patent Policy, on August 23, 1971. This policy statement is necessarily very general, for it deals with a variety of federal agencies having widely different patent programs. It provides that for patents involving "the public health, public safety, or public welfare" the government "shall normally acquire" exclusive rights to any inventions made in the course of a government contract. If the government does not acquire such exclusive rights, however, the policy statement permits the contractor to obtain them after the invention has been identified under certain circumstances. The policy statement also permits the contractor to acquire "greater rights than a nonexclusive license" to potential, but unidentified, inventions arising from contracted-for, but not yet performed, research in "exceptional circumstances.

To implement the Presidential Policy Statement, the General Services Administration has issued two sets of regulations. The first set ("Federal Property Management Regulations—Patents," 38 F.R. 3328, Feb. 5, 1973) became effective on May 7, 1973. These regulations prescribe the procedures for licensing patents already owned by the government. The second set of regulations ("Federal Procurement Regulations—Patents, Data, and Copyrights," 38 F.R. 23782, Sept. 4, 1973) has not yet taken effect (and is due to come into effect on March 4, 1974), and is now in the process of being commented upon by a number of interested parties. These regulations involve the proposed allocation to contractors of rights to government-sponsored inventions, both before and after these inventions are identified. The comments concerning this second set of regulations indicate that further change may be necessary in them. For example, by a November 8, 1973, letter to the General Services Administration, the Department of Justice commented on these regulations:

"[I]t is possible that the courts could find that, in absence of an agency's having statutory authorization, there would be an unconstitutional disposition of government property under the amendment's implementation of the Presidential Statement's provisions . . ."

This position was also expressed earlier to the General Services Administration in an August 23, 1973, letter by Attorney General Richardson, which urged "a careful examination of the amendments to assure that any Constitutional deficiencies are eliminated."

B

As to the other point—mandatory licensing of necessary patents—Congress has already similarly acted in several closely related areas. A very broad or general such provision is section 1498 of the Judicial Code (28 U.S.C. 1498), which provides, in effect, for a mandatory license whenever a patented invention is used by or manufactured by or for the United States. Under this provision, a patentee has no right to exclude or secure an injunction against such use; there is automatically a mandatory license to the government and its contractors. The patentee has a claim for just compensation, however, which may be brought before the Court of Claims. The predecessor of section 1498 was enacted by Congress in 1910, and, with amendments, has remained a part of the statutory law to the present time. The original reason for this statute, and one that retains vitality today, is that the government retains the right to undertake and carry out work involving the national defense and security, or other such public necessities, without being blocked from doing so by the patent system, although it should pay reasonable compensation for the use of the patented invention. Unlike section 112(c) of this Act, however, there is no case-by-case balancing of equities in section 1498; instead, the mandatory licenses to the government and its contractors is automatic and cuts across all fields of technological development.

There are also other more specific statutory provisions by which Congress has expressly provided for mandatory licensing of patents touching on public health, safety, and welfare. See, 42 U.S.C. 1857h–6 and 2183; 7 U.S.C. 2404.

III. DISCUSSION

The United States Senate has declared that energy shortages constitute "a threat to the public health, safety, and welfare", "pose a serious risk to national security" and the "economic well-being, and health and welfare of the American people"; and "require emergency measures." See S. 2589, § 101 passed by the Senate, Nov. 19, 1973. The present legislation is designed to help meet the "nationwide energy emergency" (*ibid.*) through developing and funding (at $20 billion over ten years) an aggressive federal research effort to make the United States self-sufficient through domestic energy resources.

The legislation of which section 112 is a part contemplates direct federal contracting to conduct research into energy problems, and the creation of "joint Federal-industry corporations" to demonstrate or operate particular forms of unconventional energy technology. Federal participation—in no instance to exceed 90% of the costs—is to end within an established time limit, so that the newly created energy corporations will ultimately become part of the private sector of the economy. Section 112 deals with the significant public interest in the ownership and utilization of government-sponsored technology. This Department supports the purpose of section 112 and recommends its enactment, in the form it passed the Senate on December 7, 1973.

Section 112(a)(1) provides that any unclassified technological information bought or developed by the government pursuant to the Act should be "made available at the earliest possible date to the general public." Paragraph (2) of this subsection provides that the head of the agency overseeing the project is to make government-sponsored technology available to qualified applicants on nonexclusive and nondiscriminatory terms. Since the purpose of the Act is to bring forth new energy technology that will be of general use to the economy, it would appear highly desirable that all those conducting energy research should have full and unhindered access to the work being carried out under the Act, so that all researchers will be able to build upon, further improve, and fully utilize the latest advances in the art.

The policy decision that the government should take title to any invention developed in the course of its contracted-for research appears to be implicit in paragraphs (1) and (2) of subsection (a). That has, at least, been the settled administrative interpreta-

tion of similar language in other Acts of Congress. There seem to be two principal bases supporting this decision. The first—the more general one—is that the government should take title to what it has bought. See p. 3, *supra*. The second basis arises from the particular needs of this Act. For the government to assure full and prompt disclosure of energy technology, as required by subsection (a)(1), it will first have to obtain through ownership the ability to disseminate it.

It has been suggested that, instead, the government should give contractors the right to title in any future inventions that may be developed under government energy research contracts. The justification urged in favor of this position is that failure to give away such rights to contractors could hinder the commercial utilization of inventions in some cases. It is wholly unexplained, however, in the circumstances of this Act, how any such effect would result—and it would seem that it is most unlikely that it would in fact occur, given the present financial incentives to such exploitation. For these reasons, it would appear that the only clearly discernible effect of giving away such rights to private parties would be to confer a substantial private benefit without compensating public gain. Moreover, because this proposal would contemplate giving away title to future, as yet unknown and undeterminable inventions, there would be no way to calculate the value of the technology that the government would be giving away—so that the Congress could not safely anticipate that ordinary considerations of prudence in the disposition of government property would properly be applied.

It has also been suggested that, instead of following the pattern of such statutes as 42 U.S.C. (1959d(d), this portion of section 112 should simply incorporate by reference the Presidential Policy Statement dealing with government patents, generally, and part, but not all, of the proposed GSA patent regulations now under comment (see p. 4, *supra*). As the preceding discussion of the Policy Statement indicates, however, the Statement deals in general terms with all types of government patents, and does not deal with the specific concerns that are peculiar to the new energy technology to be developed to meet the present emergency. Moreover, one portion of the Policy Statement—section 1 (a)(2), the "public welfare" section—is more apposite to the present case than the remainder of the Statement, and this section is consistent with section 112(a) in its present form. In addition, given the amount of money involved, the amount and value of the new technology that is hoped to be produced, and the crucial national purposes which this technology is to serve, it is most proper that this Act specifically address the many specific issues raised by the ownership of patents and technology, and offer specific policy guidance on these issues.

For similar reasons, reference to the very general proposed GSA regulations would be an inadequate substitute for the specifics of section 112(a). In addition, these proposed regulations are still undergoing technical review, and they may well be changed and improved further.* If it is decided, however, in any reconsideration of section 112—which we do not believe necessary—that general regulations be referred to, then both sets of regulations implementing the Presidential Policy Statement should be cited.

* We would also note, as a matter of drafting, that it is not appropriate to refer to these regulations as amending the Presidential Policy Statements. They only implement this Statement, and should be drafted in conformity with it.

Section 112(a)(3) provides that any participant in any program or contract is to agree, as a condition of being a contractor, that background technology used in the proposed energy program is to "be made available to any qualified applicant on reasonable and nondiscriminatory terms" or in some other form—the latter presumably being actual products that embody such background technology. This provision, as a safeguard to the contractor, also requires that "equitable protection" be given the contractor. It would appear that, if the government has for the benefit of the public financed a significant improvement in energy technology, then it would not be proper or fair for the contractor to be able to block the public from utilizing the fruits of that public investment, through the control of background technology. Paragraph (3) of this subsection would therefore seem a necessary measure to insure that the public will be benefited by the research and technological development to be brought forth by the Act.

Subsection (b) assures the joint Federal-industry corporations to be set up by this Act royalty-free unrestricted licenses to practice inventions employed in the demonstration projects or commercial facilities provided by the Act. This approach is preferable to the alternative some have proposed of requiring these corporations to purchase this government-sponsored technology from each other or from the federal government. The possibility of purchase, or grant of authority to make purchases, does not guarantee access to the technology, if the owner does not wish to sell or demands a prohibitive price. Moreover, interagency purchases are an unnecessary and wasteful process.

Subsection (c) provides for the mandatory licensing of certain patents. The possible patents involved are those "reasonably necessary to the development or demonstration of an energy system or technology pursuant to this Act." If, to implement the Act, the head of the government agency overseeing the energy project determines that a patent should be subject to mandatory patent licensing, he is to certify the matter to an appropriate federal district court. The subsection provides, as a precondition for such a certification, that the agency head make four determinations: (1) that such utilization of the patent right is "reasonably necessary" to "the development or demonstration of an energy system or technology" pursuant to the Act, (2) that this right is "not otherwise reasonably available," (3) that "there are no reasonably equivalent methods to accomplish such purpose," and (4) that the unavailability of this right may tend to lessen competition. If the district court upholds this determination, presumably on the basis of Administrative Procedure Act standards, then the patent becomes subject to mandatory licensing on reasonable and nondiscriminatory terms and conditions. This provision is substantially equivalent to section 308 of the Clean Air Act (42 U.S.C. 1857h-6), on which it appears to be patterned.

In certain cases, the conduct of a private patent holder could interfere with the efficient and expeditious implementation of the requirements of this Act. As a matter of economics, a private party, holding a critical patent on energy technology, would rationally maximize his economic profits by restricting production and output to gain a maximum monopoly surcharge (or "economic rent"). The purpose of the present energy legislation, however, is to maximize the output and production of energy-related technology. There may thus be a conflict between the purposes and objectives of the legislation and the most rational economic behavior of a monopolist.

A public policy favoring maximization of output is already recognized and embodied in 28 U.S.C. 1498, which permits use of patents for governmental purposes, subject to just compensation therefor. To the extent that section 1498 would already provide the corporations to be set up by this Act, or any contractors under this Act, access to any patented United States technology, present law is thoroughly consistent with the objectives of section 112(c). The added thrust of section 112(c), therefore, is quite limited—it would appear that it is to permit possible private competitors of these government-supported corporations or contractors to have access to critical energy technology on equal terms with such government corporations or contractors, while providing the patent owner reasonable compensation for the use of his invention. Section 112(c) would therefore appear to be designed as a safeguard to ensure equitable and nondiscriminatory treatment to all researchers and industries involved in this national effort.

There is a further consideration that applies to S. 2176, the "National Fuels and Energy Conservation Act of 1973," that may be inapplicable to S. 1283. In S. 2176, there is a more specific need for mandatory patent licensing provisions. Section 9 of that proposed bill would require the Secretary of Transportation to set minimum standards for fuel consumption by automobiles. If an invention were made that significantly reduced automobile fuel consumption, the Secretary of Transportation would presumably set standards for fuel consumption based on the invention, that would therefore effectively require utilization of that invention in automobile engine design. To make this possible, however, it is necessary to empower the Secretary to make the invention generally available on a reasonable basis, if the owner will not otherwise do so. This is the same reasoning that justified having mandatory patent licensing provisions (42 U.S.C. 1857h-6) included in the Clean Air Act, which sets maximum standards for emissions of pollutants.

Some have speculated that mandatory patent licensing in the field of government-sponsored energy systems and technology is unjust or even may undercut the incentives to produce new energy technology—incentives that S. 1283 is intended to provide. We do not agree with this assertion.

The ordinary mechanisms of the patent system are an important means to spur the growth of technology, but not the only method used in this country to do so. In 1972, for example, the federal government provided 54% of the funds expended for the national research and development effort (National Science Foundation publication, NSF 72-300), and this funding rather than strictly private incentives motivated a major portion of the country's scientific and inventive advances. If a policy decision is to be made that our energy crisis requires a major national effort, major federal funding, and the mobilization of all our national resources to make this nation self-sufficient in energy by 1980—and that decision appears to have been made—then a system based on providing incentives through grants of private monopoly may well require, or properly be subject to, some degree of adjustment, in the narrow area affected by the legislation proposed, in order to be accommodated to this national effort.

Moreover, given the great impetus to research that can be expected to follow from the massive influx of federal spending, and the guaranteed demand and nationwide market for any significant advance in this area, it is extremely unlikely that mandatory licensing would effect any serious disincen-

tive to research in this area. The same argument has been made about compulsory licensing of air pollution technology, and proved groundless. On June 4, 1971, the Environmental Protection Agency observed, about language similar to section 112(c), that had been incorporated into the Clean Air Act—

"Since enactment of the [Mandatory licensing] provision in December 1970, we know of no cutback in air pollution control research nor do we know of any lessening of interest in entering the field on the part of the business community."

IV. CONCLUSION

The Department of Justice recommends enactment of section 112, in the form passed by the Senate on December 7, 1973, and incorporation of a provision in S. 2176, modeled on that section. However, this is an important and complex matter, and one upon which the Congress might well choose to hold hearings prior to enactment.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General Antitrust Division.

AUGUST 23, 1973.

Mr. A. H. HELVESTINE,
Chairman, Implementation Subcommittee, Committee on Government Patent Policy, Federal Council on Science and Technology, U.S. Department of Commerce Building, Washington, D.C.

DEAR MR. HELVESTINE: This is in response to your letter of June 20, 1973, concerning the enclosed opinion memorandum written by the former Assistant Attorney General for the Office of Legal Counsel, Roger C. Cramton, dated October 10, 1972.

That memorandum considered, among other things, the legality of a clause in a Government contract, granting to a private contractor inheats patent rights which in the absence of the clause would belong to the Government. The opinion memorandum concluded that such a grant probably constitutes a "disposal" of Government property within the meaning of Article IV, Section 3, Clause 2, of the United States Constitution. Since that constitutional provision grants to Congress the exclusive authority to dispose of Government property, such disposal of patent rights through a Government contract would be Constitutionally suspect unless such disposal were based on valid statutory authority.

The views expressed in the memorandum do reflect the official position of the Department of Justice. In view of the seriousness of the Constitutional issue which is raised, and the high probability that the proposed amendments to the Federal Procurement Regulations would be challenged in court (similar provisions already having been challenged, in still-pending litigation), this Department favors a careful examination of the amendments to assure that any Constitutional deficiencies are eliminated.

Contrary to your suggestion, the opinion memorandum is not inconsistent with the 1971 Presidential Statement of Patent Policy. That Statement refers to the granting of "greater rights than a nonexclusive license" or "principal or exclusive rights in an invention" to government contractors, under certain conditions. The form of such licensing is not dealt with, nor would it be appropriate to do so, in the Presidential Statement. The question of form is one to be addressed in drafting regulations that will implement the policies outlined in such a Statement and be consistent with the other requirements of law. The opinion memorandum simply indicates that the form of such exclusive licensing should conform to the requirements of law and the various procedures adopted for the licensing of Government-owned patents (modified appropriately to deal with specific problems raised by procurement contracts).

Sincerely,

ELLIOT RICHARDSON,
Attorney General.

Enclosure

FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY,
Washington, D.C., June 20, 1973.

HON. ELLIOT L. RICHARDSON,
Attorney General,
Washington, D.C.

DEAR ATTORNEY GENERAL: Enclosed is a copy of the Memorandum and Statement of Government Patent Policy issued by President Nixon on August 23, 1971. Basically, the Statement relates to the allocation of invention rights between the Government and its contractors in those situations where the invention results from research funded by the Government.

Among other things, the Policy Statement provides that the Federal Council for Science and Technology shall continue to "develop by mutual consultation and coordination with the agencies common guidelines for implementation of this policy, consistent with existing statutes". It also states that a Committee on Government Patent Policy shall assist the Federal Council in performing its functions under the Statement.

One of the standing Subcommittees established under the Committee is the Implementation Subcommittee charged with the responsibility for reviewing and determining conformance of agency contract patent regulations with the Presidential Statement.

In late 1971, the Implementation Subcommittee undertook the drafting of an amendment to the Federal Procurement Regulations (FPR) which for the first time would provide standard patent rights clauses for Government-wide use. This task, intended to uniformly and promptly implement the 1971 Presidential statement of Government Patent Policy, was undertaken in cooperation with the General Services Administration (GSA). In keeping with the provisions of the Presidential Statement, the use of the prescribed patent rights clauses set forth in the proposed amendment to the FPR are subject to statutory requirements. Ultimately, the amendment is to be issued by the Administrator of General Services.

On May 9, 1972, GSA circulated to the Government agencies, industry and the Patent Bar the draft proposed amendment to the FPR for comment. Thereafter, the Implementation subcommittee considered the comments received by GSA, including those of the Department of Justice, and it revised the proposed amendment as appropriate. A copy of the proposed amendment to the FPR as approved by the Implementation Subcommittee during its May 29, 1973 meeting is enclosed. It is noted that much effort was made to draft the proposed amendment to the FPR so that it would mirror the guidance and maintain the agency flexibility provided by the Presidential Statement.

In November 1972, in my capacity as Chairman of the Implementation Subcommittee, I received a copy of the enclosed internal memorandum of the Department of Justice dated October 10, 1972, which raises some legal questions concerning the constitutionality of the proposed amendment to the FPR and therefore the Presidential Statement itself.

The Implementation Subcommittee has taken no action with respect to this internal memorandum of the Department of Justice since it does not recognize it to be the official position of the Attorney General, nor is the Implementation Subcommittee in a position to entertain questions concerning the constitutionality of the Presidential Statement.

While the merits of the internal memorandum have not been formally considered, it appears at first blush that a basic premise of contract law has been violated in the arguments presented.

The memorandum states that the Government may not properly dispose of Government property, i.e., invention rights, without express Congressional authority, and if it were to do so would violate Article IV, Section 3, Clause 2 of the Constitution. I agree with this statement, yet it is also true that the Government cannot dispose of something it does not own.

The contract between the Government and the contractor sets forth the method and total basis for determining rights to inventions resulting under the contract. The proposed patent rights clauses, which implement the "greater rights" provisions of the 1971 Presidential Statement, when incorporated in a contract specifically provide the method in which the rights are to be allocated. The clauses permit the contractor to enter into the contract knowing that he will be permitted to retain the patent rights to resulting inventions under certain conditions, and the Government in effect agrees at the time of contracting that the allocation of the invention rights will be made in accordance with the contractual agreement. The terms of the contract therefore provide the basis for ownership in the contractor or in the Government depending on the circumstances.

Accordingly, in those contractual situations where it is determined under the terms of the contract that the contractor is entitled to retain title or ownership in the inventions under the "greater rights" provision of the contract patent rights clause, the Government never acquires title or ownership. In these situations, it also follows that the Government cannot dispose of property it never owned.

It is noted that similar "greater rights" provisions were a part of the 1963 Statement of Government Patent Policy issued by President Kennedy and that the Department of Justice never raised any legal questions heretofore concerning these provisions, nor did the Department raise such questions recently prior to the issuance of the 1971 Nixon Statement.

In closing, if the views expressed in the internal memorandum represent the views of the Attorney General, such views should more properly be directed to President Nixon so that he may amend the Presidential Statement as may be necessary.

Sincerely,

A. H. HELVESTINE,
Chairman,
Implementation Subcommittee.

U.S. GOVERNMENT,
DEPARTMENT OF JUSTICE,
October 10, 1972.

To: Mr. BRUCE B. WILSON, Deputy Assistant Attorney General, Antitrust Division.
From: ROGER C. CRAMTON, Assistant Attorney General, Office of Legal Counsel.
Subject: Constitutionality of Proposed Regulations Granting Contractors Greater or Principal Rights in Patents Arising Out of Government Research and Development Contracts.

You have requested the opinion of this Office on a question concerning the constitutionality of proposed Government-wide regulations controlling the assignment of rights to inventions developed under Government-financed research and development contracts. More precisely, the question is whether the assignment to the contractor of "greater rights" or "principal rights" in such inven-

tions would violate Article IV, section 3, clause 2, of the Constitution, which grants to Congress the exclusive authority to dispose of Government property. You have also requested our views on whether existing Government contract law could be interpreted as authorizing a disposal of invention-rights as added consideration for services performed under a Government contract.

It is our conclusion that application of the proposed regulations could, in certain circumstances, result in an assignment of rights to the contractor constituting an unauthorized disposal of property. At the same time, it is our view that this deficiency can be corrected without major modifications and without abandoning the major policy objectives which the drafters of the regulations have sought to attain.

I. THE REGULATIONS

President Nixon's policy statement of August 23, 1971, 36 Fed. Reg. 16887, prescribed certain guidelines for the disposition of patent rights on inventions made by contractors in work arising out of Government research and development contracts. For the most part, these guidelines simply clarified and expanded the principles set forth in an earlier statement issued by President Kennedy, 28 Fed. 10943 (1963). The proposed GSA regulations, which are a responsibility of the Committee on Government Patent Policy of the Federal Council on Science and Technology, are intended to provide uniform Government-wide procedures in compliance with the Presidential policy.

In the form approved by the Implementation Subcommittee on April 17, 1972, the regulations set forth specific factual circumstances (probably encompassing the largest percentage of inventions made as the result of Government research and development contracts) under which the Government would normally acquire the principal or exclusive rights to inventions arising out of the contracts. § 1-9.107-3(a). However, the contractor may be permitted to obtain "greater rights than a nonexclusive license" where exceptional circumstances are shown and the government agency certifies that this will best serve the public interest. *Id.* In addition, where the contractor has an established technical competence, "demonstrated by factors such as know-how, experience, and patent position", the contractor would normally acquire "principal or exclusive rights throughout the world in and to any resulting inventions". § 1-9.107-3(b). Pursuant to Section 1-9.107-4(b), the contracting agency must record the basis for any decision under the above provisions. No hearing on the record is required.[1]

The regulations do not define the phrase "greater rights than a nonexclusive license". Presumably, this language is intended to permit the issuance of some sort of exclusive license to the contractor. Section 1-9.107-4(a)(3) and 1-9.107-5(b) indicate that where "principal or exclusive" rights are granted to the contractor, he is to receive the "entire right, title, and interest" subject to certain rights reserved to the Government. These minimum Government rights include the power to force the contractor to license his patent on a nonexclusive or exclusive basis to others if the contractor does not take proper steps to utilize the patent within the allotted time, or if public use of the invention is required, and the right to retain a nonexclusive, nontransferable, paid-up license to make, use and sell the invention by or on behalf of federal, state and local governments. §§ 1-9.107-3(e); (1-9.107-5(a).

II. THE CONSTITUTIONAL ISSUE

The question under discussion here is whether the provisions of the proposed regulations summarized above violate Article IV, section 3, clause 2 of the Constitution. This clause provides that "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; ...." The federal courts have interpreted the clause to mean that the Executive cannot relinquish Government property, by sale or otherwise, without Congressional authorization. *Royal Indemnity Co.* v. *United States*, 313 U.S. 289, 294, (1941); *United States* v. *City and County of San Francisco*, 112 F. Supp. 451, 453 (N.D. Calif. 1953), *aff'd*, 223 F.2d 737 (9th Cir. 1955), *cert. denied*, 350 U.S. 903. In determining whether an Executive assignment of patent rights pursuant to the proposed regulations is permitted, the precise meaning of the words "property" and "dispose", within the context of the constitutional clause, must be ascertained. If the Government interest in future patents does not constitute property, or if the assignment of these interests to a contractor is not a disposal, application of the regulations would not violate the clause.

There has been much discussion of Government patent management from policy perspectives, none of it bearing on the legal issue of concern here.[2] The constitutional problem needs to be faced squarely at this time.

III. THE NATURE OF GOVERNMENT RIGHTS IN RESEARCH AND DEVELOPMENT INVENTIONS

Before turning to the basic question of whether Government rights or legal interests in future inventions developed under research and development contracts are in fact property, it is necessary to determine the nature and extent of these Government rights.

Under established case law, where no contracts or statutes override, an employee who is specifically hired to develop an invention can be required to assign title to patents resulting from such inventions to his employer. See *Standard Parts Co.* v. *Peck*, 264 U.S. 52 (1923). While the employment contract in the *Standard Parts* case apparently did not contain an assignment clause, the Court concluded that this result was required by the nature of the employment relationship. However, where the employee was not specifically assigned to develop the invention in question, the employer may be entitled only to a "shop-right", a nonexclusive license to make and market the product. *United States* v. *Dubilier Condenser Corp.*, 289 U.S. 178, 188, 192 (1933). Similarly, where the employee conceives the invention on his own time and at his own expense, the employer loses any equitable claim to title. *Lambert Tire & Rubber Co.* v. *Brubaker Tire Co.*, 5 F.2d 414 (6th Cir. 1925).

Cases in which the United States was the employer appear to have been decided on the same principles as the cases involving private employers. See *Dubilier, supra; Gill* v. *United States*, 160 U.S. 426 (1896).

There are relatively few decisions dealing with the ownership of patent rights between the Government and non-Governmental entities with which it has contracted (as distinguished from Government employees). The reported cases indicate that the same principles will be applied to a contractor as have been applied to an employee. In *Ordnance Engineering Corp.* v. *United States*, 68 Ct. Cls. 301 (1929), *cert denied*, 302 U.S. 703 (1937), the plaintiff-inventor sued the Government for infringement of patents on illuminating shells developed for the Navy. Since development of the shells occurred under a Government research contract, the Government was held to have an implied license to use inventions resulting therefrom. Id. at 353. The Court of Claims reached a similar result in *Mine Safety Appliances Co.* v. *United States*, 364 F. 2d 385 (Ct. Cls. 1966), where the plaintiff had developed a crash helmet under research contracts involving the Government. A contract provision provided that the Government be granted a nonexclusive license, but the court ruled that even in the absence of such a provision, the United States would receive an implied license. *Id.* at 392.

There are apparently no reported cases in which the Government has sought assignment of full title against a contractor. However, in *Polaroid Corp.* v. *Horner*, 197 F. Supp. 950 (D.D.C. 1961), the Government successfully defended title to a patent in the name of two Government employees against the claims of a private contractor who had agreed with the Department of the Navy to develop the invention. Following the reasoning in an earlier decision of the Board of Patent Interferences involving the same dispute, the court held that while Polaroid was a contractor and not strictly speaking an employee of the United States, on the facts of this case, the rules governing disposition of patents rights between employee and employer would apply. *Id.* at 955-956. The court apparently accepted the Board's view that Polaroid could not claim title because the corporation acted in an employee capacity in undertaking to design the invention in accordance with specifications previously drawn up by the Government. *Id.* at 952-953.

In light of the above cases, it would appear that the Government can claim title to patented inventions developed pursuant to specific contractual obligations. This same conclusion was reached in a 1947 Justice Department study of Government patent policies. Department of Justice, Investigation of Government Patent Practices and Policies, V. III, at 158-160 (1947).[3]

The extent of Government interests in the patents developed in the course of research and development contracts may be summed up as follows: Absent an overriding contract or statutory provision, the Government is entitled to a nonexclusive license to use all inventions arising out of research and development work contracted for by the Government. Moreover, where the contract calls for development of specific products or processes, the Government probably is entitled to an outright assignment of all patents on such products or processes developed in the course of contract work unless the contractor has made a major independent contribution to the inventions through expenditure of his own time and resources.

IV. PATENT RIGHTS ARISING OUT OF R & D CONTRACTS ARE PROPERTY

The phrase "Territory or other Property" in Art. IV, sec. 3, of the Constitution has been applied to a wide variety of property interests. In *Royal Indemnity Co.* v. *United States*, 313 U.S. 289 (1941), the Supreme Court ruled that a collector of Internal Revenue had no authority to release a surety from its obligation on a taxpayer's bond. Here the property interests of the United States was its right to enforce the tax obligation against the surety. The Court stated:

"Power to release or otherwise dispose of the rights and property of the United States is lodged in the Congress by the Constitution. Art. IV, sec. 3, cl. 2. Subordinate officers of the United States are without that power, save only as it has been conferred upon them by Act of Congress or is to be implied from other powers so granted." *Id.* at 294.

Another case involving an intangible property right was *United States* v. *City and County of San Francisco*, 112 F. Supp. 451 (N.D. Calif. 1953), *aff'd*, 223 F. 2d 737 (9th Cir. 1955), *cert. denied*, 350 U.S. 903, where it was held that the Secretary of the Interior could not waive the right of the United States (set forth in a legislative grant) to have the city pay the cost of maintaining certain roads in a national park. Of course, the constitutional clause has also been applied to more tangible property forms such as movable

Footnotes at end of article.

chattels (dispute over ownership of army helicopter), *Kern Copters, Inc.* v. *Allied Helicopter Service*, 277 F.2d 308 (9th Cir. 1960), and real property (easement), *United States* v. *Caylor*, 159 F. Supp. 410 (E.D. Tenn. 1958).

Apparently there are no reported cases in which Article IV, section 3 has been applied to a contingent property interest. However, in a 1957 opinion, the Attorney General concluded that this provision would apply to a reversionary interest in real property, despite the fact that the interest would vest only upon occurrence of an uncertain event. 41 Op. A.G. 311 (1957).

Congress has declared that patents are a form of personal property. 35 U.S.C. § 261 (1970). This was apparently also the view of Attorney General Stone in his 1924 opinion on the Executive's power to issue exclusive licenses. The opinion assumed that there was a property interest in patents which could not be conveyed without Congressional authorization. 34 Op. A.G. 320, 329. See also, 31 Op. A.G. 463, 466 (1919). There appears to be no substantial question that, at least as to certain of the rights accompanying ownership of a patent, the term "property" as used in Art. IV, sec. 3 is applicable.

Under the proposed regulations, the rights in question are not patents, but rights to claim patent interests in future inventions. The regulations provide that a decision as to the disposition of rights in inventions is made either (1) at the time of contracting, or (2) after an invention developed in the course of contract work has been identified. In both cases the rights are necessarily of an inchoate or contingent nature, either because of the uncertainty that any inventions will be developed, or because, even after identification of an invention, there is no certainty that it meets the requirements for obtaining a patent. Nonetheless, in view of the Attorney General's opinion regarding a contingent real property interest (41 Op. A.G. 311, *supra*), it would appear that such inchoate or contingent rights are subject to Art. IV, sec. 3 of the Constitution. This conclusion is buttressed by the numerous cases in which the courts have applied the provision to a wide variety of "property" interests of a real, personal, tangible, or intangible nature.[4]

V. IS AN ASSIGNMENT OF RIGHTS IN FUTURE INVENTIONS A DISPOSAL?

In a memorandum dated September 18, 1967, from former Assistant Attorney General Wozencraft of this Office to then Assistant Attorney General Turner of the Antitrust Division,[5] the meaning of the word "dispose" was discussed in the context of resolving the issue of Executive authority to issue limited exclusive licenses on Government-owned patents. It was concluded that the Executive would be empowered to grant a limited form of exclusive license since such a grant would amount to a utilization rather than a disposal of patent rights, at least where a policy of granting nonexclusive licenses failed to bring about development of the invention. But both the Wozencraft memorandum and the 1924 opinion of Attorney General Stone dealing with the power to issue nonexclusive licenses, 34 Op. A.G. 320, 330, *supra*, clearly suggest that an outright assignment of title to a patent, or even the granting of an unlimited and irrevocable exclusive license, would constitute a disposal requiring Congressional authorization.

This was also the conclusion reached by the court in *Houghton* v. *United States*, 23 F. 2d 386 (4th Cir. 1928), where the Government's ownership of a patent was upheld against the challenge of the employee-inventor. In response to the employee's argument that the Government had agreed that he should retain title, the court indicated that the patent was Government property not subject to conveyance without authorization.

"No official of the government was authorized to give away any interest in it, and no subsequent recognition of a right in defendant, not even a conveyance to defendant, could have conferred any right upon him or been binding upon the government." *Id.* at 391.

Under the proposed regulations, a grant of "principal rights" or "greater rights" to the contractor does not deprive the Government of certain minimal rights. As we have noted earlier, these rights include the power of the Government to compel a contractor to license his patent to others where steps to utilize the patent are not taken within the allotted time, and its option to retain a nonexclusive, nontransferable, paid-up license to make, use and sell the invention by or on behalf of federal, state and local governments. However, these retained rights are substantially less than those which would be retained under the licensing procedure discussed in the Wozencraft memorandum. This procedure would require, for example, that the exclusive rights granted to the licensee be for a period less than the duration of the patent. While the Wozencraft memorandum concluded that such a licensing procedure would involve a use rather than an unauthorized disposal of Government property, the theory has, of course, never been tested in a court of law. Thus, at least some degree of uncertainty as to its constitutional validity must remain. In our view, an argument that the even less restrictive grants of "greater" or "principal rights" to the contractor pursuant to the new regulations are a use rather than a disposal of Government property is probably untenable. Thus, unless there is some other basis for distinguishing such grants from the licensing procedure involved in the Wozencraft Memorandum, it would appear that the regulations would permit an unauthorized disposal of Government property.

The issue of Executive power to provide for the assignment of patent rights in research and development contracts can be distinguished from the question of Executive authority to issue licenses on patents already owned by the United States. First, it can be argued that the contingent or inchoate nature of the Government's rights being dealt with in a research and development contract contrasts with its vested rights in a Government-owned patent. However, as indicated earlier, contingent as well as vested property interests are apparently subject to the constitutional limitation on disposal. Thus, we are unable to envisage any solid basis for asserting that an assignment by the Government of its contingent right to obtain title is any less a disposal than its assignment of the patent itself.

A second distinction between the licensing policy on Government-owned patents and contract clauses controlling patent rights in future inventions is that in the case of Government-owned patents, there has been no general practice of issuing exclusive licenses absent specific authorizing legislation. In contrast, where rights in future inventions are concerned, the Department of Defense and certain other major Government agencies have long followed a practice of granting private contractors title to most inventions developed in the course of research and development work, reserving only a nonexclusive license to the Government, despite the total absence of authorizing legislation. See Department of Justice, *Investigation of Government Patent Practices and Policies*, V. I, 78–86 (1947); U.S. Congress, Economic and Legal Problems of Government Patent Policies, Report Prepared for the Subcommittee on Monopoly, U.S. Senate (1963). It could be argued that because Congress has not acted to overturn this practice, it has in effect acquiesced.

There are a number of considerations which indicate that Congress has not acquiesced in the practice of granting title to future inventions to the contractors. First, there is no evidence that Congress has even considered the constitutional issue of disposal in this area. Thus, it is difficult to argue any conscious congressional acquiescence. Second, in those instances where Congress has acted to establish an invention policy with respect to a Government agency, it has often inserted provisions to protect Government interests in research and development patents. See, *e.g.*, 42 U.S.C. §§ 2182, 2189 (AEC); 41 U.S.C. § 2457 (NASA).[6] Thus, arguments that Congress would in all circumstances favor or approve a disposal of Government rights in such inventions are negated. Finally, at least since President Kennedy's Policy Statement on Patents in 1963, the Defense Department has been on notice that the Executive as well as the Legislative branch have doubts concerning the wisdom of a policy permitting the contractor to obtain title in all cases. Far from acquiescing in the Defense Department practice, the trend of developments appears to indicate that Congress as well as the Executive is moving away from a practice of relinquishing title to the contractor. In short, we do not find persuasive arguments that Congress has acquiesced in any agency's patent policy, in particular in a policy which would grant title to the contractor in all or most cases.

It is our conclusion that any distinction between the contingent rights which the Government has in inventions made under research and development contract work and the vested rights which it has in Government-owned patents does not go to the issue of disposal. Thus, where the Government has the right under existing case law to claim title or exclusive rights on patents arising out of such contract work, relinquishment of such rights to the contractor would be a "disposal" subject to Article IV, sec. 3 of the Constitution.

VI. IMPLIED AUTHORITY TO DISPOSE OF PATENT RIGHTS UNDER EXISTING STATUTES APPLICABLE TO GOVERNMENT CONTRACTS

In view of our conclusion that the assignment of Government rights in inventions developed in the course of research and development contracts could constitute a disposal in violation of the Constitution, you have asked whether existing Government contract statutes might authorize such a disposal. Specifically, the question is whether the patent rights could be granted to the contractors as additional consideration for services performed under the contract.

We are unaware of any statutory provisions expressly authorizing the assignment by the Government of patent rights as consideration for a contract or purchase. Indeed, such an assignment would appear to run counter to the principle that funds or other consideration allotted for payment of Government contract obligations must be appropriated or otherwise authorized by Congress. Subsection 11(a) of Title 41 provides in pertinent part:

No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law or is under an appropriation adequate to its fulfillment . . . [except for certain acquisitions by the Army, Navy, and Air Force].

In two cases decided by the Supreme Court, it was held that the Secretary of the Navy did not have the statutory authority to pay a lessee for its construction of pipelines, storage and transfer facilities, and for fuel oil by a grant to the lessee of the right to oil and gas found on lands subject to Navy administration. *Mammoth Oil Co.* v. *United States*, 275 U.S. 13 (1927); *Pan American Petroleum and Transport Co.* v. *United States*, 273 U.S. 456 (1926). In both cases,

Footnotes at end of article.

the Court reached its result despite statutory language which gave the Secretary of the Navy authority to "take possession of all properties within the naval petroleum reserves . . . to conserve, develop, use, and operate the same in his discretion, directly or by contract, lease, or otherwise, and to use, store, exchange, or sell the oil and gas products thereof, and those from all royalty oil from lands in the naval reserves, for the benefit of the United States . . ." Act of June 4, 1920, ch. 228, 41 Stat. 812, 813. It was held that the word "exchange" in the statute authorized the Secretary to make only certain limited exchanges of crude oil from the reserves in return for fuel oil suitable for use by the Navy. *Pan American, supra,* at 503. The Court expressed itself in terms strictly limiting the discretion of the Secretary with respect to Government property:

"And it has long been its [Congress] policy to prohibit the making of contracts of purchase or for construction work in the absence of express authority and adequate appropriations therefor. [41 U.S.C. 11, 12.] The Secretary was not authorized to use money received from the sale of gas products. All such sums are required to be paid into the Treasury. [31 U.S.C. 484, 487.]" *Id.,* at 501, 502; see similar language in *Mammoth, supra,* at 34.

Unlike the transfer of property in the *Pan American* and *Mammoth* decisions, where allegedly fraudulent behavior by the Secretary of the Interior was involved, the transfer of patent rights arising out of research and development contracts has a long history in the Department of Defense and certain other agencies. Thus, arguably, the failure of Congress to act to prevent such transfers indicates an acquiescence to them. However, as we noted earlier in connection with the "disposal" discussion (see V., *supra*), the acquiescence theory is weakened by the diverse and possibly even conflicting policies followed by the various executive agencies in dealing with patents developed under research and development contracts. In any event, congressional acquiescence merely by silence probably would be a weak basis for sustaining a disposal of Government property rights. In light of the language in the *Mammoth* and *Pan American* decisions, it would appear that only a clear grant of authority by Congress would ensure that a disposal could withstand a challenge to Executive authority in the courts.

VII. LEGAL CONCLUSIONS

It is our conclusion that the Government's contingent interests in patents arising out of research and development contracts are property rights subject to Article IV, section 3 of the Constitution. Where these Government interests encompass the right to obtain title to a patent, any contract granting the contractor title or largely unlimited exclusive rights would be a "disposition" of Government property within the meaning of the constitutional provision. We are not aware of any congressional enactment authorizing such a "disposition". In our view, Government contracting statutes do not provide an adequate basis for establishing an implied authority in the Executive to dispose of property as added consideration for a Government contract. Thus, in light of the above, we conclude that the proposed regulations, in the form in which they now stand, would permit action by the Executive branch which in certain instances are constitutionally suspect.

IX. DEFICIENCIES OF THE PROPOSED REGULATIONS

The proposed regulations guarantee the Government the right to receive a nonexclusive license on all inventions arising out of research and development work (para. 107–3 (e) (1)). This Government right is sufficient to ensure that there has been no unauthorized disposal of property in all cases where, absent the contract clause, the Government would be assured only an irrevocable nonexclusive license under the "shop right" doctrine. Difficulties may arise, however, in cases where the Government would have an equitable right to an assignment of a patent. In such cases, if the contractor is granted "greater rights than a nonexclusive license" (presumably some form of exclusive license) as provided under section 1–9.107–3(a) or 1–9.107–3(c), or if he is granted the "principal or exclusive" rights to the invention under section 1–9.107.3(b), a court could find that there has been an unlawful disposition of Government property.

In our view, the regulations can be brought within constitutional limits without abandoning the major policy objectives on which they are based. The most substantial change required would be the addition of a provision providing that in no event shall the contractor obtain principal or exclusive patent rights than a nonexclusive license" available tor was employed specifically for the purpose of making or developing the invention and the contractor made no substantial independent contribution to the invention process. Moreover, in the case of such inventions, it should be provided that the "greater rights that a nonexclusive license" available to the contractor under the regulations shall in no event include any form of exclusive licensing except under the procedures providing for licensing of Government-owned patents (*i.e.,* under the guidelines of the Wozencraft Memorandum).[7]

FOOTNOTES

[1] In our view, inclusion of a provision in the regulations requiring a hearing on the record would not directly bear on the constitutional issue of disposal. Consequently, this matter is not discussed in this memorandum.

[2] See, *e.g.,* U.S. Congress, Senate, Government Patent Policy, Hearings Before the Subcommittee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, 89th Cong., 1st Sess., 2 pts. (1965); Symposium on Patents, Copyrights, and Trademarks, 25 Fed. Bar J. 1 (1965); Stedman, The U.S. Patent System and Its Current Problems, 42 Texas L. Rev. 450 (1964); U.S. Congress, Senate, Economic and Legal Problems of Government Patent Policies, Report Prepared for the Subcommittee on Monopoly of the Select Committee on Small Business (1963); Symposium on Government Contract Policy, 21 Fed. Bar J. 3 (1961); Forman, *Patents, Their Ownership and Administration by the United States Government* (1957); Department of Justice, *Investigation of Government Patent Practices and Policies,* 3 Vols. (1947).

[3] See, also, Kreeger, The Control of Patents Resulting From Federal Research, 12 Law & Contemp. Prob. 714, 734 (1947).

[4] See the cases cited, *supra.*

[5] The memorandum is reproduced at page 120 of the Annual Report on Government Patent Policy (1969–1970).

[6] Also of significance here is the fact that various proposals for Government-wide regulation, some of which would generally reserve title to the Government, have been discussed and debated by the Legislative branch. *See, e.g.,* U.S. Congress, Senate Federal Inventions Act of 1966, Report No. 1427, 89th Cong., 2d Sess. (1966); U.S. Congress, Senate, Government Patent Policy, Hearings Before the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, Pts. 1 and 2, 89th Cong., 1st Sess. (1965).

[7] These procedures might be modified to give the contractor certain added consideration in the competition for a limited exclusive license based on the degree of his contribution to the invention. However, as provided in the Wozencraft Memo, exclusive licensing would be permitted only where a policy of nonexclusive licensing failed to result in development of the invention.

NOVEMBER 8, 1973.

Hon. ARTHUR F. SAMPSON,
Administrator, General Services Administration, Washington, D.C.

Attention: General Services Administration (AMC).

DEAR MR. SAMPSON: This is in response to the request for comments appearing in the Federal Register September 4, 1973, regarding the amendment of the Federal Procurement Regulations to prescribe policies, procedures, and appropriate contract clauses relating to allocation of rights in inventions under federally-funded research and development contracts. The views below restate the comments I submitted to you in my letter of August 23, prior to GSA's published request for comments.

Addressing the amendment generally, it is possible that the courts could find that, in absence of an agency's having statutory authorization, there would be an unconstitutional disposition of government property under the amendment's implementation of the Presidential Statement's provisions for principal or exclusive rights in the contractor, in situations where the Government would have an equitable right to an assignment of a patent. These situations would occur when the contractors are retained specifically to conceive the inventions in question. Unlawfulness could be found should the courts conclude that the Government has an inchoate or contingent property right to claim patent interests in any invention which may result or in any invention which, after identification, may be patentable. We are enclosing a copy of a legal memorandum on this point and also a copy of a letter related to the memorandum.

Also speaking generally, there is an absence of criteria or examples for agency action in situations where inclusion no doubt would be helpful to the agencies. However, I realize that agency regulations implementing the GSA amendment may meet this situation without injury to the goals of consistency and uniformity among agency practices.

Because much of the language of the President's Statement of Government Patent Policy is employed verbatim in the amendment, we wonder if departure therefrom by resort to the language of the Memorandum accompanying the Statement may not raise future questions of interpretation. For example, it might be advisable to use the Statement's terms "exceptional circumstances" and "special situations" in § 1–9.107–1(a) rather than "equitable circumstances" as a standard for allocation of greater rights than a non-exclusive license to the contractor. No doubt "exceptional circumstances" and "special situations" are embraced by "equitable circumstances," but it also would seem that use of the latter could introduce additional concepts which may be a source of difficulty in agency implementation of the amendment.

Section 1–9.107–1(c) states that the provisions of the amendment are not mandatorily applicable to co-sponsored, cost-sharing, or joint-venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract. Is this provision surplusage? The "exceptional circumstances" language of § 1–9.107–3(a)(4)(ii) would seem to allow the same result.

In passing, it is suggested that for clarity in § 1–9.107–3(a)(4)(ii) it may be desirable to set forth in a separate paragraph everything after the first period.

While much of § 1–9.107–3 tracks the language of the President's Statement of Government Patent Policy, subsection (d) goes beyond the corresponding provision in the

Presidential Statement. The relevant provision in the Presidential Statement observes that willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of proposals of equal merit in deferred determination situations and in those situations where the contractor would normally acquire principal or exclusive rights. But to this the amendment would add that in no event will contractors be asked to state their willingness to grant such rights prior to a determination that proposals of equal merit have been presented. This addition, not required by the Statement, confers a gratuitous benefit upon contractors and may disadvantage the public interest. The effect could be to render less likely the granting of principal or exclusive rights to the Government under circumstances which in the contemplation of the Statement would result in the Government's receiving such rights.

Because § 1–9.107–3 follows the content and language of the Presidential Statement to a large extent, the omission of subsections (e), (f) and (g) of Section 1 of the Presidential Statement is conspicuous. Subsections (e), (f) and (g) relate to situations where principal or exclusive rights are held by the contractor. Subsection (e) relates to the contractor's reporting obligation on the commercial use being made, or intended to be made of inventions made under Government contracts. Subsection (f) provides that the Government shall have the right to require the granting of a license or licenses by the contractor, unless he, his licensee, or his assignee have taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made it available for licensing royalty-free or on reasonable terms, or can show cause why he should retain principal or exclusive rights longer. Subsection (g) provides that the Government shall have the right to require the contractor to grant a license or licenses on reasonable terms to the extent the invention is required for public use by Government regulations, or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in the contract.

It would appear essential to include subsections (e), (f), and (g) in § 1–9.107–3 to maintain the integrity and balance of the amendment as an implementation of the Presidential Policy Statement.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

Mr. HART. Mr. President, I hope the amendment is adopted.

Mr. FANNIN. Mr. President, the Department of Commerce has objected to this amendment, as they did in the case of the similar amendment offered on S. 1283. I will refer to the letter, because it is essential that their objections be placed before the Senate. I read from their letter:

We object to subsection 112(c) of the bill, which would authorize compulsory licensing of privately-owned United States patents covering energy-related technology. The protection of intellectual property which patents afford has been a key element in fostering and encouraging innovation. Indeed, that is the fundamental rationale for the recognition of a patent system in the Constitution of the United States. We are concerned that section 112(c) could perhaps diminish the incentives provided by our patent system to invent in the energy field.

In other words, Mr. President, they feel that this would be detrimental rather than beneficial, from the standpoint of encouraging scientists, businesses and enterprises involved in patents and in activities for improved technology available to the energy program. Consequently, they oppose it.

The letter continues:

We are not aware of any basis for assuming that developers of essential energy technology would refuse to make it available for development in the public interest, and to propose such a departure from the fundamental premise upon which the concept of the patent grant is based seems both unnecessary and unwise.

In other words, Mr. President, they do not feel that this amendment is needed. In fact, as I stated, they feel that it would be derogatory. They cite several other reasons for their opposition, with which the distinguished Senator from Michigan is familiar, because he has been furnished with a copy of the letter. They recommend that this proposal not be accepted.

Mr. President, I oppose the amendment.

Mr. HART. Mr. President, I think it is useful that the Senator from Arizona has placed in the RECORD the comments of the Department of Commerce as to the amendment. I believe that one interested in the subject can find useful the balance of views presented by the Commerce Department statement and the Justice Department statement.

Mr. President, I conclude by suggesting, however, that as far as Congress is concerned we have taken a clear course in the recent past, and on a number of occasions I believe we have adopted the approach which the Department of Justice supports in this case. Clearly, however, it is still an area where debate continues.

Mr. FANNIN. Mr. President, I understand the Department of Justice has given approval on this particular amendment from the standpoint of legality and of operational benefits that they feel might be involved, but the Department of Commerce approached it from the standpoint of this legislation. This is a bill for the conservation of energy. Consequently they feel it should be approached on that basis.

I ask unanimous consent that the Department of Commerce letter may be printed in the RECORD.

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

WASHINGTON, D.C.,
December 10, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to our attention that the provision affecting patent rights in S. 2176, the "National Fuels and Energy Conservation Act of 1973," is similar to section 112 of S. 1283, the energy research and development bill passed by the Senate on December 7, 1973.

Attached is a copy of our letter of December 7 explaining the Administration's objections to section 112 of S. 1283. The objections are equally applicable to section 609 of S. 2176. Accordingly, we recommend deletion of section 609 in favor of the language suggested at the top of page 3 of our letter concerning S. 1283.

Sincerely,

KARL E. BAKKE,
General Counsel.

WASHINGTON, D.C.,
December 7, 1973.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is to supplement our letter of October 25, 1973 concerning S. 1283, the "National Energy Research and Development Policy Act of 1973."

The Department of Commerce is seriously concerned over section 112 of the bill as reported by your Committee on December 1, 1973 and amended by Senator Hart's amendment No. 766, passed by the Senate December 6, 1973. In addition, we have a comment in reference to section 103 of the bill.

This is a very serious issue and should be handled through the normal Congressional hearing process during which time our Department and other executive branch agencies will be happy to testify and present appropriate recommendations.

We oppose the taking of any hasty action, in the form of this floor amendment, as a means of addressing this problem.

We object to subsection 112(c) of the bill, which would authorize compulsory licensing of privately-owned United States patents covering energy-related technology. The protection to intellectual property which patents afford has been a key element in fostering and encouraging innovation. Indeed, that is the fundamental rationale for the recognition of a patent system in the Constitution of the United States. We are concerned that section 112(c) could perhaps diminish the incentives provided by our patent system to invent in the energy field. We are not aware of any basis for assuming that developers of essential energy technology would refuse to make it available for development in the public interest, and to propose such a departure from the fundamental premise upon which the concept of the patent grant is based seems both unnecessary and unwise.

Apart from the foregoing, the scope of coverage of section 112(c) is unclear. Assuming, however, that it is intended to cover the commercial utilization of patented inventions, as well as the use of the inventions in pilot projects, section 112(c) would be extremely broad in scope, effecting a major change in policy with respect to all patent rights held in a large area of technology. We note that the impact of section 112(c) and its continuing commercial implications would be vastly greater than the compulsory licensing provision that the Congress included in the Clean Air Amendments of 1970 (section 308, 84 Stat. 1708, 42 U.S.C. 1857h–6), the latter being explicitly limited to licensing of technology to a person who requires such technology in order to comply with the emission limitations imposed by the Act. Accordingly, the provision in question in the Clean Air Amendments of 1970 may not be a valid precedent for the proposal here under consideration.

The Department is opposed to section 112 (c) even in the form in which it was reported by the Committee. Amendment no. 766 to section 112 further broadens the scope of the provision and liberalizes the conditions under which compulsory licenses could be granted. As amended, the bill permits the Chairman of the Energy Research Management Project, in his sole discretion, to make a value judgment between the virtues of the Project's own research and development efforts and the overall objectives of the patent system of adequately protecting public and

private interests and stimulating technological advancements.

Section 112(a) of the bill as reported by the Committee made reference to the President's Statement of Government Patent Policy as the policy governing disposition of patent rights arising out of research under the bill. We agree with reliance on the Presidential policy statement, which contains provisions insuring protection of the public interest and providing a Government-wide approach to disposition of patent rights. However, section 112(a) as amended on December 6 omits the reference to the Presidential policy statement, and, in subsection (a)(2), requires non-exclusive licensing of Government patents in all cases. We believe this type of restriction could hinder the commercial utilization of inventions in those cases where exclusive rights may be necessary.

Subsection (a)(3) of section 112, as amended, requires a private participant in Government-sponsored research to make available its total background position of patents, trade secrets and proprietary information. Government agencies presently obtain such rights on a case-by-case basis where appropriate in the public interest. However, an across-the-board statutory requirement to obtain such rights in all situations might substantially reduce the cooperation of those companies having the greatest background positions.

We recommend the deletion of section 112 of the bill as amended by the substitute amendment offered by Senator Hart and the insertion in lieu thereof of the following language:

"Section 112. Patent Policy

"(a) The disposition of patent rights in inventions or discoveries arising out of research under this Act shall be governed by the President's Statement of Government Patent Policy issued on August 23, 1971 (36 F.R. 16887, August 26, 1971) and amended in September 1973 (38 F.R. 23782, September 4, 1973).

"(b) The Chairman is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or is useful to, the performance of functions vested in him—

"'(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

"'(2) licenses under copyrights, patents, and applications for patents; and

"'(3) releases, before suit is brought, for past infringement of patents or copyrights.'"

The adoption of the above language would be consistent with the previously enunciated Administration position as provided for in S. 2135, the original DENR legislative proposal, and the more recent S. 2744, the Administration proposal providing for a separate Federal Energy Research and Development Administration. S. 2744 was introduced by Senator Ribicoff, after being previously coordinated with the Administration, on November 27, 1973.

Turning to section 103(a)(7) of the bill, it is proposed that the Energy Research Management Project shall include the Director of the National Bureau of Standards. This provision should be revised to designate the Secretary of Commerce rather than the Director of the National Bureau of Standards. Apart from the sweeping scope of the bill that goes beyond the parochial interests of the National Bureau of Standards, such a revision would make the proposal consistent with the Departmental Reorganization Plan No. 5 of 1950, which vests all authorities of the Department in the Secretary. The interests of the Department of Commerce in the program that would be established by the bill would extend to the activities of a number of the agencies within the Department.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
General Counsel.

Mr. HOLLINGS. Mr. President, speaking on behalf of the distinguished Senator from Washington, who is the manager of the bill, we accept the amendment. As clearly pointed out by our colleague from Michigan, the amendment simply makes consistent those patent provisions in S. 2176 with those in the research and development bill just passed by the Senate.

In the concluding paragraph of the letter dated December 10 the Antitrust Division said that the Department of Justice recommends the enactment of section 112 in the form passed by the Senate on December 7, 1973, and the incorporation of a provision in S. 2176 modeled on that section.

That is what the amendment does. On that basis, on behalf of the manager of the bill, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection the amendment will be printed in the RECORD.

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

At the end, add the following new title:

AUTOMOBILE FUEL CONSUMPTION TAX

SECTION 1. Amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, so as to encourage the development, manufacture, and importation of automobiles which efficiently consume fuel, to increase revenues which could be devoted to energy research or other vital national needs, and to stimulate the conservation of energy.

SEC. 2. (a) Part I of subchapter A of chapter 36 of the Internal Revenue Code of 1954 (relating to motor vehicle excise taxes) is amended by adding at the end thereof the following new section:

"SEC. 4064. AUTOMOBILE FUEL CONSUMPTION TAX

"(a) IMPOSITION OF TAX.—There is hereby imposed upon every new automobile manufactured, produced, or imported a tax at whichever of the following rates is applicable with respect to the fuel consumption rate (as determined under subsection (b)) of such automobile:

"(1) for the period beginning July 1, 1975, and ending June 30, 1976:

"If the consumption rate (in miles per gallon) is:

	The tax is:
Over 20	0
Over 19 but not over 20	$23
Over 18 but not over 19	43
Over 17 but not over 18	70
Over 16 but not over 17	98
Over 15 but not over 16	133
Over 14 but not over 15	164
Over 13 but not over 14	211
Over 12 but not over 13	274
Over 11 but not over 12	313
Over 10 but not over 11	392
Over 9 but not over 10	478
Over 8 but not over 9	587
Over 7 but not over 8	728
Over 6 but not over 7	913
Over 5 but not over 6	1,175
Not over 5	1,568

"(2) for the period beginning July 1, 1976, and ending June 30, 1977:

"If the consumption rate (in miles per gallon) is:

	The tax is:
Over 20	0
Over 19 but not over 20	$47
Over 18 but not over 19	86
Over 17 but not over 18	141
Over 16 but not over 17	196
Over 15 but not over 16	266
Over 14 but not over 15	329

"If the consumption rate (in miles per gallon) is:

	The tax is:
Over 13 but not over 14	$423
Over 12 but not over 13	548
Over 11 but not over 12	627
Over 10 but not over 11	783
Over 9 but not over 10	956
Over 8 but not over 9	1,175
Over 7 but not over 8	1,457
Over 6 but not over 7	1,827
Over 5 but not over 6	2,350
Not over 5	3,133

"(3) for the period after July 1, 1977:

"If the consumption rate (in miles per gallon) is:

	The tax is:
Over 20	0
Over 19 but not over 20	$70
Over 18 but not over 19	129
Over 17 but not over 18	211
Over 16 but not over 17	294
Over 15 but not over 16	399
Over 14 but not over 15	493
Over 13 but not over 14	634
Over 12 but not over 13	822
Over 11 but not over 12	940
Over 10 but not over 11	1,175
Over 9 but not over 10	1,433
Over 8 but not over 9	1,762
Over 7 but not over 8	2,185
Over 6 but not over 7	2,740
Over 5 but not over 6	3,525
Not over 5	4,700

"(b) DETERMINATION OF FUEL CONSUMPTION RATE.—The fuel consumption rate of new automobiles taxable under subsection (a) will apply only to gasoline-powered automobiles and shall be determined solely on the basis of the Automobile Fuel Consumpton Schedule prepared by the Administrator of the Environmental Protection Agency.

"(c) LIABILITY FOR PAYMENT.—The tax imposed by this section shall be paid by the manufacturer, producer, or importer at such time and in such manner as the Secretary of the Treasury shall prescribe.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'new automobile' means every internal combustion engine powered vehicle designed for use on the highway which has never been transferred to the ultimate purchaser, and

"(2) the term 'ultimate purchaser' means with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale.".

(b) The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 4064. Automobile fuel consumption tax.".

(c) The amendments made by this section shall take effect on July 1, 1975.

SEC. 3. (a) The Administrator of the Environmental Protection Agency shall, from time to time, study and investigate the fuel consumption rates of automobiles which are subject, or may be subject, to the tax imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel consumption taxes).

(b) The studies and investigations conducted under subsection (a) shall include tests—

(1) of each automobile model subject to such tax equipped—

(A) with each available engine size (measured by horsepower); and

(B) without optional accessories;

(2) which shall be conducted—

(A) under driving conditions representative of an average composite of urban and nonurban driving speeds and circumstances,

(B) with the fuel used being of the quality normally recommended for use in such automobile, and

(C) with such automobile carrying the average weight load for which it was designed.

(c) Based upon the studies and investigations conducted under subsection (b), the Administrator shall determine the fuel consumption rate of each such automobile model without optional accessories and with each available engine size. The Administrator shall, not later than June 1, 1975, and each year thereafter, prepare and transmit to the Secretary of the Treasury schedule of all such rates to be known as the Automobile Fuel Consumption Schedule (interim revisions of which are to be made by the Administrator as he deems appropriate). The Automobile Fuel Consumption Schedule shall be made available for sale as a public document.

SEC. 4. Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by inserting "(a)" after "SEC. 3." and by adding at the end thereof the following:

"(b) Every label required to be affixed under subsection (a) shall include, in the case of any automobile on which a tax was imposed by section 4064 of the Internal Revenue Code of 1954 (relating to automobile fuel economy taxes)—

"(1) the fuel consumption rate determined to be applicable for such automobile, and

"(2) the tax paid under such section 4064.".

Mr. DOMINICK. Mr. President, I am happy to explain the amendment. Some time ago, on October 18, 1973, I introduced a bill which would have provided for the taxation of automobiles that get less than 20 miles on a gallon of gasoline. I want to hasten to assure everyone that I am neither talking about a tax on existing automobiles nor talking about a tax on the consumer. I am talking about a tax on the manufacturer of new automobiles at a rate based, I believe it was, on $235 for each gallon of gas in excess of 5 that automobiles need to drive 100 miles.

Under briefings which we had some months ago we were told in no uncertain terms that the major users of fuel were transportation facilities and that the engines which we were using with environmental controls on them were highly inefficient. It is estimated that we were getting less than 50 percent utilization for the energy used, and has been going down considerably.

The bill we are considering today would be a perfect vehicle for this type of situation. I call to the attention of my colleagues title V. I wish to ask the manager of the bill if my understanding is correct that the amendment of the Senator from Washington (Mr. JACKSON) in the nature of a substitute has been adopted.

Mr. HOLLINGS. It has been adopted for the purpose of further amendment. The Senator is correct.

Mr. DOMINICK. That is my understanding.

In title V of this bill we go into many findings of fact that we have a serious shortage, which we already know, and under subsection (4) of section 502(a) there is a finding that automobiles are a major user of petroleum products, which we all know. In subsection (5) it states that the low fuel economy in many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing the environment or safety standards. That is a finding with which I also agree.

It goes on in section 502(b) to say it is the purpose of Congress to encourage the manufacture, development, and sale of automobiles which are more economic to operate in terms of the amount of fuel consumed per mile traveled and that we would increase the industrywide average fuel economy for new automobiles at least 50 percent by 1984.

Well, 1984 is 10 years away, and although I agree with our purposes and although I agree with our findings, I do not think 1984 is a realistic situation in which to try to cure the very poor fuel economy which we now have in Detroit automobiles.

On page 66, which is the research section, under the purposes in the bill it says:

Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes. . .

Well, that is still 4 years away. It is better than "1984," but it is still 4 years. No matter how you look at this bill, it will be 18 months, at the very earliest, before the Secretary will develop standards through which we will try to get Detroit to make some of the advances which are readily available right now.

Let me give an example, if I may. One of the first things which the foreign automobile manufacturers started long ago was to put fuel injection systems in their cars. Fuel injection, not only gives more efficient fuel distribution to the cylinders, but also cuts fuel consumption.

So here is something which is readily available now, under license, or whatever invention arrangement may be had, which Detroit could put into automobiles to save 25 percent of the fuel which too many cars now use like real guzzling animals.

One can hardly get some automobiles to go from one gasoline station to another without running out of gas, even when all the operators were going full steam ahead. It is even more of a problem now.

All one has to do to figure that out is to go to an automobile dealer and see what kind of a deal they will give you on a large automobile. They will give you almost nothing to get it off your hands, and they do not even want one traded in. So, as I say, here is something Detroit can do immediately.

The news media, bless their souls, unfortunately printed my proposal in a way that many in my State and many other areas thought I was talking about a tax on consumers on existing automobiles. Not at all. What I am trying to do is develop a method through which Detroit, through sheer economics, will be forced to put the inlay of capital needed in order to transfer their systems so they can put into new automobiles the type of equipment and investment which is already available.

What else can they do? They can supply cars with steel-belted radial tires as original equipment. We see them advertised in almost every advertisement on tires. That, again, will save gallons of gasoline. It is surprising, but it will.

A third thing they can do easily is to start using fiberglass or other types of material for the bodies, which would be far more economical and far better than what they are using now, in terms of weight to power in the engine.

The proposal I had made requires that any car which utilizes more than 1 gallon for every 20 miles would be taxed, based on a multiple of $235. So, if the car gets 10 miles to a gallon, it is obviously going to be a pretty heavy car and a pretty inefficient one. There is also going to be a pretty heavy tax on it.

The net result would be, I am absolutely positive, that Detroit would start changing some of their production models so they would be able to look into a much more efficient automobile than we now have.

I would like to relate some personal experience. I have had a 1966 Oldsmobile stationwagon, with which I am getting 17 miles a gallon. In Colorado I bought a 1972 Chevy Nova, a small Chevy, four-door sedan, and over a trip which I took in May of this year we averaged 8.3 miles per gallon. That is still better than a Cadillac or a Lincoln Continental, but not much. Again, 8.4 miles a gallon in this type of car was utter nonsense. What was the cause? First, Detroit refuses to use some of the energy-saving techniques

which we have available. Second, antipollution devices were adjusted at what they will do at sea level, without considering at all what they will do at 5,000 feet or higher. Consequently, with the antipollution devices in, which the dealers or service stations were not changing under the law which we passed, we were not only reducing the amount of miles per gallon we got, but we were also polluting the air more than we did before.

It seems obvious to me, having been a pilot for a long period of time, that as one gets more altitude he has to cut down on his fuel mixture; otherwise the engine will be flooded and he will not get anything going at all. But our pollution control system did not provide for that at all. Consequently, when we bought a car which was satisfactory on emissions stands at sea level, where they were tested—all perfectly legal—it did not operate efficiently at 5,000 feet or above.

Our ground level is 5,000 feet. We have 61 mountains over 14,000 feet. Most of our passes are 11,000 feet at one place or another. Obviously, one is going to use a whale of a lot more gasoline in that type of atmosphere with those types of controls than if one were allowed to adjust his carburetor or if he had fuel injection, which would automatically change its ratio of fuel to air in accordance with the atmospheric conditions.

Fuel injection is a reliable way to handle this problem. There are many other ways. As I said, that alone would act to substantially reduce the consumption of gasoline by automobiles.

When we are talking about a time of potential rationing, when we are talking about a number of other actions of this kind, it seems to me ridiculous that Detroit does not make changes at this point. I recognize that it is going to take a capital investment of some cost as far as Detroit is concerned.

Low friction tires, steel belted radial tires, lighter weights, fiberglass, overdrive, body shell design with fiberglass, and a few other things of this nature, which are not new and "way out" technology, would all help. General Motors, Ford, Chrysler, or American Motors—although American Motors has done far better than most of them—simply have not done enough. They have been losing a great deal of their market to foreign imports, which, considering our trade inbalance is bad. Unfortunately they have been sitting there, hoping, for some reason or other, to sell gas guzzlers with a high profit ratio, as far as they are concerned, but with a high impact on fuel consumption as far as the American public is concerned.

It would seem to me that this type of bill would fit right into the structure of the legislation which we are considering today. I realize that there have been no hearings on this bill. There have been no hearings, not, I am sure, by intent or by any deliberate position taken insofar as the committee is concerned, but simply because there has not been time in view of the other business which the committee has had to handle.

Consequently, I have been unable to get any appreciable progress on the matter. I do not think that the committee would be willing to consider this particular bill at this time.

If I am wrong, I would be delighted in finding out, because I would love nothing better than to have them accept this as a proposal which could at least be brought into the conference and generate action insofar as Detroit is concerned.

We can figure a tax imposed on them of over $2,200 on some of the automobiles they are now showing. They are bound to make some changes to get a decent gas consumption from the automobiles they make now.

If we are to come to rationing or allocation of uses, or all of the others things that we have been talking about on the floor today, which I think will happen, the first group who will be hurt, and hurt badly, will be the Detroit manufacturers.

It would seem to me to be in their best interests, if we decide to do all of this, to give them an extra nudge so that we would be able to try to get automobiles that the ordinary citizens would use, and they would be more efficient and could get at least 20 miles to a gallon.

By 1980 by doing this we could get more automobiles that would have at least a consumption of 20 miles to the gallon and we would save 1 million barrels of oil a day.

There are changes we could make today. This bill was not dreamed up out of a hat by me or or by my staff. We discussed it with Treasury, we worked with Commerce, we talked with aides downtown to see what would be the most fruitful way of creating a tax on gas-consuming automobiles which would provide an incentive for the Detroit manufacturer of automobiles.

This is the one which has a tax schedule that is probably the best and the fairest. The amount of tax on manufacturers is the amount that would be needed in order to push them in their own self-interest.

It would be my hope, if I may say so, that we would be able to take this to conference with the House.

I would ask the distinguished manager of the bill if he has any comments to make on this matter.

Mr. HASKELL. Mr. President, I would be very pleased to comment on the very excellent suggestion of my senior colleague from Colorado. I think the idea is extremely meritorious. I would hope that Congress would be able to adopt legislation along the lines suggested by my distinguished senior colleague.

However, it does not seem desirable to add this idea as an amendment to this particular bill. For one thing, assuming that the amendment is put on this bill, that would then split the jurisdiction in the House of Representatives. It would have to go to the Ways and Means Committee because of the taxing provision, and it would have to go to the House committees which are counterparts to the committees which worked on S. 2176 in the Senate, possibly to the Commerce Committee or to the Interior Committee.

There have been no hearings. So we do not have perhaps the solid evidence behind it that we should.

The bill certainly does deal with automobiles. It certainly does attempt to set maximum automobile fuel consumption standards. And to that degree, the proposal of my distinguished senior colleague is germane and in point. However, for the reasons that I have suggested, I do not think it is appropriate on this particular bill.

I would be glad, however, to state that I would be very pleased to work with my senior colleague in introducing original legislation and cosponsoring a proposal along the lines he has suggested.

Mr. DOMINICK. Mr. President, I thank my distinguished colleague from Colorado.

Mr. HOLLINGS. I am glad that the Senator from Colorado has raised the question of taxes on fuel consumption of automobiles. When I first introduced this measure in the form of S. 1903 last May, it had a tax or penalty fee feature to it. I and my colleagues on the Commerce, Public Works, and Interior Committees have given considerable thought to the relevant merits of minimum standards and taxation on excess fuel consumption. There are several reasons why we have decided to utilize the standard mechanism at this time:

First. As this energy crisis develops, many burdens are being placed on the American consumer. He is being asked to slow down on the highways, turn his thermostat down, adjust his travel plans, and pay higher prices for many goods—including gasoline. The automobile industry and the Federal Government must make their contribution to the cause of energy conservation since there is no question about the fact that the industry is capable of manufacturing highly efficient automobiles—it manufactures thousands of them now. It is proper that we require them to design automobiles that are energy efficient to the extent feasible and consistent with other design requirements. Many of the experts we have talked to stated that major improvements in fuel economy can be built into automobiles with little or no increase in the purchase price of the car. Since this capability exists, it should be the obligation of the automobile industry to utilize it to the fullest extent possible, before imposing an extra tax burden on the American consumer.

Second. Section 9 establishes an objective to be reached over a 10-year period. In order to be able to continuously monitor and adjust the rate at which this goal is being achieved, so that we remain on target, a flexible approach is needed. Standards are flexible because they can be modified by the Secretary of Transportation through a rulemaking procedure. Taxation levels can only be established by an act of Congress.

Third. It has been argued by some that a tax on excess fuel consumption of automobiles is in a sense a license to the people who can afford to waste energy. This position has some merit and I would want to think carefully before devising a system that would permit the rich to continue driving around in their gas guzzlers, wasting fuel which could otherwise be utilized for heating homes or generating electricity.

This is not to say that some form of tax measures related to fuel economy of automobiles is inconsistent with the provisions of section 9. In fact, an automobile taxing measure could very well compliment the provisions of section 9. Section 9 calls for the Secretary of Transportation to develop a long-range plan for achieving these objectives and in the long-range plan, the secretary might very well choose to propose some sort of taxation measure.

Mr. DOMINICK. Mr. President, I do think that the amendment has merit. I do think that it belongs on this bill. However, I would say that the objections which my distinguished colleague brought up are perfectly valid.

It is my hope that we can get hearings on this type of legislation before very long. For that reason, I hereby withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HASKELL. Mr. President, I appreciate the attitude of my senior colleague. I repeat that I will be glad to join with him in original legislation along those lines.

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of amendment No. 757 add the following:

It is the sense of the Congress that—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce non-essential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

Mr. ROTH. Mr. President, on behalf of 52 other Senators and myself, I am submitting an amendment calling on the Federal Government to immediately take steps to reduce the amount of fuel it consumes.

The cosponsors are:

LIST OF COSPONSORS

James Abourezk of South Dakota.
James B. Allen, of Alabama.
Howard H. Baker, Jr., of Tennessee.
Dewey Bartlett, of Oklahoma.
Birch Bayh, of Indiana.
J. Glenn Beall, Jr., of Maryland.
Henry Bellmon, of Oklahoma.
Joseph R. Biden, Jr., of Delaware.
Bill Brock, of Tennessee.
Edward W. Brooke, of Massachusetts.
James L. Buckley, of New York.
Clifford P. Case, of New Jersey.
Lawton Chiles, of Florida.
Frank Church, of Idaho.
Dick Clark, of Iowa.
Norris Cotton, of New Hampshire.
Alan Cranston, of California.
Robert Dole, of Kansas.
Pete V. Domenici, of New Mexico.
Paul J. Fannin, of Arizona.
Edward J. Gurney, of Florida.
Clifford P. Hensen, of Wyoming.
Philip A. Hart, of Michigan.
Mark O. Hatfield, of Oregon.
William D. Hathaway, of Maine.
Jesse Helms, of North Carolina.
Ernest F. Hollings, of South Carolina.
Roman L. Hruska, of Nebraska.
Walter D. Huddleston, of Kentucky.
Hubert H. Humphrey, of Minnesota.
J. Bennett Johnston, Jr., of Louisiana.
Edward M. Kennedy, of Massachusetts.
James A. McClure, of Idaho.
Gale W. McGee, of Wyoming.
Thomas J. McIntyre, of New Hampshire.
Lee Metcalf, of Montana.
Walter F. Mondale, of Minnesota.
Edmund S. Muskie, of Maine.
Sam Nunn, of Georgia.
Charles H. Percy, of Illinois.
William Proxmire, of Wisconsin.
Abraham Ribicoff, of Connecticut.
William B. Saxbe, of Ohio.
Richard S. Schweiker, of Pennsylvania.
Robert T. Stafford, of Vermont.
Adlai E. Stevenson III, of Illinois.
Robert Taft, Jr., of Ohio.
John Tower, of Texas.
John V. Tunney, of California.
Lowell P. Weicker, Jr., of Connecticut.
Harrison A. Williams, Jr., of New Jersey.
Milton R. Young, of North Dakota.

Mr. President, such a move would not only set an example for the concerned people of this Nation, it would provide additional fuels that could be reallocated to the private sector of the economy and save thousands of jobs.

Last Friday, Senators BROOKE, BUCKLEY, CASE, STAFFORD, TAFT, and I sent a letter to President Nixon stating the Federal Government had not done enough to conserve fuels and that it was imperative that the Federal Government exhibit leadership by example and take immediate steps to significantly reduce the amount of fuel it consumes. We recommended a target reduction of one-third. It is our view that in a time of crisis when sacrifices have to be made, the Government must set the example.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD at this point.

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

U.S. SENATE,
Washington, D.C., November 30, 1973.

The Honorable RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is imperative that the Federal government exhibit leadership by example and take immediate and stringent steps to significantly reduce the amount of fuel it consumes. We urge that government consumption be reduced by a full one-third.

Private citizens have already begun to feel the harsh effects of the energy shortage—one of those being unemployment. Already airlines have released employees; industries are planning for employee cutbacks, layoffs, and temporary closings.

While energy shortages will mean inconvenience and more business by telephone for government employees, they mean a loss of jobs and production for those in the private sector. It is important for us in government to recognize this and to do all we can to avoid unemployment. To minimize the economic repercussions of the shortage, the government should develop plans immediately to reduce its consumption by one-third. Frankly, the Federal government's effort has been inadequate.

Because vehicles and equipment account for 60% of the total Federal consumption, we urge you to initiate a strict rationing program for all government vehicles and equipment, including aircraft and vessels.

To reduce consumption to this level, we propose the following steps:

1. Allot departments and agencies a fixed quantity of fuel for a fixed period for essential transportation purposes *only*. Each department or agency would then be responsible for the determination of the distribution and utilization of its allotment. Commercial and mass transportation should be utilized whenever practical in the conduct of government business. Likewise, telephone conference calls, local and long distance, or other means of communication should be used whenever possible.

2. Exempt critical national security activities and other vital services on a case-by-case basis. Security exemptions should be approved by the National Security Council and vital civilian exemptions should be subject to the approval of the Office of Energy. These exemptions should be reported quarterly to the appropriate Congressional committee. Since the Department of Defense is the primary user of fuels, it is imperative that innovative measures be used to stretch its fuel supplies for training and noncritical defense activities.

3. Urge state, local, and other public authorities to adopt similar measures.

A one-third reduction on the part of the Federal Government would save roughly 5 million barrels of gasoline, 21 million barrels of diesel fuel, and 55 million barrels of aviation fuel in a year, based on the most recent data from the Office of Energy Conservation. By siphoning this fuel into the private sector, thousands of jobs may be saved.

Mr. President, these are admittedly very stringent steps, but they are no harsher than those being imposed in the private sector. We urge you to make the Federal Government responsive to this critical shortage and set the example for the American people by inaugurating these or similar steps.

Sincerely,

CLIFFORD P. CASE.
EDWARD W. BROOKE.
ROBERT T. STAFFORD.
WILLIAM V. ROTH, JR.
JAMES L. BUCKLEY.
ROBERT TAFT, JR.

Mr. ROTH. Mr. President, our primary concern, however, was that private citizens are already being affected adversely by the fuel shortage—that layoffs have already occurred and that more are planned.

Obviously, when industry cannot obtain the fuels necessary to produce, and production is reduced, employees are also reduced. A one-third reduction in Federal consumption would free a signficant amount of fuel for other uses. A one-third reduction would be almost 1 percent of the Nation's energy demand. A one-third reduction could mean a savings of thousands of jobs.

Although the President has already taken steps to reduce Federal consump-

tion of heating oil and electricity, we believe these steps, while well intended, have been insufficient. Therefore, we are offering this resolution urging the President to set a goal of reducing Federal consumption by a third.

To achieve this goal, the amendment begins by recommending an immediate reduction in nonessential uses of all Government vehicles and equipment. This was chosen after carefully researching and discovering that 60 percent of all fuel consumed by the Federal Government is consumed by vehicles and equipment. A one-third reduction in fuel consumption for Federal vehicles and equipment alone would save roughly 5 million barrels of gasoline, 21 million barrels of diesel fuel, and 55 million barrels of aviation fuel. Reallocated to the private economy, it would save countless jobs.

Rather than using Federal vehicles, we have recommended utilizing available commercial and mass transportation. Reductions in travel could be achieved by using the telephone, teletype, and other modern means of communication.

Second, the amendment recommends that the President allot a fixed quantity of fuel for a fixed period of time to each agency and department, similar to the petroleum allocations used in the private sector. Allotments would be based on essential usage of vehicles and equipment.

I recommend that exemptions be made on a case-by-case basis for critical national security activities and other vital services with regular reporting of these exemptions to Congress. This would most likely be administered through the National Security Council and the new Federal Energy Administration.

Our research also indicated that the Department of Defense consumed approximately 85 percent of all the Government fuels. Therefore, we have recommended that the Secretary of Defense develop innovative measures to reduce the amount of fuels consumed for defense activities.

Some may say that these are drastic measures—too drastic for the Government to undertake. We should appreciate, however, that this is exactly what we are expecting the American people to accept. We understand the severity of this cut, but at the same time, a goal must be set that will demonstrate to the American people that this Government is serious in its efforts to conserve fuel, to save jobs, and to lead this country through a very trying period.

Mr. President, I urge the adoption of the amendment.

Mr. JACKSON. Mr. President, as understand the amendment offered by the distinguished Senator from Delaware, it would, in effect, call upon the departments in the executive branch to make a target cut of 33⅓ percent in the use of energy. The amendment further stipulates that exceptions can be made in certain critical areas, including national security and areas that, in the judgment of the President, would work hardships.

Mr. ROTH. That is correct.

Mr. JACKSON. I see no objection to the amendment, and I commend the Senator. I would only say that I have a serious question in my mind whether 33⅓ percent is a viable target. I suppose the answer is that maybe if we shoot high, they will hit 25 percent or 20 percent.

I do believe that it is a helpful amendment, and I am prepared to accept it.

Mr. FANNIN. Mr. President, I am very pleased to support and cosponsor the amendment of the Senator from Delaware. It is a worthwhile amendment. It represents a goal, and I feel that the Federal Government certainly should set the path to be followed throughout this Nation. I commend the Senator for offering this amendment, which would do just that.

I feel that if we do not try for the utmost, very little will be gained; and in some areas this amount is feasible and practicable. In other areas, as the Senator from Washington has stated, it would not be attainable, nor would the Senator from Delaware desire it to be attained if it would work a hardship upon those involved.

I am very pleased to support the amendment.

Mr. ROTH. Mr. President, I thank both the Senator from Arizona and the Senator from Washington for their support. They correctly state that what we are attempting to do here is provide a goal, a reachable goal, we believe, if some serious thought is put behind it.

We tried to develop the amendment in such a form that it will not necessarily handicap those activities that must continue.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I call up an amendment which I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 32, line 1, after the word "retailer" insert the following: ", which has an annual gross volume of business in excess of one million dollars,".

Mr. STEVENS. Mr. President, this amendment would take care of a portion of the objection I have previously raised to the definition of "supplier." I am hopeful that the managers of the bill will accept the amendment as being one which would take an unnecessary burden off the very small retailers.

As I understand the bill, it would still place the manufacturer, the wholesaler, the distributor, and the direct mail sales outlet in a position of having to comply with the act. As I understand it, there would not be an appliance that would go through a small retailer's store that did not disclose the information, but it would take off the small retailer the burden of making that disclosure himself, and also the burden of being the person taken to court if the disclosure was not complete as required by this law.

I support the disclosure, and I support the concept of setting forth the energy use of appliances, but I feel there are too many small businesses that do not have the capacity to take on this extra burden in terms of handling sales, because, as I undertsand it, it would require them to list the average annual cost on the price tag, on the contract of sale, or on an advertisement; if they put a notice in their window that they had refrigerators for sale, they would have to list the average annual cost on the notice. Every single activity would be added to by this bill as far as the burdens of the small retailer are concerned.

I would hope we would exempt small retailers from the burdens of this bill.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. BAYH. Mr. President, I send an amendment to the bill as reported to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. BAYH's amendment is as follows:

On page 66, line 1, delete "1984" and insert in lieu thereof: "1980 and by 75 per centum by 1984".

On page 6, line 1, delete "1984" and insert in lieu thereof: "12".

On page 63 line 15, delete "1978" and insert in lieu thereof: "1977".

On page 69, line 6, delete "1978" and insert in lieu thereof: "1977".

Mr. BAYH. Mr. President, I shall take just a very short period of time to discuss the impact of this measure. I am not a member of the committee, so I have not had a chance to hear all the testimony, but I am concerned when I read in a Treasury Department report that with the adoption of off-the-shelf technology presently available, fuel savings amounting to 75 percent could be effected without considering engine changes.

It seems to me if we are establishing a standard in which we are really trying to effect the maximum improvement possible, we ought to shoot above the 50 percent improvement mark. So the amendment which I have submitted for consideration of the Senate would do three things:

First. It would shorten from 10 to 6 years the maximum time period in which automobile manufacturers would be required to effect a 50-percent improvement in average automobile mileage;

Second. It would establish the goal of a 75 percent improvement in average automobile mileage by 1984, instead of the 50 percent goal in the bill; and

Third. It would move forward from the 1978 model year to the 1977 model year the earliest date for the promulgation of fuel economy standards by the Secretary of Transportation.

The fact is, while I applaud the purposes of this bill, and, indeed, am privi-

leged to be a cosponsor of this legislation, section 9 simply does not deal strongly enough with the compelling need to improve significantly overall auto mileage.

My amendment, by speeding up the time frame for dealing with this problem and setting a higher 10-year goal, is more responsive to the necessity of ending one of our greatest wastes of energy. There can be no over-emphasis of the role automobile use is playing in our serious and growing energy crisis. Automobiles consume 40 percent of the petroleum used in this country annually and 14.3 percent of all the energy used in this nation every year.

Some would respond to these facts by suggesting a radical change in the American lifestyle, keyed to a serious lessening of the role of private automobiles. And while improved mass transit and other constructive approaches to the energy problem may, in fact, dimenish certain requirements for private automobile use, it is unrealistic to suggest that the American people can easily undergo a total change in the role automobiles play in American life.

The automobile is, in many respects, the cornerstone of the American economy. Not only are millions of Americans employed in the manufacture of automobiles and in related industries, but the mobility afforded most American families by their automobiles strengthens our economy in a wide range of areas from the resort industry to suburban shopping centers. Suffice it to say, there are tens of millions of Americans who could not get to their jobs nor buy the necessities of life without the use of their cars.

The fact that petroleum to power those autos is in short supply worldwide, however, makes it imperative that the efficiency of automobiles be improved significantly—and as soon as possible. Given the imperative of action to improve automobile efficiency, I find myself in complete agreement with Fred L. Hartley, president of Union Oil Co., quoted on page 54 of the report accompanying this legislation:

I believe this bill is too lenient in setting the industrywide average fuel economy for the 1984 model year at 50 percent greater than the average for the 1974 model year.

There is ample evidence in studies cited in the report of the Commerce Committee and elsewhere that a 50-percent improvement in average automobile mileage in 10 years is an inadequate objective.

We all know foreign made automobiles comparable to U.S. produced automobiles in size and price get significantly better mileage than those manufactured in the United States. For example, Environmental Protection Agency figures show that a Mercedes Benz gets almost 25 percent better mileage than a comparable Cadillac; a Datsun gets more than 30 percent better mileage than a Ford Maverick; and a Peugeot gets more than 40 percent better mileage than a comparable Plymouth.

It should be little wonder that a 1972 Federal report concluded:

In the near term, within the next few years, it appears possible to demonstrate as much as a 30 percent reduction in fuel consumption by standard automobiles with 1976 emissions controls without substantially affecting performance of losing the gains made in controlling emissions.

This relationship between automobile efficiency and emissions requirements is quite important. It is a popular, all too easy game to blame poor mileage on Federal emission standards, yet those foreign-made autos with far better mileage meet U.S. air pollution standards. Indeed, clean air requirements have an average effect of decreasing efficiency by only 7 percent.

The goal of improving mileage by 50 percent within 6 years and by 75 percent within 10 years, as proposed in this amendment, is actually quite feasible. A Treasury Department study lists several "immediately available solutions which could greatly increase automobile efficiency." They include: Use of low friction tires, 10 percent improvement; body shell design, 5 percent improvement; redesign of power train, 10 to 15 percent improvement; weight reduction, up to a 25 percent improvement. These approaches alone could improve average automobile efficiency by more than 50 percent, and all are well within the state of the science—without lessening the quality of our environment.

And this is by no means a complete list of already available techniques for improving automobile efficiency.

Indeed, the goal of an average 50 percent reduction by 1980, as proposed in this amendment, is quite lenient and an average 75 percent improvement in mileage within 10 years entirely feasible. Moreover, there is no need to wait beyond the 1977 model to begin to require constructive steps to improve automobile efficiency since even so basic a step as making a different kind of tire standard equipment will help in this effort.

Moreover, there is another compelling reason not to be satisfied with the bill's objective of an average 50 percent improvement in mileage in 10 years.

Apart from any improvement in mileage by redesign of automobiles, their equipment and their engines, there will be an improvement in average automobile mileage due to the steady switch of consumers to foreign-made autos and to compact and subcompact American autos. It is difficult to know exactly what percentage of the market will be captured by these more efficient autos in the years ahead. But these three categories increased their share of the new car market in the past year alone from 35.6 to 39.9 percent, an increase of 4.3 percent of the new car market.

With the price of gasoline rising on a sharp scale, it is safe to assume that these more efficient autos will continue to capture a larger share of the market. And, it is important to note that U.S.-manufactured autos accounted for more than two-thirds of the gain realized in these categories. Detroit can produce efficient autos, and the American people are showing a growing preference for those home-grown, better mileage cars. This amendment, therefore, would in no way give an unfair competitive position to foreign products.

Now, Mr. President, since the goal of this legislation is an improvement in average mileage for all new cars, we will realize a substantial improvement in that average without anything more than a continued increase in the share of the market captured by more efficient autos. In other words, without even so much as a single design improvement in Detroit, market forces will by themselves improve average auto efficiency.

Yet we do want to realize design improvements to increase mileage, so it is necessary to set a higher goal than that proposed in the bill. Otherwise we cannot be certain that there will be an adequate push for improved mileage across the entire spectrum of new autos, from the luxury classes to the subcompacts.

There is no need to let larger automobiles escape the push for increased efficiency. Indeed, the Treasury Department study concludes that the automobile industry "can produce large cars which yield close to 20 miles per gallon using existing technology without sacrificing comfort, styling, or exhaust emission standards." In many cases this would mean not a 50 percent improvement, nor a 75 percent improvement, but a 100 percent improvement, or a doubling in the efficiency of larger autos.

Since existing technology can effect a significant improvement in automobile mileage, and since more efficient automobiles are already capturing a larger share of the market, the goal of 50 percent improvement in average mileage over 10 years, as suggested by the bill, may not be an adequate spur to improving the technology in this area. On the other hand, by moving the 50 percent goal up to 6 years and setting the higher goal of 75 percent for the 10 year period we may be able to spur the desired technological improvements that, in the long run, can maximize fuel savings.

Why settle for less efficiency than is possible?

Why not respond to the long-term need to reduce as much as possible the percentage of energy consumed in automobiles?

This amendment sets higher goals than the bill. But they are goals which are feasible and desirable. Indeed, they are goals which we can ill afford not to meet, lest we perpetuate today's energy crisis into the 1980's and beyond.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. HOLLINGS. Mr. President, in behalf of the committee and the managers of the bill, we most to oppose this amendment.

We oppose it on the basis that after comprehensive hearings earlier this year and the work of the other several committees, we arrived at a 50 percent fuel economy improvement goal on the basis of all the testimony submitted. The original amendment and the original thrust was not to change American technology but, rather, was to point to the automotive industry in America in the direction of effectuating an improvement in fuel economy. We did not want to have legislation on forcing the premature introduction of new technology. On the con-

trary, we did our best not to pass laws but to let the law of supply and demand, the law of plenty and paucity, operate. In large measure, that is what took place since we first considered this amendment early in the year—we had no idea that by Christmas the automotive industry would be closing down its manufacture of large cars and would be attempting to greatly increase production of its smaller models, and that we would have gasoline rationing imminent by the first of the year.

We think the hearings on section 9 of the bill had a salutary effect in that they pointed Detroit in the direction of better fuel economy. We are not trying to legislate an absolute standard. We could not in legislation establish a particular standard on the basis of the committee hearings and studies made. On every particular witness' testimony, we talked in terms of a particular percentage, what was feasible, not only economically feasible, but also technologically feasible, in order to get the support of the industry or at least its acquiescence—although they do not openly support it. In order to obtain their acquiescence, we put in the one admonition or caveat that the fuel economy standards would be economically and technically feasible.

What happened?

We are proposing to do exactly what we did when the Clean Air Act exhaust emission standards came to the floor. In that measure the committee first reported maximum emission standards to the floor of the Senate and we on the floor doubled it, just because one particular report or one distinguished Member had studies by his staff and otherwise that showed that more could be done.

Well, we all obviously want to do more—50 percent—75 percent—100 percent. We could revise the percentages on the floor but we could come up with a grievous error, particularly since the objectives of section 9 were adopted by the Commerce Committee before a maximum effort was launched by Detroit to improve fuel economy in the base year—1974.

So if we changed the objective of 50 percent on the floor after all the evidence and all the reports and agreements made among the Public Works, Interior, and Commerce Committees and those who studied this particular problem, we may actually be lessening the attainment of the 50-percent improvement because it might prove to be extremely difficult.

In that light, I would strongly urge that this amendment be rejected on the basis of the careful Commerce Committee study where we now know that we are basing the goal on a percentage that is reasonable and attainable. All we have is one Treasury Department report with the prefacing statement that technologically possibly when we add it all up, we can get a 75-percent fuel economy. The main thrust of the bill is not necessarily to effectuate a technological change. On the contrary, it was with the introduction of presently known technology that we contemplated that the automobile manufacturers could meet the standards.

Very interestingly, the automotive industry when this bill was first proposed said that they could not meet its fuel economy goals, but now they have come in and have given strong evidence and statements to the effect that they can meet the 50-percent goal. More than anything else, they are turned in the direction of improved fuel economy and we can travel forward together. Their reason for acquiescence now is political.

In many State legislatures there are bills being proposed, the effect of which will be to prohibit the licensing of new cars unless they meet certain fuel economy standards. What the automotive industry said, rather than having the several States, and the hiatus set mileage standards, that they would comply with the spirit and letter of section 9 of S. 2176, and go along with the 50-percent goal.

The key language is that "at least" a 50-percent improvement shall be effectuated. It is not the maximum. The Secretary could establish standards to meet a 75-percent improvement if that is achievable.

Now with the American consumer completely attuned to the fuel consumption of cars, when he is buying a car, or if he is buying one for his wife at Christmas, his first question will be, "How many miles to a gallon will this car give?" That is quite a change from last June when we originally considered the amendment.

On that basis, I would urge that the Senate reject the amendment.

Mr. BAYH. Mr. President, I will not proceed with this debate and detain the Senate very long.

I do appreciate the intense feelings and the dedication of the Senator from South Carolina (Mr. HOLLINGS).

The only thing I would say in this argument, as a noncommittee member, on reading the report, is that the Treasury Department talks about off-the-shelf technology, which I assume is the phraseology for technology that presently exists. So we do not have to use new technology to accomplish a 50-percent fuel savings. There is also one additional important feature.

On page 50 of the committee report, it talks about the present trend in the product mix. In other words, that the movement toward smaller cars continues. The fuel economy achieved by the changing product mix could accomplish a 50 percent change without improving the technology or having to make cars more efficient. That is why the Senator from Indiana, without at all derogating the fine work the committee has done, feels that if we are going to do something to convince the American people we are serious, we should require a higher standard. I am talking about little more than that which the report said can be accomplished without any major change in technology. That is my reason for presenting the amendment. I appreciate that there is a difference of opinion on this.

Mr. HOLLINGS. Mr. President, I appreciate the sincerity and the deep thought which has been given to this matter by the distinguished Senator from Indiana. I emphasize that the present measure as constituted, section 9 of the bill, does not prohibit the Senator from Indiana's goal if a 75-percent improvement can be had. But we want to make certain that the goal in the statute will be attainable with respect to the technology. There are all kinds of technology available today—in the aircraft industry and in the space industry. But whether it is economically available to produce savings in half a dozen cars and save 75 percent or even 100 percent or 200 percent, that is one thing, but when you go to making ten million automobiles then it has to be not only technologically feasible but economically feasible as well.

On that basis, I would ask that the amendment be rejected.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH).

The amendment was rejected.

Mr. MATHIAS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment is dispensed with, and the amendment will be printed in the RECORD.

The text of the amendment is as follows:

AMENDMENT TO AMENDMENT No. 757

On page 32, line 9, delete "section 553 of title 5, U.S. Code" and insert "subsection (j) of this section."

On page 32, line 18, delete "section 553 of title 5, U.S. Code" and insert "subsection (j) of this section."

On page 37, lines 1–9, delete the text of subsection (j) and insert in its stead the language of section 20(i) of S. 2176 as reported on October 16, 1973, as follows:

"(j) Except as provided in this subsection, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code. Notice and a public hearing are required, and a record of the proceeding shall be maintained. The proceeding shall be structured to proceeded as expeditiously as possible, while permitting all interested persons an opportunity to present their views. Participants shall be given a right to cross-examine on matters directly related to the proposed rule, and the Commission may set such conditions and limitations on cross-examination as are deemed necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Commission; where appropriate, persons with the same or similar interests may be required to appear together by a single representative. Each rule issued by the Commission shall be based on substantial evidence in the record taken as a whole and at the conclusion of a proceeding pursuant to this subsection shall be published forthwith in the Federal Register."

Mr. MATHIAS. Mr. President, this amendment, a copy of which has been given to the managers of the bill, is proposed in order to restore the former section, 20(i) of S. 2176 as it was reviewed by the Commerce Committee and reported favorably on October 16.

What it simply does is to allow proceedings at public hearings, with an opportunity for all interested and affected parties to present thier views and be given the right of cross-examination, upon such conditions as to assure a fair and expeditious consideration of the contested issues.

It really provides due process to those who will be regulated by this bill, and it will give them the opportunity to obtain full and complete data, so that any rule that is promulgated to implement the provisions of the act can be based upon the complete record and thereby, hopefully, will provide a more workable rule, and will fulfill the objective of conserving energy. That is all the amendment does. It is a due process amendment. It gives those who are about to be regulated the right to know what is in the regulations and perhaps to provide a more substantial and a more accurate base for the regulations, if the original concept of the regulations turns out to be in error in any way.

Those who have raised questions against this amendment say that it would prolong proceedings. I respectfully suggest that this amendment is so couched that it will not prolong proceedings, because it authorizes cross-examination under such conditions as may be prescribed by the Secretary of the Commission, and that would include consolidation of various interests.

We are all aware of the famous peanut butter cases that went on forever and ever. That could not happen under this amendment, because this amendment provides for the Secretary of the Commission to consolidate interests and to provide reasonable conditions under which the right of cross-examination would be pursued.

So I believe that this is purely a due process amendment. It is one which will be of assistance to those to be regulated. It will be useful and valuable for all the people whose interests are to be protected by the bill.

I hope the Senate will adopt the amendment.

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

Mr. TUNNEY. Mr. President, I have to object to this amendment, on behalf of the Committee on Commerce.

I should like to point out that the Federal Trade Commission, on December 6, 1973, wrote a letter to Chairman Magnuson, and I read from the letter:

> This is in response to your request for the Commission's views on Sections 8 and 9 of Amendment No. 757 to S. 2176, 93d Congress, 1st Session, a bill "to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior; and for other purposes." The Commission supports enactment of this legislation.

The letter then goes on to say that the Commission feels very strongly that the objectives of the proposed legislation, as written, are in the public interest, and it endorses enactment of the law.

On December 7, 1973, Senator JACKSON, Senator MAGNUSON, and Senator RANDOLPH, the chairmen of the three committees that have considered the proposed legislation, sent a letter—a "dear colleague" letter—in which they addressed the question of the rulemaking procedure, and I read what they said:

> The rule making process for the development of testing procedures, calculation procedures, and rules governing the disclosure of annual operating costs follows the traditional section 553 of Title V, U.S.C., rule making process that has been historically relied on by the FTC in many of its activities regarding labels and other consumer education matters. Since the labeling provisions for appliances and automobiles are consumer education measures, as opposed to measures which call for the establishment of minimum standards, or for the banning of certain products from the marketplace, it would be anomalous to develop a rule making procedure which is more formal than has traditionally been used by government agencies in similar rule making procedures.

Clearly, the thrust of this letter from the chairmen of the appropriate committees is that they feel that we should not deviate from the traditional language of section 553 insofar as the labeling bill is concerned.

I feel it is clear that if there was a right of cross-examination in a matter of this kind, lawyers in this city and elsewhere in the country would be able to tie up for months, if not for years, the rulemaking process of the Commission. What we want is quick action, not action which is going to violate the rights of individuals who are affected, anymore than would be affected traditionally by section 553.

Mr. MATHIAS. Mr. President, will the Senator yield on that point?

Mr. TUNNEY. I yield.

Mr. MATHIAS. The amendment provides on its face for cross-examination to take place only under such conditions as may be prescribed by the Secretary of the Commission. Therefore, they cannot have one of the protracted, long, drawn out, lengthy proceedings which admittedly have occurred on some other occasions in the past. It is drawn to prevent that very circumstance.

Mr. TUNNEY. What is clear here is that we would be establishing a precedent which I really do not think is needed. Why should a different rule apply here than is traditional with consumer education measures?

Mr. MATHIAS. If the Senator is asking me, I would say that we should have the right of cross-examination in many areas. I do not think we should carve out more jurisdiction for the committee abridging the right of due process in a very critical area, abridging the right of the public to information, and say that we are doing it in this case because it seems less critical than in some other very important cases. I think it is very important in all cases, and we ought to rework this whole area; but I cannot think of a better place to start than the pending bill.

Mr. TUNNEY. I point out that under the Product Safety Act, in which the Product Safety Commission has the right to take products off the market—which is an important weapon that the Product Safety Commission has under that act—there is no right of cross-examination. Yet, one would think that, under that set of circumstances, one should have a greater need for cross-examination than in the pending measure.

I do not think that, with a floor amendment, we should move into an area which would have precedential value, without having had hearings on the matter.

I can understand the Senator offering an amendment that in all proceedings before the Commission, as it relates to this act, as it relates to the Product Safety Act, or any other act, there should be the right of cross-examination and that we should hold hearings and have an opportunity to weigh the equities on both sides. But it seems to me that a floor amendment, without hearings, to apply more stringent standards on this consumer education bill than we have with the Product Safety Act and other acts, really does not make much sense.

I think we might very well find ourselves moving into a position in which we would not want to find ourselves.

Mr. MATHIAS. I would be prepared to strengthen the due process features of some of the other acts already on the books.

Mr. TUNNEY. The Senator is aware of the fact that the Federal Trade Commission can always allow cross-examination under section 553, if they want to, if they feel it would be important to the public interest to allow it. But it does not give it as a matter of right because they felt it would be more important in the public interest to have expeditious consideration of these regulations.

I would be perfectly willing, if the Senator wants to offer this legislation that would guarantee cross-examination for the FTC under all circumstances, to sit as a member of the committee to help to decide that it should be brought before the Senate. But it does not seem to me that in a floor amendment we should take this major step when we have not had a chance to hear the arguments on both sides in the hearing process which is prescribed for all legislation.

Mr. MATHIAS. This was heard in committee, as a matter of fact. This restores the language of S. 2176, which was reported favorably last October 16. This language has been reviewed by the committee and reported favorably to the Senate. We are just restoring the language. This has been given careful consideration by the committee.

Mr. TUNNEY. But the fact is that the major thrust of the hearing was on the overall act. We did not have specific hearings on this provision. Whatever testimony we had from the Federal Trade Commission made it clear they felt it would tie them up for months and even years. That is why we made the change. We did not hold specific hearings on this specific amendment. As a matter of fact, it was considered by the committee in an ancillary fashion and what we did consider made it clear to us we should return to the law as it is written in section 553, and that is why we made this legislation conform with the existing procedures.

If the Senator wants a major change of this kind in section 553 of title 5 he should offer specific legislation to that effect and have it apply across the board and have it apply to the Product Safety Act. The Product Safety Act grants clear powers to the Product Safety Commission because they can take products off

the market and for the manufacturer that represents a more stringent impact on his business affairs than the legislation before us today.

Therefore, I would have to object to the amendment. I would point out that Senators JACKSON, MAGNUSON, and RANDOLPH in a letter they sent to Senators noted they felt the rulemaking procedure should remain as it is under section 553 and should not be changed.

The PRESIDING OFFICER. The question is on agreeing to the amendment (putting the question).

The Chair is in doubt.

Mr. TUNNEY. I think under the circumstances we ought to have the yeas and nays. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland. 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 Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is 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 West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

The result was announced—yeas 48, nays 42, as follows:

[No. 566 Leg.]

YEAS—48

Aiken	Dole	Pearson
Allen	Domenici	Percy
Baker	Dominick	Proxmire
Bartlett	Fannin	Roth
Beall	Fong	Saxbe
Bellmon	Goldwater	Schweiker
Bennett	Griffin	Scott, Hugh
Bentsen	Gurney	Scott, William L.
Biden	Hansen	Stafford
Brock	Helms	Stevens
Brooke	Hollings	Taft
Buckley	Hruska	Thurmond
Case	Javits	Weicker
Clark	Mathias	Young
Cook	McClure	
Cotton	Nunn	
Curtis	Packwood	

NAYS—42

Abourezk	Hatfield	Mondale
Bayh	Hughes	Montoya
Bible	Humphrey	Moss
Burdick	Inouye	Muskie
Byrd, Harry F., Jr.	Jackson	Nelson
Byrd, Robert C.	Johnston	Pastore
Cannon	Kennedy	Pell
Church	Long	Ribicoff
Cranston	Magnuson	Sparkman
Eagleton	Mansfield	Stennis
Fulbright	McClellan	Stevenson
Gravel	McGee	Tunney
Hart	McGovern	Williams
Haskell	McIntyre	
	Metcalf	

NOT VOTING—10

Chiles	Hathaway	Talmadge
Eastland	Huddleston	Tower
Ervin	Randolph	
Hartke	Symington	

So Mr. MATHIAS' amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I have an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 20, after line 9, insert the following:

"(d) The Secretary of Agriculture is authorized to establish within the Agricultural Research Service a food and fiber energy conservation and efficiency program to be conducted through selected Land Grant Colleges in cooperation with the Agricultural Extension Service. The objectives of such program shall include, but not be limited to, research and development of new energy sources, technologies and techniques applicable to the production, processing and distribution of food and fiber in the United States and the dissemination of information relating to fuel conservation and increased efficiency in energy utilization in agricultural operations and processes."

On page 20, line 10, renumber subsection "(d)" as "(e)".

On page 20, line 14, renumber subsection "(e)" as "(f)".

On page 20, line 14, insert in lieu of renumbered subsection (f) the following:

"For the purposes of subsections (b), (c) and (d) of this section, there are authorized to be appropriated $8,000,000, $4,000,000 and $5,000,000 respectively, for each of the first three fiscal years following enactment of this Act."

Mr. DOLE. Mr. President, let me say at the outset that my amendment was discussed with the distinguished Senator from Washington and with the distinguished Senator from Arizona. It is my understanding that there is no objection to the amendment.

Let me explain very briefly that the amendment simply authorizes the Agricultural Research Service in cooperation with the Land Grant Colleges and the Extension Service to research and develop new energy sources and methods for conserving fuel with reference to agriculture. This would have application to all kinds of equipment, all types of processes and all aspects of agricultural operations.

The PRESIDING OFFICER. The Senator will please suspend. The Senator is entitled to be heard. He cannot be heard. Will Senators who wish to talk please retire from the Chamber.

The Senator from Kansas may proceed.

Mr. DOLE. Mr. President, this program would be established at the very time our farmers are being asked to increase production, in the face of possible serious fuel shortages. We must take every possible step to see that adequate fuel supplies are available, and conservation efforts are very important to making certain that necessary fuels are provided. In other legislation we have dealt with allocation and rationing. But this bill deals with conserving the fuels that are supplied. So it is crucial to see—especially in agriculture—that every bit of fuel is put to maximum use so our domestic needs will be met and our export markets can be tapped.

My amendment will establish a 3-year, $15 million research and development program to be undertaken by America's Land Grant colleges. This program would be directed toward developing new energy sources, technologies and techniques to conserve energy in agricultural operations and make them more efficient. The findings and results of the research program would be made available by the Agricultural Extension Service to farmers, processors and others involved in the production of food and fiber ir America.

Hopefully, this program will point the way to new, better and more efficient farming techniques. It may lead to the harnessing of nuclear, solar and other energy forms for agricultural processing operations. A whole range of energy-saving shortcuts may be identified throughout the agricultural sector.

Just as one example of a possible area for study, we have had one suggestion from a Kansan who believes there are ways to conserve some 40 percent of the fuel used in the operation of an alfalfa plant. So I would hope the Senate will recognize the special need to focus on this particular area in the way established by my amendment.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from Kansas. I think this is a helpful amendment. It opens up an additional area for conservation.

I am very pleased to accept the amendment.

Mr. FANNIN. Mr. President, I thank the Senator from Kansas for offering his amendment. Agriculture is a basic industry, and in the past they have set examples in conservation.

I believe the amendment is very appropriate, and think we should accept it. This proposal will be a very fine addition to the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas (putting the question).

The amendment was agreed to.

Mr. HANSEN. Mr. President, I call up my unprinted amendment and ask that the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 63, line 19, strike the semicolon and insert in lieu thereof a period and insert thereafter the following new language:

"Such evaluation shall, in particular, consider changes in Federal and State policies and laws relating to motorized transport on the interstate highway system which would result in significant savings of fuel;"

Renumber existing clauses in subsection 12(a)(4).

Mr. HANSEN. Mr. President, I have discussed this amendment with the manager of this bill. It simply calls for a

study and an evaluation of laws and regulations relating to motorized transport on interstate highways systems which would result in significant savings of fuel.

I ask the distinguished manager of the bill if he would be willing to accept the amendment.

Mr. JACKSON. Mr. President, I certainly think that this is an area in which there could be a great opportunity and in which there should be a great opportunity for the savings of fuel. Certainly a study of this area could be useful.

I support the amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming. [Putting the question.]

The motion was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk. I ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Add a new section at the end of the amendment (No. 757) as follows:

"To conserve fuel, decrease traffic congestion during rush hours, improve air quality and enhance the use of existing highways, the Secretary of HEW shall encourage limitations on the transportation of students in schools operated by local or State educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence."

Mr. HELMS. Mr. President, through this bill, the Senate is proposing a broad range of energy conservation programs and practices. I am offering an amendment which conforms to the spirit of this bill by requiring the Secretary of HEW to encourage local school systems to allow their students to walk or be transported to the schools nearest their homes.

While the Senate has considered many worthwhile suggestions in order to encourage the conservation of fuel, I think the opportunity to eliminate a great deal of the unnecessary busing which has resulted from court orders and HEW plans would demonstrate to the country that this body is serious about fuel conservation.

On the one hand, Congress is adopting policy to encourage Americans to save fuel through carpools and other inconveniences, while at the same time, we are allowing substantial amounts of fuel to be wasted in compulsory busing.

From time to time, note has been taken of the serious financial impact which the introduction of busing has had upon U.S. education. But the impact upon our energy supply has gone unnoticed. The implication has been always that energy was available in unlimited supply, and that we could be as extravagant in its use as we have been with the taxpayers' dollar. The courts, in fashioning their orders on pupil assignment, have been as heedless of the energy drain created by busing as of the other burdens which they have imposed upon American society.

As a result, children have been denied the right to walk to school in neighborhoods where thousands of children have walked to school in previous generations. From kindergarten age on up, they are now being conditioned to accept vehicular transportation as the normal and expected mode of getting from one point to another. They are being denied the experience of walking, and the opportunity of forming healthful habits which would persist throughout their lives. They are, on the contrary, forming an unhealthy attitude toward the prudent use of our energy resources in the future. These children are growing up in an age when they will be faced with chronic energy shortages at least over the next few decades. We should be educating them to live in the world of today and tomorrow, not the world of yesterday when we had all the gasoline we wanted. Instead, we are training them to accept the idea that it is normal for healthy individuals to have free transportation to their destinations, even when they could and should walk.

Much of the busing today is completely unneeded therefore, and detrimental to the formation of sound attitudes necessary to life in a democracy. We can no longer afford the luxury of training our children to waste our energy supplies.

Nor are the amounts of energy involved insignificant. Based upon a study of gasoline used for busing in the major metropolitan areas of the State of North Carolina, I would estimate that the use of gasoline for busing schoolchildren has at least tripled in the past 4 years wherever the widespread use of busing has been introduced under pressure from HEW guidelines or court orders.

Let me give some examples.

In 1969–70, my hometown, the city of Raleigh, had 25 buses which used 26,145 gallons of gasoline to travel 134,654 miles. In 1972–73, the city of Raleigh had 111 buses which used 197,344 gallons to go 750,670 miles.

Think of that, Mr. President. That is an increase of nearly eight times in only 4 years.

The city of Greensboro, in 1970–71 had 107 buses which used 131,817 gallons of gasoline. In 1972–73, the city of Greensboro had 212 buses which used 288,239 gallons of gasoline. That is more than double the use of gasoline in only 1 year.

The city of Winston-Salem, Forsyth County, school district used 307,168 gallons of gasoline in 1969–70, the last year before widespread busing was introduced. In 1972–73, the school district used 711,065 gallons. Again, that is more than double the usage of gasoline.

The city of Charlotte-Mecklenburg County system used 478,343 gallons of gasoline in 1968–69 to travel 1,908,842 miles. Then in April of 1971, the Supreme Court affirmed a busing plan in the famous case known as Swann versus Charlotte/Mecklenburg County Board of Education. In 1971–72, Charlotte used 865,733 gallons of gasoline to travel 3,914,215 miles. And that is not even the whole story. The Charlotte figures do not reflect the miles traveled or the gas used by the City Coach service which is chartered to bus a substantial number of students.

Only a few weeks ago, I discussed in this body a case in the Charlotte-Mecklenberg school system where a single bus is assigned to transport 1 student to West Charlotte High School. This student must arise at 5:30 in the morning, wait for his bus, be transported a distance of 22 miles to school, and then return a distance of 22 miles at night. He is the only student on the bus. The reason for this is that Federal Judge James B. McMillan ordered that 600 students selected for busing to West Charlotte High be chosen by lottery, and this student drew one of what might be called the lucky numbers. His lucky or unlucky number is costing the North Carolina taxpayer more than $3,700 a year to transport one student to school.

Nor is the cost in fuel or dollars the only cost.

In the long rides, children grow restless and boisterous. Last week a young black student leaned out of a bus window for a better look, and his head was struck off when the bus passed a power pole on the curb. Such accidents could happen anytime, but the more children are on buses, the more likely such incidents will take place. He was the second child to be killed on school buses in Charlotte this year.

Mr. President, we have a critical shortage of fuel which is affecting all phases of American life both public and private. The very bill which I am proposing to amend declares that we are in a situation of national emergency, with regard to the usage of fuel. In an emergency an adjustment must be made to accommodate those services which are most essential and which require the least consumption of fuel.

Indeed, the suggestion has been made by some Governors and mayors that it will be necessary to close down our public schools because of scarce energy supplies. This would certainly be a tragedy, especially in view of the fact that substantial amounts of fuel are now being diverted from essential use in connection with public education and used for the purpose of transporting students beyond the schools nearest to their residences.

In examining the figures on gasoline usage which I quoted above. I do not believe anyone could argue that this amazing jump in volume is essential to the operation of public education. This is not a natural growth, it is an unnatural growth. It is wasteful growth. The examples I have given all come from predominantly urbanized areas. They do not represent rural areas where the distances are naturally long and busing has long been accepted. The only reason why children in urban areas need busing is because they have been assigned to schools beyond their home neighborhoods.

My amendment simply says that in setting our priorities we must realize that it is more important to keep the schools open then it is to divert that fuel to a purpose which is frustrating the availability of public education at this time.

At the time when many of these busing plans were ordered put in effect, the

availability of fuel was not a factor in their consideration. The Supreme Court said, given the available facts and circumstances at the time such rulings were being made, that busing was a tool available to the courts in shaping what each court considered an equitable remedy to guarantee the equal protection of the law. I submit that those circumstances have drastically changed since that time.

We have reached a point where the various uses of busing must be ranked on a priority scale. Busing is only needed where the distances are too long for a child to walk. But when these distances are artificially created, then each artificial busing can no longer be considered essential. In short, we do not have the fuel left to transport pupils beyond the nearest possible school. Massive busing is no longer available as a reaonable tool for courts to use in shaping their so-called remedies. It is certainly proper for the President to set up energy conservation guidelines to cut energy consumption by limiting unnecessary busing.

Mr. President, it would be foolish to insist upon using our scarce energy resources for nonessential busing when that waste of energy even threatens the continued operation of the schools themselves. I urge every Senator to support this amendment.

Mr. CASE. Mr. President, is the Senator going to ask for the yeas and nays?

Mr. HELMS. That depends on whether the manager is willing to accept the amendment.

Mr. President, I urge the Senate to adopt the amendment.

Mr. JACKSON. Mr. President, this is the so-called busing amendment. I have some personal views on this subject of busing schoolchildren on racial grounds. Anyone who had looked at the law would know that it could only be handled through a constitutional amendment.

We have a whole series of court orders based on constitutional grounds directing school boards to provide busing for schoolchildren or be held in contempt.

Obviously, we cannot by statute address ourselves to this problem. We can pass all the statutes in the world. However, when we deal with a constitutional issue, it can only be handled by a constitutional amendment.

I want to emphasize this point. I realize that this is not mandatory language. However, we are just fooling the public and all of those who are deeply concerned with this problem——

Mr. HELMS. Mr. President, may we have order? I cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Washington may proceed.

Mr. JACKSON. Mr. President, I will repeat that this matter can only be handled by a constitutional amendment. While it is true that this amendment is simply a recommendation, it will not accomplish anything. The court orders which direct school districts to provide the necessary busing and provide the necessary transportation cannot be changed by a measure such as this.

There is no point in passing this amendment. It purports to say that something is being done in this matter when in truth and in fact it cannot be done except by constitutional amendment.

Mr. HELMS. Mr. President, I would say to my friend, the Senator from Washington, that I am not purporting to do anything. I am being as forthright as I can. If we are really serious in this body in trying to conserve fuel, let us say to the HEW that they should use some good sense in the matter of forced busing of schoolchildren.

Now, I can cite some figures——

Mr. JACKSON. Let me ask the Senator, how can it have meaning, if HEW turns around and tells the school district not to comply with an order of the courts? I am not much of a lawyer, but there are certain elementary rules of law you do not forget. If you aid and abet such an action in opposition to an order of the court, you will find yourself in the pokey.

Mr. HELMS. Mr. President, I admire and respect the Senator, but I do not see how he can get that construction out of this language.

Mr. JACKSON. I would say that an official of HEW, in a case where the courts have ordered a school district to provide buses, if an official of HEW attempts to encourage that school district not to comply with the order of the court—and that is what it would be, under this amendment—my judgment is that that person could be cited for contempt.

Mr. HELMS. Let the record show that that is not the intent of the amendment, and I do not think the amendment says that.

Mr. JACKSON. I am just trying to be as objective as I can about it. I just point out that if this amendment is to mean anything, it would be used in those situations where the court has ordered the school board to take the necessary action. It says:

To conserve fuel, decrease traffic congestion during rush hours, improve air quality and enhance the use of existing highways, the Secretary of H.E.W. shall encourage limitations on the transportation of students in schools operated by local or State educational agencies, as defined in sections 801 (f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

Going back, it says:

The Secretary of HEW shall encourage limitations on the transportation.

I say that if that is to be meaningful, to carry out what the Senator has in mind, it would run counter to an order of the court. Any attempt of an individual to implement this would place that individual in a position where he could be cited for contempt.

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

Mr. HELMS. I yield to the distinguished Senator from Arizona.

Mr. FANNIN. I support the amendment. The provision is not mandatory; it is when it is the best judgment of the administrator that these things be done.

Here we are, talking about closing down schools for certain periods of time, so that perhaps we will have school in the summertime and close them down for parts of December and January. It may be challenged that that could not be done within the requirements of the school year. I feel that this is the same type of application. All the Senator is trying to do is save energy, and this, it seems to me, is a sound basis for doing it. It is not in any way in violation, as far as I can see, of the intent of this amendment, or in violation of rulings of the court.

It does not say that where they have been mandated to do it, they shall discontinue doing it. I imagine there are many thousands of youngsters being bused throughout the Nation, not because of being mandated, but because school boards have adopted certain local regulations. No doubt some of them would like to make changes in their handling of the transportation of students, both as a conservation measure and for other reasons.

Mr. JACKSON. Mr. President, as Senators know, my children are attending the Horace Mann Public School here in the District of Columbia. Children are bused in there, and the enrollment is one-third black. I believe strongly in integration, but I have strong personal feelings about busing children solely for a racial objective.

The Brown case held that you should not bus children solely and exclusively for racial purposes. I believe in busing to achieve quality education. I have tried to practice what I preached, and my children are in a fully integrated school in the District of Columbia, a public school. I am not the kind who gets up and wails for busing, and then you find that he has his children all in private, nonintegrated schools.

Mr. HELMS. The Senator is to be commended for his consistency, many others may not be similarly consistent.

Mr. JACKSON. I want to be intellectually honest by saying that nothing can be done about this problem—I speak now as a lawyer—except by constitutional amendment. I, therefore, am not going to support a proposal that will not be effective in trying to resolve it.

I fully appreciate the position of the Senator from North Carolina. He certainly has a right to make this proposal. I am just giving him my opinion for what it may be worth.

Mr. HELMS. I appreciate the Senator's comments.

Let me say, Mr. President, that all the amendment would do is say to Federal judges and HEW officials, "Take a look at the situation involving forced busing of schoolchildren, and see if there is any foolishness involved."

I happen to know at least one situation where there is, indeed, foolishness. In the Charlotte-Mecklenburg school district of my State, we have an instance of one child being bused all by himself on one bus, 22 miles to school each morning, and 22 miles back.

If we could stop that, it would be a notable achievement to put an end to that sort of foolishness. Here is one bus being used for one child all day long, a bus and a driver.

I can cite figures, as I have cited them in this body before, of the survey we made in just four school districts out of 151 school districts in North Carolina,

where 1,100,000 gallons of gasoline could be saved by eliminating forced busing of schoolchildren. If we are really serious about cutting down fuel consumption, we can at least accept this watered-down version of the amendment I proposed some time back.

I am not saying to make it mandatory. I am just saying to the judges, the bureaucrats, and all the rest, "Take a look at it."

Mr. President, I ask for the yeas and nays.

Mr. JAVITS. Mr. President, I move to lay the amendment on the table.

Mr. PASTORE. I ask for the yeas and nays on the motion of the Senator from New York.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. BARTLETT). The question is on agreeing to the motion of the Senator from New York to lay on the table the amendment of the Senator from North Carolina. 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 Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is 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 Georgia (Mr. TALMADGE) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

The result was announced—yeas 46, nays 45, as follows:

[No. 567 Leg.]

YEAS—46

Abourezk	Jackson	Pearson
Bayh	Javits	Pell
Bellmon	Kennedy	Percy
Biden	Magnuson	Randolph
Brooke	Mansfield	Ribicoff
Burdick	Mathias	Saxbe
Case	McGee	Schweiker
Church	McGovern	Scott, Hugh
Clark	McIntyre	Stafford
Cranston	Mondale	Stevenson
Eagleton	Montoya	Taft
Hart	Moss	Tunney
Hatfield	Muskie	Weicker
Hughes	Nelson	Williams
Humphrey	Packwood	
Inouye	Pastore	

NAYS—45

Aiken	Curtis	Johnston
Allen	Dole	Long
Baker	Domenici	McClellan
Bartlett	Dominick	McClure
Beall	Eastland	Metcalf
Bennett	Fannin	Nunn
Bentsen	Fong	Proxmire
Bible	Fulbright	Roth
Brock	Goldwater	Scott, William L.
Buckley	Griffin	Sparkman
Byrd, Harry F., Jr.	Gurney	Stennis
Byrd, Robert C.	Hansen	Stevens
Cannon	Haskell	Thurmond
Cook	Helms	Young
Cotton	Hollings	
	Hruska	

NOT VOTING—9

Chiles	Hartke	Symington
Ervin	Hathaway	Talmadge
Gravel	Huddleston	Tower

So the motion to table Mr. HELMS' amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. 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. JACKSON. 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. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Washington (Mr. JACKSON), for himself and others, in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. HUMPHREY. Mr. President, as an original cosponsor, I am particularly pleased to support the "National Fuels and Energy Conservation Act of 1973" and urge its prompt passage. It is certainly needed.

The mandate provided the Office of Energy Conservation and the new Council on Energy Policy will result in a much greater degree of coordination on energy matters within the Federal Government. Hearings on "Energy Conservation," held before my Consumer Economics Subcommittee last month, reinforced my conviction that a greater effort to coordinate all the energy saving efforts of the Government is a must.

The measures called for in this legislation will be important in helping our people adapt, with least hardship, to the fuel scarcity which our Nation will continue to face for years to come. The steps recommended, and the research to be undertaken, will result in a significant reduction in the unnecessary use of scarce energy resources.

Mr. President, I am particularly pleased to see that a provision to promote an expanded use of car pools by our citizens is included in the bill before us. In terms of energy savings, environmental protection and traffic congestion, more car pools make good sense.

On November 19, the Senate passed my carpool promotion amendment to the "National Energy Emergency Act of 1973." It authorizes a $25 million 2-year car pool promotion program. I am hopeful that this amendment will be retained in conference and that the full funding of this program will be provided in the relevant appropriations legislation. We need a substantial program of this nature with the fuel support of Congress.

The car pool promotion provision of the pending legislation is quite complementary to my proposal. It directs the Department of Transportation to move forward now with funds already available to mount an aggressive car pooling effort. I fully support the need for both of these initiatives and hope that the Department of Transportation will respond to the car pooling mandate in the legislation before us today.

COUNCIL ON ENERGY POLICY

Mr. PERCY. Mr. President, while I support nearly all of S. 2176, there is one section that I believe is most unwise. That is section 3, which would establish a 3-member Council on Energy Policy. On May 10, 1973, I voted against a similar Council proposal when it was first brought before the Senate as S. 70, and I believe the Senate has even more reason to reject the Council idea now than it did then.

This very week, the Committee on Government Operations is marking up a bill, urgently requested by the President, to establish a Federal Energy Administration. That bill, S. 2776, was sponsored by Senator JACKSON and cosponsored by myself and Senators RIBICOFF, ERVIN, JAVITS, RANDOLPH, FANNIN, and NUNN.

In considering the Federal Energy Administration proposal this week, the Government Operations Committee, which is the committee of jurisdiction in matters of executive reorganization, is facing the very question addressed by this proposal. We are working with the administration to assure that the function of coordinating overall energy policy is placed organizationally in the position of greatest influence. In contrast, section 3 of the pending bill seeks to force a 3-member Council on Energy Policy upon the President when he has indicated no desire or need to have such an advisory council in the Executive Office of the President.

The success of advisory councils and other policy offices in the White House has been mixed at best. None of these entities has ever been successful that did not enjoy the confidence of the President. In this period of energy emergency, it would be irresponsible for the Congress to try to force upon the President a Council which would not have his complete confidence.

On June 29 of this year, the President established the Office of Energy Policy in the Executive Office of the President, to coordinate all energy matters in the executive branch. He appointed Gov. John Love as his chief energy adviser and Director of the Office of Energy Policy. Senators JACKSON, RIBICOFF, and I sponsored an amendment to make that Office a statutory body.

Now Governor Love has unfortunately gone back to Colorado, and the Federal Government has lost the services of this highly respected public figure. Governor Love's departure has only demonstrated once again that White House advisers can only be as effective as the President wants them to be. For this reason, a three-member Council on Energy Policy could not be effective in the White House today.

The President has now designated Deputy Secretary of the Treasury William Simon as his chief energy adviser,

and head of the Federal Energy Office in the Executive Office of the President. This is the Office which would become the independent Federal Energy Administration if the Congress approves the legislation now before the Government Operations Committee.

Mr. President, I hope that the idea of a Council on Energy Policy, which the House of Representatives has totally ignored since it passed the Senate as S. 70 last May will ultimately be rejected. The Senate should give the Government Operations Committee time to complete its work on the Federal Energy Administration bill, which I expect will be reported out later this week. Let the proper committee, in consultation with the administration, make the proper judgment as to where to place this all-important energy policy function. We must create the organizational structure that will make the function most effective in meeting the energy emergency which confronts our Nation. A Council on Energy Policy will not accomplish that purpose.

CARPOOLING PROVISION CONTAINED IN S. 2176—A STEP IN THE RIGHT DIRECTION

Mr. DOMENICI. Mr. President, I am pleased that the substitute to S. 2176, the National Fuels and Energy Conservation Act of 1973, which passed the Senate today contains a section devoted to carpooling as a means of conserving fuel.

This section would amend chapter 1 of title 23 of the United States Code to provide authority for carpooling projects that would conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities without detracting from the use of mass transit facilities.

These projects would be originated by local officials, submitted through the State for approval by the Secretary of Transportation. Upon approval, the projects could be funded up to 90 percent with Federal funds already available as part of the Urban System Highway funds authorized by the Federal Aid Highway Act. There would be a limit of $1 million on the Federal share of any single project.

In addition, the Secretary of Transportation would be directed to conduct a full investigation of the effectiveness of the measures employed in these projects and, in conjunction with other Federal agencies, he will study other methods to increase the use of and effectiveness of carpool programs. The results of these studies are to be reported to the Congress not later than December 31, 1974.

Mr. President, I remain convinced that carpooling represents one of the most practical, most effective and most promising means we have to deal with our current fuel shortage, particularly in the short run. Given the other benefits of lowered air pollution, decreased traffic congestion and more efficient and effective utilization of this Nation's urban highways, I am indeed pleased that this provision, which I introduced in the Public Works Committee, has been passed by the Senate. I feel that it will be extremely beneficial in conserving energy while improving the quality of life for commuters and residents in urban areas and represents a step in the right direction.

HOW TO INCREASE THE OIL SUPPLY BY 17 PERCENT

Mr. McGOVERN. Mr. President, the Senate is considering S. 2176, the energy conservation bill, which was originally introduced in July of this year by the chairmen of the three relevant Senate committees on behalf of a number of Senators, including myself.

In many respects, this bill is the single most important piece of energy legislation we will be considering this year. For it represents the first comprehensive effort to control America's gluttonous appetite for energy and thus substantially reduce our need for foreign oil in the years ahead.

It is perhaps a sign of the times that this proposal is a congressional, rather than an administration, initiative.

For some reason, this bill has received relatively little public attention despite the dramatic effect it can have on the energy shortage. Most Americans are familiar with President Nixon's proposals to temporarily reduce demand by lowering thermostats and speed limits. But few Americans are aware of the permanent energy savings that are possible under our bill—three to four times as great as the President's stopgap measures.

I would like to take a few moments to comment on the section of the bill which I regard as the most important—the section dealing with fuel consumption standards for motor vehicles drafted by Senator HOLLINGS and championed by the chairman of the Commerce Committee, Senator MAGNUSON.

Under the provisions of the bill, the Secretary of Transportation would be required to promulgate minimum standards for the number of miles motor vehicles can get for a gallon of fuel. Those standards are to be such as to increase the industrywide average fuel economy for new vehicles by at least 50 percent over the next 10 years. In other words, the present average of 13½ miles per gallon would have to be improved to over 20 miles per gallon.

The standards would go into effect by the 1978 model year and new vehicles which did not meet those standards could not be bought or sold.

According to figures developed by the Department of Transportation and the EPA, the proper implementation of those standards could result in reducing the demand for oil by as much as 17 percent—the entire amount of the shortage the President projects for this year.

While this substantial saving cannot be achieved overnight, the important point is that it can be done with existing technology. Smaller, lighter cars today average nearly twice as many miles per gallon as the large ones. And modified powerplants can achieve the same objective for large cars. For example, the same piston engine Mercedes which averages 13 miles per gallon average 25 with a diesel engine.

So, the only thing which is necessary is for the auto manufacturers to start converting their plants and marketing the cars which would replace the gas guzzlers now on the road over a 6 to 7 year period.

These are the facts. In 1972, motor vehicles consumed more than 105 billion gallons of fuel—42 percent of the total U.S. petroleum consumption. The automobile's share of the 1.27 trillion passenger miles traveled was 91 percent, and 54 percent of travel was on 16 percent of roads in urban areas.

America's 97 million cars consumed an average of 755 gallons per year—14.5 gallons per week—and averaged 13.49 miles per gallon.

But our 62 million standard and large cars averaged only 11.4 miles per gallon. Our 34.6 million small and economy cars did nearly twice as well, averaging 21.7 miles per gallon.

The lesson of those figures is clear. Based on existing technology, we can reduce by half the amount of fuel that two-thirds of our cars consume by simply phasing out the gas guzzling monsters and replacing them with more economical cars. Assuming the other variables remain constant, this would reduce the demand for gasoline by approximately one-third.

Stated differently, this simple change would be equivalent to increasing today's supply of oil by approximately 17 percent, substantially more than the planned output of the Alaskan pipeline.

In terms of the 1985 projections, the savings would be equal to at least 50 percent of projected eastern hemisphere imports. Improved technology could result in even more substantial savings.

The question of how rapidly we can reach this goal depends upon the willingness of the automakers to proceed in this direction. The period of time needed to physically accomplish the conversion is between 2 and 3 years. But it is conceivable that the carmakers may engage in the same kind of dilatory tactics and bootstrap arguments we saw over emission standards.

On the other hand, the public trend toward smaller, more economical cars is clear. As the following chart shows, the market share for new, large cars has declined by more than 23 percent over the last 7 years, while the share of small cars has increased by the same amount:

CAR MARKET SHARES
[In percent]

	1967	1972	1973
Cadillac class	2.9	2.7	2.4
Pontiac class	17.8	14.5	12.7
Ford class	28.6	19.3	16.3
Total large	49.3	35.5	31.4
Sports (Mustang) class	12.8	8.2	9.9
Intermediate (Torino) class	21.8	19.2	18.8
Total 8 cylinder	83.9	64.6	60.1
Compact	6.7	12.9	14.4
Subcompact		8.2	9.6
Foreign	9.3	14.5	15.9
Total 4 and 6 cylinder	16.0	35.6	39.9

Note: According to the Wall Street Journal, this trend has become even more pronounced in recent weeks—car sales are off by 10 percent, large car sales by 25 percent. And part of the reason for the overall decline in sales may be a shortage of small cars.

Source: Treasury Department.

So, in a sense, converting to cars with greater fuel economy is really in the best interests of the auto industry. Their reluctance to rapid conversion, however, is bound to be strong because of the tremendous investment they have made in large and wasteful cars.

One way out of this dilemma may be for the Government to provide a partial tax writeoff for equipment made obsolete by the new regulations. This would avoid enormous potential losses and help insure that the price the consumer will pay for new, more economical cars remains at a level the average person can afford.

While I in general oppose special tax treatment for the corporate sector, this particular case is one where the benefits to society would far outweigh the cost. The modest loss of revenue would be limited to the conversion period and would result in increasing the 1985 energy supply by a projected 43 billion gallons of gas—the equivalent of 5.6 million barrels of crude oil per day. Moreover, unless some assistance is provided the carmakers will be forced to up the price of cars to recover their lost investment in obsolete equipment.

In conclusion, Mr. President, I would like to stress one interesting by-product of converting to smaller more economical cars. According to recent EPA tests, most 1974 small cars meet the 1976 Clean Air Standards except for nitrogen oxide emissions. And the NO standard can be met by installing the Honda modified Chevy engine or some variant. So, converting to smaller cars will be as good for our health as it is for the economy.

Mr. President, I ask unanimous consent that a fact sheet on gas consumption and the results of the EPA tests of 1973 models under urban driving conditions be printed at the conclusion of my remarks.

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

AUTO GAS CONSUMPTION

(Fact Sheet—Source: Department of Transportation)

I. VEHICLES

Number of cars registered: 1972, 96.9 million; 1973, 101 million.

Average annual increase, 4–5%.

Average annual purchase: foreign 12–15%; domestic 85–88%; 11–12 million.

II. FUEL CONSUMPTION—1972

Total gas consumed, 105 billion gallons.

Passenger cars, 73 billion gallons.

Commercial, 29 billion gallons.

Agriculture, aviation and recreation 3 billion gallons.

Number of cars, 96.9 million.

Vehicle miles traveled, 986.4 billion.

Average miles per year, 10,184.

Average gallons per year (all motor vehicles) 838.

III. PASSENGER CARS

Average gallons per year, 755.

Average gallons per week, 14.5.

Average miles per gallon, 13.49.

Standard cars (8 cylinder), 62 million.

Average miles per gallon, 11.4.

Small care, 34.6 million.

Average miles per gallon, 21.7.

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES—FEDERAL CERTIFICATION TEST RESULTS FOR 1973 MODEL YEAR

Section 206(e) of the Clean Air Act, as amended (42 U.S.C. 1857f–5(e)), directs the Administrator of the Environmental Protection Agency to announce in the *Federal Register* the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles.

FEDERAL EMISSION STANDARDS

The regulations that apply to the control of emissions from 1973 model year vehicles, appearing at 40 CFR Part 85, set maximum allowable emission levels for new gasoline-fueled heavy duty engines (for use in trucks and buses), and gasoline-fueled light duty vehicles (automobiles and light trucks). Heavy duty gasoline-fueled engines are required to meet emission standards of 275 parts per million (p.p.m.) for hydrocarbons (unburned gasoline) and 1.5 percent for carbon monoxide (a poisonous gas). Heavy duty Diesel engines must meet Federal smoke emission standards of 40 percent opacity during acceleration and 20 percent opacity during lugging. These opacity standards limit the darkness of the exhaust smoke to a light gray haze.

The standards for automobiles prohibit all crankcase emissions, and limit allowable evaporative emissions from the fuel system and exhaust emissions from the tailpipe. The exhaust standards allow 1973 automobiles to emit no more than 3.4 grams per mile of hydrocarbons, 39 grams per mile of carbon monoxide, and 3.0 grams per mile of oxides of nitrogen from the tailpipe. The 1973 evaporative emission standard limits the loss of gasoline by evaporation from the carburetor and the fuel tank to no more than 2.0 grams per test.

FEDERAL CERTIFICATION PROCEDURES

Under the provisions of the Clean Air Act, it is unlawful to offer for sale new motor vehicles which are not in conformity with Federal regulations. Prior to the beginning of each model year, automobile manufacturers apply to the Administrator of the Environmental Protection Agency for a Certificate of Conformity for each model they wish to produce for that model year. The Federal regulations prescribe a number of requirements which a manufacturer must meet before the Administrator will grant certification.

In advance of production, the manufacturers are required to provide the Administrator with extensive test data demonstrating the effectiveness of the vehicle's emission control and the ability of the emission control system to remain effective over the useful life of a vehicle (50,000 miles). In addition to the submission of test data on the prototype test vehicles, the manufacturers are required to deliver the test vehicles to the Federal Testing Laboratory at Ann Arbor, Michigan. At this facility, the vehicles are retested by Federal engineers to assure conformity with the regulations. The Federal emission test procedure for light duty vehicles is designed to simulate an average trip of 7.5 miles in an urban area and consists of cold-engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule.

The regulations require a manufacturer to test a selection of prototype vehicles, as designated by the Administrator, which will represent the models to be sold to the public. These vehicles are grouped into two separate fleets. One fleet, known as the emission-data fleet, consists of new prototype vehicles which are driven for 4,000 miles and then tested. The purpose of the emission-data fleet is to determine the stabilized emission levels of new motor vehicles. The second fleet, known as the durability fleet, is made up of new prototype vehicles which are driven for 50,000 miles and tested every 4,000 miles. The durability fleet is used to establish "deterioration factors" which are adjustments that account for the decrease in an emission control system's efficiency over its expected useful life. The deterioration factors enable the Administrator to predict a motor vehicle's emission levels at 50,000 miles based upon its measured levels at 4,000 miles. The test data from the two fleets are then combined, in accordance with the procedures specified in the regulations, to determine whether the vehicle is in compliance with emission standards over the expected useful life of the vehicle. If all the motor vehicles in an engine family so tested are found to conform with the regulations, the manufacturer is granted a Certificate of Conformity.

The same procedure is applicable to heavy duty engines, except that emission-data engines accumulate 125 hours of service on an engine dynamometer before the emission test and gasoline-fueled durability engines and Diesel durability engines accumulate 1500 and 1000 hours of service, respectively. The heavy duty engine test is designed to simulate on an engine dynamometer a truck driving pattern in a metropolitan area.

FEDERAL CERTIFICATION DATA

Listed below are the emission levels of each light duty emission data vehicle and heavy duty emission data engine, as adjusted by the deterioration factors discussed above. The vehicles and engines listed represent all of the models and configurations certified as of March 23, 1973 for the 1973 model year. A supplemental listing will be published when the manufacturers whose certification is presently pending complete their test programs.

The emission and fuel economy data listed below was obtained from the original emission data vehicles and engines. In some cases, manufacturers have submitted requests to perform "running changes" on already certified configurations. EPA has authorized manufacturers to make such running changes if the review of the test data and technological information has shown that the proposed modifications do not cause the vehicles or engines to exceed the standards. The data listed below does not indicate the effect of running changes on certified emission levels.

Included in the light duty vehicle section is a column labeled "Fuel Economy." The values in this column represent the calculated fuel economy for each emission data vehicle as it was operated according to the Federal emission test procedure at the EPA laboratory. The expression used to calculate fuel economy based upon analysis of the exhaust gas is:

Fuel Economy: $2423/(0.866)\ (HC)+(0.429)\ (CO)+(0.273)\ (CO_2)$

Where:

Fuel Economy = Fuel economy in miles per gallon

HC = Hydrocarbon mass emissions expressed in grams per mile

CO = Carbon monoxide mass emissions expressed in grams per mile

CO_2 = Carbon dioxide mass emissions expressed in grams per mile

Note that the HC, CO, and CO_2 emission values used in the relation are actual 4,000 mile emission test results and not the certification values which include the deterioration factor adjustment.

EPA must caution against attempting to compare these published fuel economy values with other values obtained under different conditions or by different techniques. Fuel economy is affected by a wide range of factors including the manner in which the vehicle is driven, type of route and terrain traveled, speeds at which the vehicle is driven, frequency of cold-starts, use of power-absorbing accessories, vehicle weight, axle ratio, ambient conditions and many others. However, these published figures are valid and useful for comparing vehicle performance on the Federal emission test procedure. Description of this general method of calculating fuel economy and discussion of the many factors which affect fuel economy are included in the EPA report *Fuel Economy and Emission Control*, published in November 1972, and available from the EPA Office of Public Affairs.

This listing should not be construed as an endorsement by the Environmental Protection Agency of any manufacturer's vehicles or engines.

WILLIAM D. RUCKELSHAUS,
Administrator.

1973 MODEL YEAR LIGHT DUTY VEHICLES

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
Alfa Romeo S.p.A.: 115.00 Berlina (sedan), 115.01 GTV (coupe), 115.02 Spyder (roadster).	119.7	01500	115.01 GTV	119.7-FI	M4	2,500	4.55	19.1	2.8	28	2.3	0
			115.01 GTV	119.7-FI	M4	2,500	4.55	18.0	3.0	35	2.2	0
AM General Corp.: Utility vehicles, ambulance, 106 mm rifle mount			M151 A2	141.5-1	M4	3,000	4.86	19.1	3.0	22	2.5	0
DJ-56, FJ-8A	232-258	I	DJ-56	232-1	A3	3,000	3.07	16.0	1.7	16	2.9	.1
			FJ-8A	232-1	A3	4,000	3.73	14.4	2.1	25	2.7	0
American Motors Corp.: Gremlin Sedan, Gremlin X Sedan, Hornet sedan, Hornet Hatchback sedan, Hornet Sportabout wagon, Javelin hardtop, Matador Hardtop, Matador sedan, Matador wagon, Jeep Universal CJ-5, Jeep Universal CJ-6, Jeep Universal DJ-6, Jeep Commando Roadster, Jeep Commando wagon, Jeep Commando pick-up, Ambassador Brougham hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Wagoneer standard, Jeep Wagoneer custom, Gladiator jeep truck J-2500, Gladiator Jeep truck J-2600, Gladiator Jeep truck J-4500, Gladiator Jeep truck J-4600.	232-258	I	Hornet	232-1	A3	3,000	2.73	18.9	1.4	15	2.7	.4
			Gremlin	232-1	M3	3,000	2.73	18.0	2.7	32	2.5	.7
			Javelin	232-1	M3	3,000	3.58	14.3	1.7	18	2.5	.2
			Jeepster	232-1	M3	3,500	4.27	13.3	2.4	24	3.0	0
			Matador	258-1	M3	3,500	3.54	13.1	2.1	20	2.4	.1
			Gladiator	258-1	A3	4,500	4.88	13.7	1.8	18	2.4	0
			Universal	258-1	M4	3,000	4.27	13.7	1.0	12	2.2	0
American Motors Corp.: Gremlin sedan, Gremlin X sedan, Hornet sedan, Hornet hatchback sedan, Hornet Sportabout wagon, Javelin hardtop, Javelin AMX hardtop, Matador hardtop, Madador sedan, Matador wagon, Ambassador Brougham, hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Universal CJ-5, Jeep Universal CJ-6, Jeep Commando roadster, Jeep Commando pick-up.	304	II	Matador	304-2	A3	4,000	3.15	12.2	2.8	36	2.1	.5
			Javelin	304-2	A3	3,500	2.87	12.6	2.9	20	1.7	1.8
			Ambassador wagon.	304-2	A3	4,500	3.54	12.4	2.9	20	2.3	.2
			Jeepster	304-2	M3	3,500	4.27	12.3	2.8	19	2.3	.5
			Javelin	304-2	M3	3,500	3.91	12.6	3.4	29	2.0	.6
			Javelin	304-2	M3	3,500	3.91	13.6	2.8	20	2.4	.9
Hornet sedan, Hornet hatchback sedan, Hornet sportabout wagon, Javelin hardtop, Javelin AMX hardtop, Matador hardtop, Matador sedan, Matador wagon, Ambassador Brougham hardtop, Ambassador Brougham sedan, Ambassador Brougham wagon, Jeep Wagoneer standard, Jeep Wagoneer Custom, Gladiator Jeep truck J-2500, Gladiator Jeep truck J-2600, Gladiator Jeep truck J-4500, Gladiator Jeep truck J-4600.	360-401	III	Javelin	360-2	M4	3,500	3.91	10.0	2.9	33	1.8	1.5
			Ambassador wagon.	360-2	A3	4,500	3.15	10.9	2.8	30	2.2	1.8
			Ambassador	360-2	A3	4,000	3.15	11.2	2.4	17	2.0	.1
			Gladiator	360-4	M4	4,500	4.88	9.8	2.7	18	2.4	.2
			Matador wagon.	401-4	A3	4,500	3.91	11.1	2.4	30	2.3	.2
			Ambassador wagon.	401-4	A3	4,500	3.91	9.8	3.3	28	2.5	.1
Avanti: Avanti II	400	GM-104	Avanti II	400-2	A3	4,000	3.31	11.0	1.9	22	2.3	0
Audi: Audi 100, 100LS, 100GL	114.5	100	Audi 100	114.5-2	A3	3,000	2.94	14.2	2.9	17	2.3	0
			do	114.5-2	A3	3,000	3.91	13.9	2.6	20	2.4	0
			do	114.5-2	M4	3,000	4.11	14.3	2.5	22	2.7	0
Bayerische Motoren Werke AG: BMW Bavaria, BMW 3.0CS	182	130	Bavaria	182.0-2	A3	3,500	3.64	14.8	2.6	23	1.8	.3
			do	182.0-2	M4	3,500	3.64	13.0	2.8	23	1.7	.8
BMW 2002, BMW 2002tii	121.3	121	2002	121.3-2	A3	2,500	3.64	21.8	2.1	27	1.5	0
			2002	121.3-2	M4	2,500	3.64	21.4	1.9	22	1.9	0
			2002tii	121.3-FI	M4	2,500	3.64	22.0	2.4	23	1.7	0
			2002tii	121.3-FI	M4	2,500	3.64	22.5	2.9	24	1.1	0
British Leyland Motor Corp. (Austin-Morris): MG Midget	77.9	A series	MG Midget	77.9-2	M4	2,000	3.90	22.1	2.6	31	1.2	0
			do	77.9-2	M4	2,000	3.90	22.0	3.0	35	1.3	0
Austin Marina, MGB Sports, MGB GT	109.6	B series	Austin Marina	109.6-1	A3	2,500	3.64	19.2	1.6	29	2.2	.3
			MGB Sports	109.6-2	M4	2,500	3.90	18.7	1.8	27	1.7	0
			MGB GT	109.6-2	M4	3,000	3.90	16.3	2.6	34	2.2	.3
Triumph: Stag	183.0	TA	Stag	183.0-2	A3	3,000	3.70	16.1	2.8	31	2.7	.2
			do	183.0-2	M4	3,000	3.70	16.6	3.1	24	2.6	.2
TR6, GT6	122-152	TB	GT6	122.0-2	M4	2,250	3.27	19.7	2.2	25	2.1	.3
			GT6	122.0-2	M4	2,250	3.89	19.1	2.0	28	2.1	.8
			TR6	152.0-2	M4	2,750	3.70	17.8	2.3	29	2.4	.6
			TR6	152.0-2	M4	2,750	3.70	18.1	2.1	20	2.8	.2
Triumph, Spitfire	91.0	TC	Spitfire	91.0-1	M4	2,000	3.89	24.9	2.3	29	1.8	0
			do	91.0-1	M4	2,000	3.89	23.8	2.6	37	1.5	.4
Rover, Ltd., 88" Land Rover	139.5	139.5, 4 cyl.	88" Land Rover.	139.5-1	M4	3,500	4.70	18.6	1.7	18	1.0	.1
			do	139.5-1	M4	3,500	4.70	10.6	2.6	31	1.8	.1
Jaguar: XJ6	258	4.2L	XJ6 sedan	25.-2	A3	4,000	3.54	9.7	1.3	35	2.4	0
			do	258-2	A3	4,000	3.54	11.6	1.9	29	2.5	0
XJ12 sedan, E type	326	V12	XJ12 sedan	326-4	A3	4,000	3.31	7.5	2.9	37	2.5	0
			E type	326-4	A3	3,500	3.31	7.6	2.1	23	2.9	.3
			E type	326-4	M4	3,500	3.54	9.7	2.8	21	2.7	0
Checker: A-11 taxicab, A-11E taxicab, A-12 Marathon, A-12E Marathon, A-12W Marathon.	250	GM-102	A-11	250-1	A3	4,000	3.31	12.4	2.0	19	3.0	.1
A-11 taxicab, A-11E taxicab, A-12 Marathon, A-12E Marathon, A-12W Marathon, A-12W8 Aerobus.	350	GM-104	A-12	350-2	A3	4,500	3.31	11.6	2.2	28	2.5	0
			A-12W8	350-4	A3	5,500	3.54	9.7	3.0	29	2.5	.3
Chrysler Corp.: Valiant, Valiant-Duster, Valiant-Scamp, Valiant-Scamp Special, Dart, Dart-Custom, Dart-Swinger, Dart-Sport, Dart-Swinger Special, Satellite, Satellite Sebring, Satellite-Custom, Satellite-Police, Satellite-Taxi, Coronet, Coronet-Custom, Coronet-Police, Coronet-Taxi, Dodge-Taxi, Charger, Charger Coupe, Fury I, Fury II, Fury III, Fury-Police, Fury-Taxi, Polara, Polara-Special, Polara-Taxi, B100 Van-Tradesman, B100 Sportsman, B100 Custom Sportsman, B100 Royal Sportsman, B200 Van-Tradesman, B200 Sportsman, B200 Custom Sportsman, B200 Roya Sportsman, B300 Sportsman, B300 Custom Sportsman, B300 Royal Sportsman, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer SE, D100 Club Cab, W100 Adventurer, W100 Adventurer-Sport, W100 Custom.	198-225	RG	Valiant	198-1	M3	3,500	3.55	17.9	2.6	27	2.0	.5
			do	225-1	A3	3,500	2.76	15.9	2.4	28	2.1	.1
			do	225-1	A3	3,500	2.76	17.9	2.4	17	2.3	0
			W1-Truck	225-1	M3	4,500	3.91	13.8	2.0	24	2.4	.4
			Valiant	225-1	A3	3,500	3.23	14.5	1.8	28	2.2	.2
			W1-Truck	225-1	A3	4,500	3.91	13.6	2.1	23	2.0	1.9
			B1-Sport	225-1	M3	4,000	4.10	14.5	3.1	24	2.2	0

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
Valiant, Valiant-Duster	198–225	RG	Valiant	198	MC3	3,500	3.55	17.9	2.6	27	2.0	0.5
Valiant-Scamp, Valiant			do	225	A3	3,500	2.76	15.9	2.4	28	2.1	.1
Scamp Special, Dart			do	225	A3	3,500	2.76	17.9	2.4	17	2.3	0
Dart-Custom, Dart			W1-Truck	225	M3	4,500	3.91	13.8	2.0	24	2.4	.4
Swinger, Dart-Sport			Valiant	225	A3	3,500	3.23	14.5	1.8	28	2.2	.2
Dart-Swinger Special			W1-Truck	225	A3	4,500	3.91	13.6	2.1	23	2.0	1.9
Satellite, Satellite			B1-Sport	225	M3	4,000	4.10	14.5	3.1	24	2.2	0
Sebring, Satellite												
Custom, Satellite-police												
Satellite-taxi, Coronet												
Coronet-Custom, Coronet												
Police, Coronet-taxi												
Dodge-taxi, Charger												
Charger Coupe, Fury I												
Fury II, Fury III, Fury												
Police, Fury-taxi, Polara												
Polara-special, Polara												
Taxi, B100 Van-Tradesman												
B100 Sportsman, B100 Custom												
Sportsman, B100 Royal												
Sportsman, B200 Van-Tradesman												
B200 Sportsman, B200 Custom												
Sportsman, B200 Royal												
Sportsman, B300 Sportsman												
B300 Custom Sportsman												
B300 Royal Sportsman												
D100 Adventurer, D100												
Adventurer-Sport, D100												
Adventurer SE D100 Club												
Cab W100 Adventurer												
W100 Adventurer-Sport												
W100 Custom												
Valiant, Valiant-Duster, Valiant-Scamp Special, Dart, Dart-Swinger, Dart-Sport, Dart-Custom, Dart-Swinger Special, Barracuda, Challenger, Satellite, Satellite-Sebring, Satellite-Sebring Plus, Satellite-Custom, Satellite-Regent, Road Runner, Satellite-Police, Satellite-Taxi, Coronet, Coronet-Custom, Coronet-Crestwood, Coronet-Police, Coronet-Taxi, Dodge Taxi, Charger, Charger SE, Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury, Gran Sedan, Fury-Police, Fury-Taxi, Suburban, Custom Surban, Sport Suburban, Polara, Polara-Custom, Polara-Special, Polara-Police, Polara-Taxi, Monaco, B100 Van-Tradesman, B100 Sportsman, B100 Custom Sportsman, B100 Royal Sportsman, B200 Van-Tradesman, B200 Sportsman, B200 Custom Sportsman, B200 Royal Sportsman, B300 Sportsman, B300 Custom Sportsman, B300 Royal Sportsman, D100 Custom, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer-SE, D100 Club Cab, W100 Adventurer, W100 Adventurer-Sport, Valiant-Duster 340, Dart-Sport 340, Barracuda-Cuda.	318–340–360	LA	Charger	381–2	A3	4,000	2.71	12.2	2.4	25	2.3	.4
			Dodge	318–2	A3	4,500	3.55	10.5	2.8	34	2.6	.4
			B-300 Wagon	318–2	M3	4,500	4.10	11.0	3.2	20	1.8	.4
			Sate lite	340–4	A3	4,500	3.55	9.4	1.4	15	2.8	.6
			Dart	340–4	M4	4,000	3.55	10.6	2.7	20	2.3	.6
			Fury	360–2	A3	4,500	2.71	9.7	2.6	38	2.4	.3
Satellite, Satellite-Custom, Satellite-Sebring, Satellite-Sebring Plus, Satellite-Regent, Satellite-Police, Road Runner, Coronet, Coronet-Custom, Coronet-Crestwood, Coronet-Police, Charger, Charger SE, Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury-Gran Sedan, Fury-Police, Suburban, Custom Suburban, Sport Suburban, Polara, Polara-Custom, Polara-Special, Polara-Police, Monaco, D100 Custom, D100 Adventurer, D100 Adventurer-Sport, D100 Adventurer-SE, D100 Club Cab, Chrysler-Newport, Chrysler-Newport Custom.	400	B	Chrysler	400–2	A3	5,000	2.71	10.6	2.5	27	2.2	.7
			do	400–2	A3	5,000	2.71	10.3	2.4	38	2.1	.8
			Chrysler Wagon.	400–2	A3	5,500	3.23	9.4	2.7	29	2.9	.4
			Fury wagon	400–2	A3	5,500	3.23	9.6	3.4	33	2.3	1.1
			Satellite	400–4	M4	4,500	3.55	7.9	2.1	25	3.0	1.9
			D1-truck	400–2	A3	4,500	3.23	9.4	2.2	22	2.1	.8
Fury I, Fury II, Fury III, Fury-Gran Coupe, Fury-Gran Sedan, Fury-Police, Suburban, Custom-Suburban, Sport Suburban, Chysler-Newport, Chrysler-Newport Custom, Chrysler-New Yorker, Chrysler-Town & Country, Chrysler-New Yorker Brougham, Chrysler Imperial-LeBaron, Satellite, Satellite-Custom, Satellite-Sebring, Satellite-Police, Road Runner, Coronet, Coronet-Custom, Coronet-Police, Charger, Charger SE, Polara, Polara-Custom, Polara-Special, Polara-Police, Monaco.	440	RB	Chrysler	440–4	A3	5,000	2.76	9.3	2.5	31	2.4	.5
			do	440–4	A3	5,000	2.76	9.4	2.7	25	2.1	.6
			Chrysler Wagon.	440–4	A3	5,500	2.76	9.7	2.6	35	2.4	.4
			Imperial	440–4	A3	5,500	3.23	9.2	1.3	29	2.5	1.0
			Fury	440–4	A3	5,000	3.23	8.7	2.3	32	2.1	.5
			Charger	440–4	A3	4,500	3.55	9.8	2.4	23	3.0	.3
Chrysler United Kingdom, Ltd.: Cricket Sedan, Cricket Wagon.	91.41	91	Cricket Sedan	91.41–1	M4	2,250	3.89	18.4	2.9	35	2.2	0
			do	91.41–1	A3	2,250	3.89	23.2	2.2	19	1.7	0
			Cricket Wagon.	91.41–2	M4	2,250	3.89	20.1	3.2	37	2.1	0
Jensen Motors, Ltd.: Interceptor III	440	RB	Interceptor III.	440–4	A3	4,500	3.55	10.4	3.0	32	2.6	.3
Citroen: Citroen SM	181	S	Citroen SM	181–6	M5	3,500	4.37	11.2	2.6	19	2.9	
			do	181–6	A4	3,500	4.37	11.9	2.1	32	1.9	.6
Ferrari:												.2
Dino 246GT Berlinetta, Dino 246GT Spyder	147.55	LDV–1	Dino 246GT	147–6	M5	3,000	4.21	10.0	1.6	17	1.0	.1
			do	147–6	M5	3,000	4.21	9.2	1.5	16	1.1	0
365GTB.4, 365GTB.4 Berlinetta, 365GTB.4 Spyder	268	LDV–2	365GTB.4	268–12	M5	4,000	3.30	6.5	2.5	33	.7	0
			do	268–12	M5	4,000	3.30	6.3	1.0	27	.8	0
Fiat S.p.A.:												
850 Sport Spider	55	100	850 Sport Spider.	55–2	M4	2,000	4.88	21.7	2.8	23	1.9	.4
			do	55–2	M4	2,000	4.88	24.1	3.0	20	2.3	.4
128 Sedan, 128 Sedan 2-Door, 128 Sedan Station Wagon, 128 Sedan 1300, 128 Sedan 1300 2-Door, 128 Sedan Wagon 1300, 128 Coupe 1300.	68	128	128 Sedan 2-Door.	68–1	M4	2,250	4.07	20.6	1.7	20	1.9	1.0
			128 Sedan	68–1	M4	2,250	4.07	20.2	2.1	20	2.4	.1
			128 Coupe 1300.	78–1	M4	2,250	4.07	22.0	1.5	20	2.0	.1
			do	78–1	M4	2,250	4.07	20.4	1.6	21	2.0	.1

1973 MODEL YEAR LIGHT DUTY VEHICLES—Continued

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
124 Special Sedan, 124 Special Station Wagon	87	124	124 Special Sedan.	87-2	M4	2,250	4.10	20.7	2.3	23	2.2	0.4
			124 Special Station Wagon.	87-2	M4	2,500	4.30	19.1	1.9	25	2.1	.2
124 Sport Spider 1600, 124 Sport Coupe 1600	98	125	124 Special Sedan.	87-2	A3	2,500	4.10	18.2	2.1	28	2.4	.3
			124 Sport Spider 1600.	98-2	M5	2,500	4.30	18.5	2.3	23	2.4	0
			124 Sport Coupe 1600.	98-2	M5	2,500	4.30	23.5	2.2	29	2.7	0
124 Sport Spider 1600, 124 Sport Coupe 1600	97	132	124 Sport Spider.	97-2	M5	2,500	4.30	19.9	2.5	34	2.3	0
			124 Sport Coupe.	97-2	M5	2,500	4.30	18.9	2.2	25	2.2	.6
Ford Motor Co.:												
Pinto, sedan	98	1.6L	Pinto	98-1	M4	2,500	3.55	21.4	2.7	32	2.3	.4
Runabout			do	98-1	M4	2,500	3.55	20.8	2.0	27	2.3	.3
Ford, Ltd.:												
Capri, 2-door sport, coupe base, 2-door sport coupe decor option. Cortina, 2-door sedan L, 2-door sedan GT, 4-door sedan L.	122	2.0L	Capri	122-2	M4	2,750	3.44	21.6	1.7	34	1.9	0
			do	122-2	M4	2,750	3.44	20.4	1.5	30	2.1	.1
			Cortina	122-2	M4	2,750	3.75	19.5	1.5	32	1.9	0
			Capri	122-2	A3	2,750	3.44	18.6	1.7	38	2.4	.2
Capri, 2-door sport coupe, 2-door sport coupe decor option.	154	2.6L	do	154-2	M4	2,750	3.22	18.6	2.5	30	2.8	.2
			do	154-2	M4	2,750	3.22	18.4	2.4	33	2.8	1.3
			do	154-2	A3	2,750	3.22	15.4	2.7	38	2.8	.3
Ford Motor Co.:												
Pinto, 2-door sedan, 3-door runabout, 2-door wagon.	122	2.0L	Pinto	122-2	A3	2,750	3.40	18.4	1.1	31	1.8	0
			do	122-2	A3	2,750	3.40	17.9	1.5	22	2.0	0
			do	122-2	M4	2,750	3.40	21.2	2.2	36	2.5	.4
Maverick, 2-door, 4-door Grabber. Comet—2-door, 4-door, GT.	200	200	Maverick	200-1	A3	3,000	2.79	15.1	2.3	15	2.4	.2
			do	200-1	A3	3,000	2.79	14.7	2.3	21	1.8	.2
			do	200-1	M3	3,000	3.00	16.3	2.3	28	1.4	.1
Econoline E-100 and E-200, Cargo Van, Window Van, Display Van, Club Wagon, Custom Club Wagon, Chateau Club Wagon. Econoline E-300, Club Wagon, Window Van, Display Van. F-100 4x2 styleside and chassis/cab—Custom. Ranger, Ranger XLT. F-100 4x2 Flareside Custom.	240	240	F-100	240-1	M3	4,000	3.70	10.3	1.4	20	2.3	.2
			F-100	240-1	M3	4,000	3.70	10.4	1.5	20	2.4	.2
			Econoline	240-1	M3	4,000	3.70	10.5	1.3	24	2.4	0
			do	240-1	A3	5,000	4.10	9.6	2.4	25	2.9	.2
			E-200 C.W.	200-4	A3	4,500	4.11	10.4	2.2	25	2.5	.5
Mustang—Hard top, grande, sports roof, convertible. Maverick—2-dr. sedan, 4-dr. sedan, grabber. Comet—2-dr. sedan, 4-dr. sedan, GT. Torino—Torino, Gran Torino, Ranchero, Ranchero Squire. Montego—Montego, MX, MX Brougham.	250	250	Maverick	250-1	A3	3,000	2.79	12.2	1.9	32	1.6	1.2
			do	250-1	A3	3,000	2.79	13.2	1.9	23	1.7	.8
			do	250-1	A3	3,500	3.00	13.3	1.9	22	1.9	.3
			Torino	250-1	M3	4,000	3.25	17.9	2.4	36	1.7	1.0
			Montego	250-1	A3	4,000	3.00	14.1	1.9	27	2.2	0
Maverick—2-dr. sedan, 4-dr. sedan, GT. Comet—2-dr. sedan, 4-dr. sedan, GT. Torino—Torino, Gran Torino, Gran Torino sport, Ranchero, ranchero squire, ranchero GT, Torino wagon, Gran Torino wagon, Gran Torino squire.	302	302	Torino	9302-2	A3	4,000	2.79	8.5	1.2	21	2.2	.3
			F-100	302-2	A3	4,000	3.25	9.9	2.2	29	2.3	.2
			Comet	302-2	M3	3,500	2.79	10.6	1.6	24	2.1	.2
			Econoline	302-2	M3	4,000	3.25	9.1	1.8	32	2.1	.9
Montego—Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX wagon, Montego Villager.			Bronco	302-2	M3	4,000	4.11	10.4	2.5	23	2.7	1.5
			Econoline	302-2	M3	5,000	4.10	9.1	1.8	36	2.3	.2
Mustang—Hard top, Grande, sports roof, Mach I, convertible. Bronco—pickup, wagon, Econoline E-100 and E-200, cargo van, window van, display van, club wagon, Custom club wagon, Chateau club wagon. E-300—club wagon, Custom club wagon, Chateau club wagon. F-100 4 x 2 styleside and chassis/cab—Custom, Ranger, Ranger XLT. F-100 4 x 2 Flareside Custom.	302	302	[same as above]									
Mercury Monterey. Torino—Torino, Gran Torino, Gran Torino Sport, Torino wagon, Gran Torino wagon, Gran Torino Squire, Ranchero, Ranchero Squire, Ranchero GT. Montego—Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX wagon, Montego Villager. Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch wagon, Country sedan, Squire. Mustang—hard top, Grande, sports roof, Mach I, convertible.	351	351C	Torino	351-2	A3	4,500	2.75	9.6	1.9	38	2.0	.2
			do	351-2	A3	4,500	2.75	8.2	1.6	31	2.2	.4
			Cougar	351-4	A3	4,500	3.50	7.9	1.7	36	2.5	1.8
			do	351-4	M4	4,500	3.50	8.7	2.4	29	2.5	.9
			Torino	351-2	A3	5,000	3.25	9.2	2.7	36	2.0	.2
			Pantera	351-4	MS	3,500	4.22	10.4	1.9	24	1.8	.2
Cougar—Hard Top, XR-7 Hard Top, GT, Convertible, XR-7 Convertible. Pantera.	351	351C	[same as above]									
Torino—Torino, Gran Torino, Gran Torino Sport. Montego—Montego, Montego MX, Montego MX Brougham, Montego GT. Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch Wagon, Country Sedan, Squire.	351	351W	Ford	351-2	A3	4,500	2.75	9.1	1.6	20	2.4	.1
			do	351-2	A3	4,500	2.75	9.3	1.6	23	1.8	.1
			Torino	351-2	A3	4,500	3.25	9.0	1.0	18	2.0	.3
			Ford	351-2	A3	4,500	3.25	8.7	1.3	21	2.2	.3
			Ford S.W.	351-2	A3	5,000	3.25	10.1	2.0	19	2.2	.1
			do	351-2	A3	5,000	3.25	8.7	1.9	28	2.3	.1
F-100 Styleside and Chassis/Cab—Custom, Ranger, Ranger XLT (4x2, 4x4). F-100 Flareside—Custom (4x2, 4x4).	360	360-390	F-100	360-2	A3	4,000	3.00	9.0	1.9	29	2.7	0
			F-100	360-2	A3	4,500	3.00	9.0	2.0	23	2.2	1.6
			F-100	360-2	A3	5,000	4.11	8.1	1.3	25	2.6	.1
			F-100	360-2	M3	4,500	4.11	9.9	2.2	26	2.0	.2
F-100 Styleside and Chassis/Cab—Custom Ranger, Ranger XLT (4x2). F-100 Flareside Custom (4x2).	390	360-390	F-100	390-2	A3	4,500	3.50	9.5	2.0	21	2.5	0
			F-100	390-2	A3	4,000	3.25	9.3	1.8	20	2.0	.1
Ford—Custom, Galaxie 500, LTD, LTD Brougham, Ranch Wagon, Country Sedan, Squire, Torino, Gran Torino, Gran Torino Sport, Torino Wagon, Gran Torino Wagon, Gran Torino Squire, Ranchero Squire, Ranchero GT, Ranchero. Mercury—Monterey, Monterey Custom, Monterey Wagon, Marquis Wagon, Colony Park, Montego, Montego MX, Montego MX Brougham, Montego GT, Montego MX Wagon, Montego Villager.	400	400	Ford	400-2	A3	5,000	2.75	7.9	1.4	14	2.1	.2
			do	400-2	A3	5,000	2.75	8.8	1.5	23	2.5	.0
			Ford S. W.	400-2	A3	5,500	3.25	7.6	1.5	20	2.3	.0
			Ford	400-2	A3	5,000	2.75	10.1	1.8	19	2.3	.0
			Mercury	400-2	A3	5,000	3.25	7.9	2.4	20	2.3	.9

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
Ford Motor Co.—Continued												
Ford—Custom, Galaxie 500, LTD, LTD, Brougham, Ranch Wagon, Country Sedan, Squire, Thunderbird, Torino, Gran Torino, Gran Torino Sport, Ranchero, Ranchero Squire, Rancho GT, Torino wagon, Gran Torino wagon, Gran Torino Squire. Mercury—Monterey, Monterey Custom, Marquis, Marquis Brougham, Monterey wagon, Marquis wagon, Colony Park, Montego, Montego GT Montego MX, Montego MX Brougham, Montego MX wagon, Montego Villager.	429	429-460	Ford S.W	429-4	A3	5,500	3.25	8.7	3.0	38	2.9	0.2
			Mercury	429-4	A3	5,000	2.75	7.7	1.5	23	2.3	0
			Montego	429-4	A3	5,000	3.25	8.8	2.8	31	3.0	0
Ford—Custom, Galaxie 500, LTD, LTD Brougham, Country Sedan, Ranch Wagon, Squire, Thunderbird 2-dr. Hard Top, Custom P.I., Galaxie 500 P.I., Torino P.I.	460	429-460	Torino P.I	460-4	A3	5,000	3.00	7.7	2.0	31	2.0	0
Mercury—Monterey, Monterey Custom, Marquis, Marquis Brougham, Monterey wagon, Marquis wagon, Colony Park, Monterey P.I., Monterey Custom P.I., Montego P.I., Montego MX P.I. Lincoln—2 dr. Coupe, 2-dr. Town Car, 4-dr. Town Car, 4-dr. Pillared hard top, Mark IV 2-dr. hard top.	460	429-460	Mercury S.W	460-4	A3	5,500	3.25	8.5	2.4	23	2.5	0
			Lincoln	460-4	A3	5,500	2.75	8.9	2.0	32	2.4	.6
Fuji Heavy Industries:												
Subaru A22L, Subaru A62L	83.1	Subaru A6	Subaru	83.1-2	M4	2,250	3.89	21.1	1.9	17	1.8	.2
			do	83.1-2	M4	2,250	3.89	21.8	2.4	16	1.9	.2
General Motors Corp.:												
Chevrolet—Vega 2300	140	GM-101	Vega	140-1	A3	2,750	2.92	18.9	1.5	18	2.1	.2
			do	140-1	M4	2,750	2.92	21.5	2.1	23	2.0	0
			do	140-2	A2	2,750	3.36	18.9	1.5	15	1.9	0
			do	140-2	M4	2,750	3.36	18.0	2.0	18	1.9	0
			do	140-2	M3	2,750	2.92	19.7	2.0	23	2.1	0
			do	140-2	A3	2,750	3.36	19.5	2.1	24	1.7	.6
Chevrolet—Bel Air, Impala, Chevelle Deluxe, Malibu, Laguna, El Camino, El Camino Custom, Nova, Nova Custom, Camaro, P-10 Step Van, P-10 Forward Control Chassis, G-10 Chevy Van and Sport-Van, G-20 Chevy Van and Sportvan, G-30 Sportvan, C-10 Blazer, C-10 Fleetside and Stepside Truck, C-10 Suburban, K-10 Blazer, K-10 Fleetside and Stepside Truck, K-10 Suburban.	250	GM-102	Nova	250-1	A2	3,500	3.08	12.7	1.4	20	1.7	.5
			do	250-1	A2	3,500	3.08	12.8	1.7	22	2.1	.1
			Sportvan	250-1	A3	4,500	4.56	10.4	1.3	38	2.6	.1
			Chevelle	250-1	M3	4,500	3.42	11.8	2.4	21	2.8	.1
			Suburban	250-1	M4	4,500	4.11	11.0	2.2	21	2.5	1.5
			do	250-1	A3	4,500	4.11	11.5	1.7	24	2.6	.1
Oldsmobile—Omega. Pontiac—Ventura, Lemans, Firebird.												
Buick—Apollo, Apollo Custom												
GMC—Sprint, Sprint Custom, P-10 Value Van, P-10 Forward Control Chassis, G-10 Van Dura and Rally Wagon, G-20 Van Dura and Rally Wagon, G-30 Rally Wagon, C-10 Jimmy, C-10 Fenderside and Wideside Truck, C-10 Carryall, K-10 Jimmy, K-10 Fenderside and Wideside Truck, K-10 Carryall.												
Chevrolet—Bel Air, Impala, Caprice Classic, Caprice Estate, Chevelle Deluxe, Malibu, Laguna, Laguna Estate, El Camino, El Camino Custom, Monte Carlo, Nova, Nova Custom, Camaro, Camaro Type LT, Corvette, G-10 Chevy Van, Sportvan and Beauville, G-20 Chevy Van, Sportvan and Beauville, G-30 Sportvan and Beauville, C-10 Blazer, C-10 Chassis Cab, C-10 Stepside and Fleetside Truck, C-10 Suburban, C-20 Suburban, K-10 Blazer K-10 Stepside and Fleetside Truck, K-10 Suburban, K-20 Suburban.	307-350-400.	GM-104	Impala	350-2	A3	4,500	2.73	12.0	2.7	20	2.4	0
			Chevelle	307-2	A3	4,000	3.08	12.8	2.4	20	1.8	0
			Bel Air Wagon	350-2	A3	5,500	3.42	10.0	2.0	20	2.4	1
			Suburban	350-4	M4	5,000	4.56	7.2	2.6	30	2.5	0
			Corvette	350-4	M4	4,000	4.11	9.9	1.6	24	1.4	0
			ImpalaWagon	400-2	A3	5,500	3.42	8.6	2.7	22	2.3	1
GMC—Sprint, Sprint Custom, G-10 Van Dura, Rally Wagon, Rally STX, G-20, Van Dura, Rally Wagon, Rally STX, G-30 Rally Wagon and Rally STX, C-10 Jimmy, C-10 Chassis Cab, C-10 Fenderside and Wideside Truck, C-10 Carryall, C-20 Carryall, K-10 Jimmy, K-10 Fenderside and Wideside Truck, K-10 Carryall, K-20 Carryall, Pontiac—Ventura.												
Chevrolet—Bel Air, Impala, Caprice Classic, Caprice Estate, Deluxe Chevelle, Malibu, Laguna, Laguna Estate, El Camino, El Camino Custom, Monte Carlo, Corvette, C-10 Pickup, C-10 Chassis Cab, C-10 Suburban, C-20 Suburban. GMC—Sprint, Sprint Custom, C-10 Pickup, C-10 Chassis Cab, C-10 Carryall, C-20 Carryall.	454	GM-105	Impala	454-4	A3	5,000	2.73	10.1	2.3	19	2.2	.1
			El Camino	454-4	A3	4,500	2.73	10.4	2.0	15	2.0	.3
			Corvette	454-4	M4	4,000	3.55	8.1	2.0	21	1.8	.1
			Bel Air Wagon.	454-4	A3	5,500	3.42	9.2	2.7	17	2.3	.5
			Chevelle	454-4	M4	4,500	3.42	8.1	1.5	23	1.3	.2
			Suburban	454-4	A3	5,500	4.10	7.8	1.5	17	2.3	.1
Pontiac—Luxury, Lemans, Lemans Sport Coupe, Lemans Deluxe Safari, Lemans Safari, Lemans, Catalina, Ventura, Ventura Hatchback, Ventura Custom, Ventura Sprint, Firebird, Esprit Formula, Catalina Safari, Bonneville, Grand AM.	350-400	GM-201	Catalina	400-2	A3	5,000	2.93	10.0	2.8	18	2.8	.2
			Lemans	350-2	A3	4,500	2.73	9.9	2.8	18	2.7	0
			Catalina	350-2	A3	5,000	3.23	8.1	2.7	14	2.7	0
			Lemans Wagon.	400-2	A3	5,000	3.08	10.0	2.9	26	3.0	.5
			Catalina Safari.	400-2	A3	5,500	3.23	8.8	2.7	36	2.8	0
			Firebird	350-2	M4	4,000	3.42	9.0	3.1	24	2.2	0
Pontiac—Grand AM, Luxury Lemans, Lemans Sport Coupe, Lemans Delux Safari, Lemans Safari, GTO, Lemans, Grand Prix, Grand Prix SJ, Catalina, Bonneville, Catalina Safari, Grand Ville, Grand Safari, Formula, Trans AM.	400-455	GM-202	Grand Prix	400-4	A3	4,500	2.93	10.6	3.0	19	2.6	0
			Bonneville	455-4	A3	5,000	2.93	8.6	2.8	20	2.3	0
			GTO	400-4	M4	4,500	3.42	9.1	2.9	27	2.8	.2
			Lemans Wagon.	400-4	A3	5,000	3.42	9.2	2.9	23	2.8	.1
			Catalina Safari.	455-4	A3	5,500	3.23	9.7	2.9	19	2.3	.2

1973 MODEL YEAR LIGHT DUTY VEHICLES—Continued

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
			Trans AM	455-4	M4	4,000	3.42	8.5	2.3	24	2.2	0
Oldsmobile—Omega, Cutlass, Cutlass S, Cutlass Supreme, Cutlass Salon, Cutlass Supreme Vista Cruiser, Delta 88, Delta 88 Royale.	350	GM-301	Delta 88	350-2	A3	5,000	3.08	9.9	2.6	24	2.6	.1
			Cutlass	350-4	A3	4,500	2.73	10.8	2.7	19	2.5	.1
			Cutlass Supreme Vista Cruiser.	350-4	A3	5,000	3.23	9.4	2.0	17	2.2	.1
			Cutlass	350-4	M4	4,500	3.23	8 3	1.9	29	2.7	.1
			Cutlass Supreme Vista Cruiser.	350-4	M3	5,000	3.23	9.9	2.4	29	2.4	.1
Oldsmobile—Cutlass, Cutlass S, Cutlass Supreme, Cutlass Salon, Cutlass Supreme Vista Cruiser, Delta 88, Delta 88 Royale, Delta 88 Custom Cruiser, Ninety Eight, Toronado.	455	GM-302	Ninety Eight	455-4	A3	5,500	2.73	8.9	1.8	28	2.6	.2
			Delta 88	455-4	A3	5,000	2.73	10.2	1.9	30	2.8	0
			Delta 88 Station Wagon.	455-4	A3	5,500	3.23	8.9	1.4	18	2.7	0
			Cutlass	455-4	M4	4,500	3.42	7.5	1.7	25	2.2	.4
			Toronado	455-4	A3	5,500	3.07	7.9	2.0	18	2.5	0
Buick—Apollo, Apollo Custom, Century, Century 350, Century Luxus, Regal, Gran Sport 350, LeSabre, LeSabre Custom, Centurian.	350	GM-401	Century	350-2	A3	4,500	2.73	10.2	2.7	25	2.8	1.3
			LeSabre	350-4	A3	5,000	3.08	10.5	2.8	23	2.4	0
			Century	350-4	A3	4,500	3.42	10.5	2.9	28	1.8	.2
			Gran Sport	350-4	M4	4,500	3.42	10.0	3.1	23	1.8	.1
Buick—Century, Century Luxus, Century Regal, Gran Sport 455, LeSabre, Centurian, Estate Wagon, Electra, Riviera, Riviera GS.	455	GM-402	Electra	455-4	A3	5,500	2.73	8.2	2.0	19	2.2	.3
			do	455-4	A3	5,500	2.73	8.7	2.4	29	2.3	.1
			Gran Sport 455.	455-4	M4	4,500	3.42	8.7	2.1	26	1.6	0
			do	455-4	A3	4,500	3.42	9.8	2.5	18	2.5	0
Cadillac—Calais, Deville, Fleetwood Sedan, Fleetwood Limousine, Eldorado.	472-500	GM-501	Calais	472-4	A3	5,500	2.93	8.5	2.2	25	1.7	.3
			do	472-4	A3	5,500	2.93	8.8	1.7	26	1.8	.2
			do	472-4	A3	5,500	3.15	8.8	1.8	13	1.8	.5
			Eldorado	500-4	A3	5,500	3.07	8.1	1.9	19	2.4	.4
Opel—1900, GT, Manta, Manta Rallye, Manta Luxus.	115.8	GM-601	Opel 1900	115.8-2	M4	2,500	3.44	23.8	2.4	30	1.9	0
			do	115.8-2	M4	2,500	3.67	21.4	2.9	22	1.6	.1
			do	115.8-2	A3	2,500	3.44	20.0	2.5	34	2.1	
Glassic Industries: Phaeton, Roadster	302	302	Phaeton	302-2	A3	2,750	3.00	12.3	2.2	36	1.0	.2
Honda:												
SB1 2-door sedan	71	EB	Honda	71-2	M4	1,750	4.93	23.6	2.1	23	1.7	0
SB1 3-door sedan			do	71-2	M2	1,750	4.12	25.8	1.8	15	1.7	0
International Harvester:												
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	258	6-258	Scout	258-1	M3	4,000	3.73	13.1	1.0	26	2.0	.1
			1110 Pickup	258-1	M3	4,000	3.73	12.9	1.7	28	2.6	.4
			do	258-1	A3	5,000	3.54	10.6	1.1	25	2.9	.1
			do	258-1	M3	5,000	4.56	10.5	2.2	34	2.1	0
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	304	V-304	do	304-2	M3	4,500	3.54	10.2	3.1	35	2.2	0
			Scout 4x4	304-2	M3	4,000	3.73	12.0	2.4	27	1.6	.3
			1010 Travelall	304-2	A3	5,000	4.10	10.4	2.4	25	2.7	.1
			1210 Travelall	304-2	M4	5,000	4.56	9.8	2.1	36	2.1	.2
Scout 4x2, Scout 4x4, 1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1210 Travelall 4x4.	345	V-345	1010 Travelall	345-2	A3	5,000	3.54	9.2	2.3	20	2.8	0
			Scout	345-2	M4	4,500	3.73	8.2	2.6	28	1.4	.3
			1210 Travelall	345-2	M3	5,500	4.56	8.2	1.8	23	2.3	.1
			1110 Travelall	345-2	A3	5,000	3.07	9.9	2.9	28	2.7	.1
1010 Pickup, 1010 Travelall, 1110 Pickup 4x2, 1110 Pickup 4x4, 1110 Travelall 4x2, 1110 Travelall 4x4, 1210 Travelall 4x2, 1020 Travelall 4x4.	392	V-392	1210 Travelall	392-4	A3	5,500	3.73	9.0	2.9	34	2.7	1.7
			1010 Travelall	392-4	A3	5,500	3.54	7.3	2.0	32	2.9	0
			1210 Travelall	392-4	M4	5,500	4.56	7.8	1.7	27	2.8	0
1010 Pickup, 1010 Travelall	401	V-400	1010 Pickup	401-2	A3	5,000	3.54	9.6	2.2	24	2.0	1.2
			1010 Travelall	401-2	A3	5,000	3.54	9.8	2.4	27	2.0	.8
			do	401-2	A3	5,000	3.07	10.1	4.2	23	2.1	1.8
Isuzu: Luv	110.8	G180	Luv	110.8-2	M4	2,750	4.56	16.6	1.9	27	2.7	.5
			Luv	110.8-2	M4	2,750	4.56	17.1	2.1	23	2.8	.3
Jensen Motors, Ltd.: Jensen Healey I	120.5	907	Jensen Healey I.	120.5-2	M5	2,500	3.73	19.7	2.8	27	2.8	.3
			do	120.5-2	M5	2,500	3.73	22.1	2.8	16	2.8	.1
Lamborghini: Espada 400GT, Jarama 400GT	239.7	L-403	Espada 400GT	239.7-12	M5	4,000	4.50	7.2	1.3	20	.8	0
			Jarama 400GT	239.7-12	M5	4,000	4.50	7.3	1.8	17	.8	0
Maserati: Maserati Bora, Maserati 120	301	107/49	Bora	301-8	M5	4,000	3.77	9.0	.4	15	1.1	0
			120	301-8	M5	4,000	3.77	7.9	1.1	25	1.3	0
Mercedes-Benz:												
MB 220: diesel—25 m.p.g.	134	I	MB220	134-1	A4	3,500	3.92	13.2	1.7	19	2.2	0
			MB220	134-1	M4	3,500	3.92	16.2	1.7	13	1.8	0
MB 280/280C	167.5	II	MB280/280C	167-5-4	A4	3,500	3.92	13.0	2.8	34	1.9	0
			do	167.5-4	A4	3,500	3.92	13.1	2.0	26	2.5	0
MB280SE/1-4.5, MB280SEL/1-4.5, MB300SEL/1-4.5, MB107(350SL-4.5).	276	III	MB107	276-FI	A4	4,000	3.07	13.1	2.6	31	2.7	.2
			MB280SEL/1-4.5	276-FI	A4	4,000	3.23	12.7	2.6	29	2.7	.2
Mitsubishi Motors: Dodge Colt	97.5	4G3SEM-02	Dodge Colt	97.5-2	A3	2,500	3.88	22.7	1.7	30	1.8	.2
			do	97.5-2	M4	2,500	3.88	22.5	2.5	26	2.1	.3
Nissan Motor Co.:												
KLB110U, LB110TRU, KLB110AU	71.5	Nissan-1 A-12.	KLB110U	71.5-2	M4	2,000	3.90	27.8	1.7	16	1.7	0
			LB110TRU	71.5-2	M4	2,000	3.90	28.7	1.7	14	1.4	0
			KLB110AU	71.5-2	A3	2,000	3.90	27.0	1.5	19	1.5	0
PL620TU, RPL510STU, RPL510STAU	97.4	Nissan-2 L16.	PL620TU	97.4-2	M4	2,500	4.37	23.1	1.7	13	1.3	0
			RPL510STU	97.4-2	M4	2,500	4.37	20.7	1.8	16	1.4	.1
			RPL510STAU	97.4-2	A3	2,500	4.11	20.7	2.1	20	1.6	0
HLS30U, HLS30AU	146	Nissan-3 L24.	HLS30U	146-1	A3	2,750	3.54	13.9	2.9	20	1.8	.5
			HLS30U	146-1	M4	2,750	3.36	15.8	2.8	14	1.5	0
			HLS30AU	146-1	M4	2,750	3.36	15.0	2.5	13	1.4	0
WPL610TU, PL610TU, WPL610ATU	108	Nissan-4 L18.	WPL610TU	108	M4	2,750	3.89	18.1	1.5	19	1.7	.7
			PL610TU	108	M4	2,500	3.90	18.3	1.9	27	1.7	.2
			WPL610ATU	108	A3	2,750	3.89	20.9	1.6	15	1.5	.2
Peugeot:												
504 sedan, 504 station wagon	120	XN1	504XN1	120-2	A3	3,000	3.78	17.0	.6	25	1.3	.2
			504XN1	120-2	M4	3,000	3.78	16.8	1.3	14	1.0	0
Porsche:												
911T, 911E, 911S, 914/6(T), 914/6(E), 914/6(S)	142.4	1	911T	142.4-FI	M4	2,750	4.43	16.8	2.3	18	2.2	0
			911T	142.4-FI	M5	2,750	4.43	15.8	2.7	7	1.8	0
			911T	142.4-FI	(1)	2,750	3.86	13.8	2.7	16	3.0	0
			911S	142.4-FI	M5	2,750	4.43	14.3	3.0	18	1.9	0
911T	142.8	III	911T	142.8-FI	M5	2,750	4.43	18.8	2.4	25	2.2	0
			911T	142.8-FI	M4	2,750	4.43	18.2	2.3	36	2.0	0

Manufacturer (models)	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test vehicle: Model	Test vehicle: Engine displacement and carburetor venturis	Test vehicle: Trans.	Test vehicle: Inertia weight class (lbs.)	Test vehicle: Axle ratio	Test vehicle: Fuel economy (miles per gallon)	Certification levels: Exhaust emissions (grams mile): Hydrocarbons	Certification levels: Exhaust emissions (grams mile): Carbon monoxide	Certification levels: Exhaust emissions (grams mile): Oxides of nitrogen	Certification levels: Evaporative emissions (gms/test) hydrocarbons
Renault:												
17	99.5	807	17	99.5-FI	M4	2,750	3.77	18.4	2.4	15	2.6	0
			17	99.5-FI	M4	2,750	3.77	19.0	2.6	22	2.5	0
12	100.5	841	12	100.5-2	M4	2,500	3.77	19.7	1.7	31	1.9	0.1
			12	100.5-2	A3	2,500	3.55	18.9	.9	34	2.0	.1
			12	100.5-2	M4	2,500	3.77	20.6	2.0	27	2.6	.1
			12	100.5-2	A3	2,500	3.55	19.7	1.1	35	2.4	0
Rolls-Royce:												
Silver Shadow, Corniche, Corniche Mark II, Bentley "T" Series, Bentley Corniche.	412	-1	Silver Shadow.	412-2-	A3	5,000	3.07	9.2	2.7	33	2.2	.1
			do	412-4	A3	5,000	3.07	8.0	2.6	38	2.8	.1
SAAB, USA:												
Saab 95, Saab 96, Saab 97 Sonett	103.5	P	Saab 95	103.5-1	M4	2,500	4.88	18.8	2.4	30	2.5	.5
			Saab 97 Sonett.	103.5-1	M4	2,250	4.66	21.7	1.9	18	2.1	7
			do	103.5-1	M4	2,250	4.66	20.3	2.3	37	2.2	00
Saab 99L, Saab 99 LE and EMS, Saab 99LE Automatic.	121	B20	Saab 99	121-1	M4	2,750	3.89	18.8	1.7	23	2.2	
			do	121-FI	M4	2,750	4.22	18.6	2.7	26	2.0	.4
			do	121-FI	A3	2,750	3.89	17.8	1.8	23	2.4	.4
S. S. Auto:												
Excalibur Phaeton, Excalibur Roadster	454	GM-105	Excalibur Phaeton.	454-4	A3	4,000	3.08	10.1	1.9	13	2.5	.1
Toyo Kogyo Co., Ltd.:												
Mazda 808—SN3A Sedan, SN3A Coupe, SN3AV Station Wagon. Mazda B1600-BNA61 Pickup.	96.82	Toyo-1	808 Sta. Wagon.	96.82-2	M4	2,500	3.70	23.4	2.8	22	1.5	.1
			do	96.82-2	A3	2,500	4.11	19.0	2.0	26	2.1	.1
			B1600 Pickup	96.82-2	M4	2,750	4.37	23.7	2.4	19	1.7	.2
			do	96.82-2	M4	2,750	4.37	19.9	2.3	19	1.6	.1
Toyo Kogyo Co. Ltd.:												
Mazda 618—SV2A sedan, SV2A coupe. Mazda B1800—BVD61 Pickup Courier—SGTA Pickup.	109.6	Toyo-2	618 coupe	109.6-2	M4	2,500	3.90	19.6	2.3	25	1.7	.1
			do	109-6.2	A3	2,500	4.11	18.3	1.3	31	1.6	.2
			B1800 Courier	109.6-2	M4	2,750	4.11	15.9	2.5	25	1.6	.3
			do	109.6-2	M4	2,750	4.11	18.8	2.4	17	2.1	.1
Mazda RX-3—S124A sedan, S124A coupe, S124W station wagon. Mazda RX-2—S122A sedan, S122A coupe. Mazada RX-4—S125A sedan, S125A coupe.	[3] 35.0×2	Toyo-3	RX-3 coupe	35.0×2-4	M5	2,500	3.78	13.5	2.4	20	.9	0
			RX-2 coupe	35.0×2-4	M4	2,750	3.90	12.4	1.9	18	1.0	0
			do	35.0×2-4	A3	2,750	3.90	12.3	2.0	16	1.1	0
Toyota Motor Co.:												
Corolla-1 sedan, Corolla-1 coupe	71	3K-C	Corolla-1	71-2	M4	2,000	4.22	24.8	1.9	21	1.4	.2
			do	71-2	M4	2,000	4.22	27.1	2.0	17	1.4	.4
Corolla-2 sedan, Corolla-2 coupe, Corolla-2 station wagon, Carina sedan.	97	2T-C	Corolla-2	97-2	A2	2,250	4.11	22.6	2.5	25	1.4	.2
			do	97-2	M4	2,250	3.90	20.8	2.3	27	1.7	.2
			Carina	97-2	M5	2,500	4.30	20.4	2.3	23	1.7	.2
			do	97-2	A3	2,500	4.30	19.9	2.4	28	1.8	.1
Celica Hard Top, Corona sedan, Corona station wagon, Corona ½-ton pickup.	120	18R-C	Corona	120-2	A3	2,500	3.90	18.5	1.2	21	2.0	0
			do	120-2	M4	2,750	3.90	17.2	1.3	21	1.9	.1
			do	120-2	A3	2,750	3.90	17.6	1.6	22	1.3	.3
				120-2	M4	2,750	4.11	17.2	2.2	27	1.2	.1
Toyota Motor Co.:												
Corona Mk. II Sedan, Corona Mk. II Hardtop, Corona Mk. II Station Wagon, Crown Sedan, Crown Hardtop, Crown Station Wagon.	156	4M	Corona Mk. II.	156-2	A3	3,000	3.90	15.4	2.2	21	2.1	.1
			do	156-2	M4	3,000	3.90	15.2	2.0	20	1.9	.1
			Crown	156-2	M4	3,500	4.11	13.7	2.5	22	2.4	0
			do	156-2	A3	3,500	4.38	14.7	2.8	23	2.4	.3
Land Cruiser Hardtop, Land Cruiser Softtop, Land Cruiser Station Wagon.	236	F	Land Cruiser	236-2	M3	4,000	4.11	12.6	2.1	24	1.7	.2
			do	236-2	M3	4,000	4.11	11.9	1.5	16	1.8	.2
TVR: 2500M	152	TB	2500M	152-2	M4	2,750	3.70	17.8	2.3	29	2.3	.5
			do	152-2	M4	2,750	3.70	18.1	2.1	20	2.8	.2
Volkswagen AG:												
Deluxe Sedan 11, convertible 15, Fastback sedan 31, Squareback Sedan 36, Karmann Ghia 14.	96.6	1	Sedan 11	96.6-1	M4	2,250	4.13	21.7	3.1	37	3.0	0
			do	96.6-1	M4	2,250	4.13	23.6	3.3	36	2.4	0
			do	96.6-1	M4	2,250	4.13	22.0	3.4	34	1.6	0
			do	96.6-1	SA	2,250	3.88	21.3	2.1	29	2.6	0
			Squareback 36.	96.6FI	M4	2,500	4.13	21.0	2.5	16	2.7	.1
			do	96.6FI	A3	2,500	3.67	21.2	1.8	16	2.1	.1
Station Wagon 22/24, Combi 23, Campmobile 23, panel truck 21, Pickup 26, Pickup Double Cabin 26, Sedan 41/42, Squareback Sedan 46, Roadster 914/4.	102.5	2	Combi 23	102.5-2	M4	3,500	5.38	15.2	2.4	33	3.0	0
			do	102.5-2	A3	3,500	4.45	18.3	2.2	33	2.9	0
			do	102.5-2	M4	3,500	5.38	15.5	1.6	24	3.0	0
			do	102-5.2	A3	3,500	4.45	16.8	2.5	39	2.8	0
			Squareback 46.	102.5FI	M4	2,750	3.91	18.8	3.1	20	2.5	0
			do	102.5FI	A3	2,500	3.91	21.9	2.0	14	2.8	.2
			Roadster 914/4.	102.5FI	M5	2,500	4.43	19.6	3.4	26	2.7	0
			do	102.5FI	M5	2,500	4.43	17.3	3.1	29	3.0	0
Roadster 914/4	120	3	do	120FI	M5	2,250	4.43	19.5	3.1	26	2.0	0
			do	120FI	M5	2,250	4.43	19.3	2.5	26	1.9	0
Volvo:												
142, 144, 145, 183	121	B20F	145	121-FI	M4	3,000	4.10	17.7	3.2	30	1.7	.3
			145	121-FI	A3	3,500	4.10	15.3	2.0	22	2.4	.4
			183	121-FI	M5	3,000	4.30	17.0	1.8	16	2.1	.2
164	182	B30F	164	182-FI	M5	3,500	3.73	13.4	3.0	28	2.6	0
			164	182-FI	A3	3,500	3.31	14.5	2.4	13	2.3	0
			164	182-FI	A3	3,500	3.31	15.0	3.1	16	2.3	0
142, 144, 145	121	B20B	145	121-2	M4	3,000	4.30	18.4	3.3	29	2.5	0
			145	121-2	A3	3,500	4.30	20.3	2.3	24	2.7	0

[3] Sptom.

[2] Wankel.

1973 MODEL YEAR HEAVY DUTY GASOLINE ENGINES

Manufacturer	Engine family: Displacement (cubic inches)	Engine family: Family designation	Test engine displacement (cubic inches)	Certification levels (exhaust emissions): Hydrocarbons (parts per million)	Certification levels (exhaust emissions): Carbon monoxide (percent)
Chrysler Corp	225	RG	225	178	0.83
			225	81	.31
			225	152	1.01
	318	LA	318	145	.93
			318	116	.66
	360	LA	360	171	.52
			360	134	.69
	361	LB	361	126	.36
			361	224	.64
			361	146	.53
			361	175	.57
	400	B	400	112	.25
	413	RB	413	83	.59
			413	119	.37
			413	127	.77
	440	RBM	440	122	.60
			440	106	.57
			440	110	.49
Diamond Reo	331	I-6	331	172	.60
			331	198	1.30
	400	I-6	400	129	.47
	468	V-8	468	97	.53
Ford Motor Co	240	240-300	300	96	.41
	300		300	161	.48
	302	302	302	161	.24
	330	330-361-391	(MD) 330	199	1.06
	361		(HD) 330	160	.59
	391		361	120	.25
			391	170	.80
	360	360-390	360	207	0.74
	390		390	239	.44
	401	401-477-534	401	129	.30
	477		477	102	.29
	534		534	123	.43
General Motors Corp	250	GM-111	250	130	.59
			250	94	.43
	292	GM-112	292	106	.43
			292	63	.46
			292	42	.31
	307	GM-113	307	139	.92
	350		350	100	.71
			350	109	1.25
			350	161	.99
	366	GM-114	366	114	.36
	427		366	77	.49
			427	121	.57
			427	62	.46
	454	GM-115	454	110	.59
			454	70	.36
	455	GM-202	455	163	1.06
	455	GM-312	455	79	.53
	472	GM-501	472	170	.43
	379	GM-811	379	221	1.09
	432		379	92	.41
	478		432	161	1.09
			478	76	.57
	637	GM-312	637	115	1.13
	305	GM-813	305	186	1.12
Jeep Corp	360	III	360	84	.41

1973 MODEL YEAR HEAVY DUTY DIESEL ENGINES

Manufacturer (models)	Engine family: Engine air aspiration	Engine family: Family designation	Test engines: Model	Test engines: Rated horsepower	Test engines: Maximum torque	Smoke emissions: Acceleration mode (percent opacity)	Smoke emissions: Lug-down mode (percent opacity)
AB Scania Vabis:							
END475	Natural	No. 2	END475	155	385	5.6	9.1
			END475	155	385	7.2	6.7
ENDT475	Turbocharged	No. 1	ENDT475	190	470	12.5	4.4
			ENDT475	190	470	7.1	
Allis Chalmers:							
21000	do	21000	21000	375	1,055	26.5	18.7
			21000	375	1,055	24.9	13.5
25000	do	25000	25000	450	1,250	30.9	9.6
			25000	450	1,250	25.5	6.9
3500	do	3500	3500	175	428	23.5	14.3
			3500	175	428	24.0	15.4
Caterpillar Tractor Co.:							
1140, 1145	Naturally aspirated	1	1145	160	326	20.7	10.6
			1145	160	326	20.2	11.1
1150	do	2	1150	185	403	23.9	11.4
			1150	185	403	26.4	13.4
1160	do	3	1160	210	474	20.8	12.1
			1160	210	474	19.8	7.1
1673C, D333	Turbocharged	4	1673C	250	690	18.5	4.0
			1673C	250	690	12.0	3.0
Caterpillar Tractor Co.:							
1674	Turbocharged/aftercooled	5	1674	300	805	16.7	2.0
			1674	300	805	21.2	2.5
1693	Turbocharged	6	1693	325	1,055	26.0	3.5
			1693	325	1,055	22.0	3.5
1693	Turbocharged/aftercooled	7	1693	425	1,275	33.5	3.0
			1693	425	1,275	28.5	2.5
Cummins Engine Co.:							
927-TC-350	Turbocharged	182	350	350	1,002	14.8	5.4
			350	350	1,002	10.9	4.0
NTA-927-400	Turbocharged/aftercooled	183	400	400	1,200	18.0	9.2
			400	400	1,200	15.6	8.6
NTF-365	Turbocharged	092	365	365	930	12.6	3.9
			365	365	930	20.6	5.0
NTA-414	Turbocharged/aftercooled	093	414	414	1,200	28.2	9.4
			414	414	1,200	35.6	9.7
V-903-C320	Naturally aspirated	171	320	307	707	17.0	18.1
			320	307	707	17.6	16.6
NHF-240	do	091	240	240	658	11.9	13.7
			240	240	658	10.9	12.9
V-378	do	201	155	149	290	8.6	5.5
			155	149	290	12.3	9.7
V-504	do	211	210	202	387	10.4	10.1
			210	202	387	10.7	11.4
Cummins Engine Co.:							
V-555	Naturally aspirated	221	230	230	425	9.3	11.0
			230	230	425	14.8	16.8
VT-1510	Turbocharged	152	635	635	1,790	11.7	3.8
			635	635	1,790	11.0	3.0
Super 250/270	Naturally aspirated	181	260	260	720	14.4	13.0
			260	260	720	16.0	16.2
VT-903 w/o aneroid	Turbocharged	172	320	320	775	9.2	1.9
			320	320	775	10.8	1.2
VT-903 w/aneroid	do	172	350	350	848	12.7	3.4
			350	350	848	13.2	6.4
VT-555 w/aneroid	do	222	240	240	447	12.4	3.1
			240	240	447	16.6	5.0

Manufacturer (models)	Engine family: Engine air aspiration	Engine family: Family designation	Test engines: Model	Test engines: Rated horsepower	Test engines: Maximum torque	Smoke emissions: Acceleration mode (percent opacity)	Smoke emissions: Lug-down mode (percent opacity)
General Motors Corp.:							
3L–53N	Naturally aspirated	L–53N	4L–53N	136	282	5.0	4.4
4L–53N			4L–53N	136	282	5.0	3.5
6V–53N	Naturally aspirated	V–53N	8V–53N	275	577	12.1	4.6
8V–53N			8V–53N	275	577	9.9	5.3
3L–71N(4V)	Naturally aspirated	L–71N(4V)	6L–71N(4V)	250	610	11.5	4.0
4L–71N(4V)			6L–71N(4V)	250	610	6.1	2.0
6L–71N(4V)							
6V–71N(4V)	Naturally aspirated	V–71N(4V)	12V–71N(4V)	500	1,220	8.5	3.8
8V–71N(4V)			12V–71N(4V)	500	1,220	5.8	4.1
12V–71N(4V)							
6V–71N(4V)	Naturally aspirated	V–71N(4V)	8V–71N(4V)	262	730	1.4	1.3
8V–71N(4V)		Coach	8V–71N(4V)	262	730	1.2	1.3
6V–71N(2V)	Naturally aspirated	V–71N(2V)	6V–71N(2V)	184	528	3.9	3.7
		Coach	6V–71N(2V)	184	528	3.6	3.2
6L–71T	Turbocharged	L–71T	6L–71T	262	725	8.9	2.0
			6L–71T	262	725	13.4	1.7
6V–71T	Turbocharged	V–71T	12V–71T	525	1,450	12.4	2.5
8V–71T			12V–71T	525	1,450	11.0	2.8
12V–71T			12V–71T (military)	600	1,470	13.3	12.1
12V–71T (military)			do	600	1,470	12.4	6.2
DH–478 (truck)	Naturally aspirated	DH	DH–478 (truck)	165	337	10.8	12.7
DH–478 (coach)			do	165	337	9.6	12.2
White Motor Corp.: Hercules—LDT–465–1C	Turbocharged	LDT465	LDT–465–1C	140	335	22.6	11.2
			LDT–465–1C	140	335	20.4	11.4
Hino: EB300	Naturally aspirated	EB	EB300	165	435	5.7	5.7
			EB300	165	435	9.4	11.2
Mack Trucks, Inc.:							
END673E	do	No. 1	END673E	180	540	5.2	4.5
			END673E	180	540	4.4	3.0
END707	do	No. 2	END707	200	557	5.3	6.1
			END707	200	557	3.6	3.9
ENDT673, ENDT673Mil, ENDT673A, ENDT673B, ENDT673C, ENDT675, ENDF673, ENDTF673C.	Turbocharged	No. 3	ENDT675	235	906	16.8	6.8
			ENDT675	235	906	17.2	3.7
END864C	Naturally aspirated	No. 4	END864C	270	673	6.9	11.9
			END864B	270	673	5.6	7.9
ENDT864	Turbocharged	No. 5	ENDT864	300	792	8.5	5.9
			ENDT864	300	792	6.7	5.0
ENDT865, ENDDT865, ENDTB865, ENDDTB865, ENDT866, ENDTB866.	do	No. 6	ENDT865	322	1,100	35.4	15.2
			ENDT865	322	1,100	31.6	9.2
Perkins Engine Co.:							
NA 80	Naturally aspirated	No. 1	NA 80	79	185	7.6	6.3
			NA 80	79	185	7.6	8.0
NA 120	do	No. 2	NA 120	116	270	10.9	14.1
			NA 120	116	270	11.7	9.5
NA 180	do	No. 3	NA 180	174	382	16.5	14.1
			NA 180	174	382	9.0	7.3
Teledyne Continental Motors: LED–500	Turbocharged	LED–500	LED–500/200	200	434	12.6	4.8
			LED–500/200	200	434	12.6	3.4

SENATOR RANDOLPH BELIEVES MAJOR ENERGY SAVINGS WILL COME THROUGH CAR POOLING AND IMPROVED BUILDING DESIGN—URGES APPROVAL OF S. 2176

Mr. RANDOLPH. Mr. President, historically, as a Nation, we have been accustomed to abundant, low-priced energy. In recent months, however, there has been considerable discussion of the full societal consequences of our projected energy growth for national security and environmental quality.

Yet, growth has been inherent in the American psyche and fundamental to the viability of our economic system. As I have stated repeatedly, the cumulative effect of all these factors is a disturbing picture. It reveals our country, and numerous others, as embarked on a gigantic gamble that reliable and abundant production of crude oil, natural gas, and coal from all sources—domestic and foreign—will ensue.

It is startling to note that in 1960 our energy demands, when stated in terms of oil or a so-called oil equivalent, were 21 million barrels of oil per day. In 1970 this figure had reached 34 million barrels per day and is projected to increase to 48 million barrels by 1980.

Even more revealing is the per capita energy demand in oil equivalent. In 1960 it was 44 barrels per person per year; in 1970 it was 60 barrels; and for 1980, according to current estimates, it will be 77 barrels of oil per person per year.

The basic fact is that our country's appetite for fuel is enormous. Yet recent energy supply shortages raise questions regarding our capability to sustain past growth in demand. Events have transformed our Nation's domestic fuel supplies into one large deficit.

The time is long overdue to put into effect a comprehensive national program of energy conservation, designed to accommodate as much as possible of our future growth in energy consumption through the more efficient conversion and consumption of energy. The potential is reportedly there for a 30- to 40-percent increase in the amount of usable energy from the same quantity of basic resources we are using today. By 1980, energy savings could amount to as much as 7.3 million barrels of oil a day.

Federal energy conservation initiatives designed to achieve this objective can serve to both mitigate our dependence on oil imports as well as stabilize our total consumption of basic energy resources. Several possibilities were outlined in my January 16, 1973, Senate remarks. At that time, I proposed to—

Upgrade the 1971 FHA home insulation standard;

Establish Federal guidelines for the incorporation of energy conservation practices in new buildings—mandatory for new Federal and Federally insured buildings and homes;

Establish a national program of consumer education to foster more efficient use of energy in our daily lives;

Develop and publish Federal guidelines for the labeling of electrical equipment to reflect efficiency of energy utilization; and

Initiate comprehensive national review of the potential for energy conservation within the transportation sector of our economy, hopefully, to lead to the adoption of Federal policies for fostering energy conservation in this end use.

These alternatives for fostering energy conservation, and other significant opportunities, are addressed in S. 2176, the National Fuels and Energy Conservation Act of 1973. This measure is a product of the Senate's national fuels and energy policy study and was ordered reported by the Committee on Interior and Insular Affairs on September 13, 1973.

Mr. President, the ultimate success of energy conservation policies must rely on the cooperation of all sectors of our society who produce and consume energy, from the mining and petroleum recovery interests to industry, to commerce, and to the individual consumer.

Affected are all aspects of our personal lives and our means of livelihood. Thus, conservation must be on the list of top priorities if the United States is not to experience continuing shortages in energy supplies. Many examples can be selected from our present uses of energy that are inexcusably wasteful in the light of this country's, and the world's, projected energy plight.

Since the end of World War II, virtually every city in the United States—and throughout the world—has experienced an unprecedented building boom. In response to escalating costs of construction over the years, architects and

structural engineers often have taken shortcuts in building design in an effort to economize on construction costs. Thus, the conventional masonry-faced high-rise building, with movable window sash, has given way to the curtain wall and modular construction. Glass areas now are composed of tinted, solar-reducing, reflective, or double glazing.

The resultant heat gains during the summer and the radiation losses during the winter are large. Consequently, large heating and cooling systems also must be installed which consume fuel and electric power to reduce or replenish—depending upon the season—the heat energy acquired from, or dissipated to, the great outdoors.

During summer hot spells, the central air-conditioning system must work overtime to lower the interior temperatures produced by a blazing sun heating the conducting glass and curtain walls. During winter freezes, the heating system must operate at its capacity. And, improper or insufficient insulating materials incorporated into the architectural design further militate against economies in heating and cooling.

In the past, one of the primary reasons for lack of adequate insulation has been that energy has been both cheap and plentiful. Capital costs also were considered more important than energy savings over the long haul. Our fuel shortages, however, require a reassessment of such cost-benefit priorities. It is imperative that public policy demand higher standards of energy use and efficiency at the risk of rising construction and materials costs.

The New York State Public Services Commission has calculated that if all new buildings were properly insulated as well as electrically heated, the superior insulation alone would save roughly 40 percent in the new energy demand resulting from this construction. By 1980, this savings alone could amount to 5 to 6 percent of our total national oil requirements.

At the present time, Mr. President, the Federal Government owns and operates about 410,000 buildings within the United States. In addition, there are some 7,123 hospitals; 114,287 schools; and about 20 million multifamily dwelling units. A substantial portion of these have been constructed with federally insured funds.

In 1974 alone, it is forecast that there will be constructed an additional 205 million square feet of office space at a cost of $6 billion; some 145 million square feet of educational buildings at a cost of $5 billion; about 85 million square feet of hospital and health areas at a cost of $3.8 billion; and some 750 million square feet of apartments at a cost of $13 billion. A substantial portion of this space will be either for Federal purposes or will be constructed under federally insured grants.

Looking beyond next year to the next two decades, the expansion of building in the United States is likely to be quite substantial. And a large portion of the expected 25 million dwelling units by 1990 will be either federally financed or insured structures. At the same time, on the commercial side, it is expected that there will be an additional 13 billion square feet of office space.

The information I have gathered on this matter has impressed me quite dramatically. Through the proper choice of energy systems for the extensive new construction I have mentioned, there is a very substantial potential for saving in both natural energy resources and dollars.

Thermal insulation in homes is hardly a new concept; it has been employed for more than half a century to improve heating economy and reduce outside cold-wall effects in winter. Rock wool was one of the earliest materials used in walls and between attic roof rafters. However, in recent years, central heating and cooling systems have demanded improved insulating materials to increase the efficiency of these systems. These improved materials are reflected in the Federal Housing Administration—FHA—Minimum Property Standards for single and multifamily housing units.

The potential energy savings through improved insulation in homes indicate that if the June 1971, FHA insulation standards were followed, energy savings could amount to 29 percent for a home heated with gas and 19 percent where heated by electricity. Electrically heated homes already require more insulation. By upgrading the 1971 FHA standard, the energy savings for a gas heated home could approach 50 percent. For the home owner, this could amount to an annual savings of as much as $155 at today's natural gas prices and even larger savings at anticipated future prices.

In fact, a National Mineral Wool Association study indicated that "8200 trillion Btu's—24000 x 10^8 kWh—could be saved in the next decade if 75 percent of new housing units are constructed in compliance with new FHA standards." This savings represents slightly more than the present total annual consumption of all fossil fuels.

Heating, ventilation, and air conditioning systems in many buildings operate constantly, whether or not interior spaces are occupied by personnel. But advanced-type control systems similar to those in New York's World Trade Center and other large building projects, are being employed to monitor space conditioning system operation for optimum use efficiency by making corrective adjustments. Such centers can also control lighting systems and the programing of elevator operations.

To prevent the unnecessary waste of energy in building design, a primary consideration in conservation is the optimization of the various subsystems. There is statistical evidence available to prove that institutional buildings, such as schools, have saved as much as 50 percent of their electric lighting bills by the use of automatic controls and daylight.

Accordingly, on September 24, 1973, I introduced legislation that would direct all Federal agencies to consider energy conservation in the construction of Federal facilities and federally insured facilities to the fullest extent consistent with their existing authorities. This measure, S. 2479, the Facilities Construction Energy Conservation Act of 1973, is incorporated in the measure before us as section 6.

The policy set forth in the provision is that each agency of the Federal Government would be required, for all new facilities exceeding 50,000 square feet, to prepare complete life cycle cost analysis. This energy consumption analysis would have to consider the facilities' heating, ventilating, air-conditioning and lighting systems, in addition to other consumer systems. At this time, there is no way to estimate how much of this will be Federal office space, or how much of these finances will be underwritten by the Federal Government. Regardless of this, if the Federal Government takes the lead in requiring a complete life cycle cost analysis, the rest of the U.S. construction industry will tend to follow our lead.

The choice of energy systems for each particular building will differ as a result of the numerous variables to be considered.

Mr. President, as pointed out earlier, savings of up to 50 percent can be achieved in the selection of one system over another for a particular building. As we are all aware, this energy consumption has not been a major concern in building construction. In fact, I am sure many of the buildings under construction at this time will have systems using more energy than identical buildings with a different energy system.

During the early planning stages of a proposed hospital in Los Angeles, four common energy systems were compared using a life cycle analysis such as I have proposed. The energy consumption of the system selected required approximately 30 percent of the energy that would have been required by one of the alternate systems evaluated.

As defined in this section the term "life-cycle costs" means the total cost of the facility including its initial or construction cost and all annual costs for maintenance, repairs, utilities—energy sources—and replacement necessary for continued operation of the facility.

As part of a life cycle analysis of this type, the orientation, insulation, types of windows, types of equipment, usage profiles, et cetera, will be experimented with to determine the optimum combination with regard to energy consumption. In other words, optimum combinations will differ because of architectural design and functional differences.

This measure has received support from many sectors. The General Services Administration has endorsed the measure stating:

> Over the past three years GSA has vigorously promoted the conservation of energy in the design of new Federal office buildings. We wholeheartedly concur with the purpose of Chairman Randolph's bill. We currently have a number of projects and studies underway which will lead to the development of more meaningful performance

specifications for energy conservation in Federal office buildings.

The American Gas Association also wrote me expressing their support, commenting that:

The concept of an energy-oriented life cycle cost analysis has great potential with respect to energy resources and operating dollar savings. I can also see significant initial construction savings that may accrue as a result of being able to predict environmental factors and thereby avoid overdesign.

There are features of the bill which closely parallel recommendations for a computerized energy analysis model that we have been promoting for several years; and while the bill is aimed at Federal, or Federally insured, construction, the techniques that develop are certain to become standard for the industry.

I cannot think of a recent piece of legislation that has more interesting, positive ramifications and benefits for a large segment of our population.

Again, we at A.G.A. strongly support your fine bill and urge swift passage by the Senate.

Mr. President, in addition to energy conservation, I would like to make the following observation about the potential savings which we can expect to derive from the effective implementation of this bill. Not only would we build in our country structures which utilize scientifically optimum heating and cooling plants, but there would be a long-term reduction in their operating costs. By completing in advance preliminary analyses on each major structure we should, in many instances, be able to take advantage of favorable environmental factors and to avoid overdesign. In the process, great savings are possible in initial costs.

As the methodologies for life-cycle energy analysis are refined, their costs will be minimal when compared to the dollar savings generated and the energy resources conserved.

It is mandatory that measures be taken at this time to insure minimum energy consumption of the new structures I have mentioned. For this reason, the Facilities Construction Energy Conservation Act of 1973 is an amendment to S. 2176. This measure will help us make substantial progress toward achieving this objective.

Mr. President, the shortage of gasoline and its impact on individual mobility is probably the most widely felt effect of the energy shortage. It is all but inevitable that the gasoline shortage will become increasingly severe in the months immediately ahead.

Motor vehicles in the United States are now burning fuel at the rate of 115 billion gallons a year. Obviously, even a modest reduction in this demand can have a substantial impact on our fuel supply situation.

There are several practical methods that can be instituted in a relatively short time to reduce gasoline consumption. In many States speed limit reductions have already been put into effect to save gasoline. Another method is the reduction of car use by carpooling. The spread of private car use has been so great that the average car taking people to work carries only 1.4 persons. Nearly three-quarters of these cars transport only the driver. Merely by increasing this average to 2.3 persons would result in the saving of 200,000 barrels of fuel daily, according to Treasury Department studies.

The urban sprawl which has overtaken our country in the past two decades has separated millions of Americans widely from their places of employment. Any hopes for substantial and successful carpooling will require systems to bring potential riders together. In addition, carpools must be made attractive in other ways, including preferential parking and exclusive or preferential highway lanes.

Mr. President, section 15 of this bill authorizes the Secretary of Transportation to sponsor projects to encourage formulation and use of car pools. The provisions of chapter 15 are similar to those contained in S. 2589, which was introduced on October 18 by Senator DOMENICI, with the cosponsorship of myself and 12 other Senators. Up to $1 million in Federal funds can be spent on any individual project to facilitate and encourage the use of carpools.

Although we have in recent years committed large sums to assist in the expansion of urban transit systems, most of them are still inadequate to accommodate a sudden large influx of new passengers. The gap between the shortage of gasoline for public cars and the expansion of public transportation can be alleviated immediately by carpool operations. The provisions of section 15 provide an adequate and proper commitment to carpooling and the Senator from New Mexico (Mr. DOMENICI) is to be commended for the leadership role he has taken in bringing this measure before us.

Mr. President, the bill before us originated in the Committee on Interior and Insular Affairs last summer at a time when we anticipated an energy shortage but did not anticipate events which would bring the crisis to us in its present proportions. In the form in which we consider it today, the bill also represents substantial input by the Committee on Public Works and the Committee on Commerce, which share with the Committee on Interior and Insular Affairs jurisdiction over the subject matter of this measure. The bill, therefore, is a comprehensive measure addressing a wide variety of energy measures.

Though this legislation was expedited, it is not hastily drawn. It is not a measure proposed in panic under the threat of a substantial energy shortage this winter. Its provisions are intended to alleviate hardship and to provide the long-range tools we need to accommodate our national life to an energy supply less readily available and far more expensive than that to which we have been accustomed. This adjustment will not be easy. It will be, in fact, painful in some instances to people who in the past have not had to worry about energy supplies. I am confident, however, that we have the ability as a nation and the resilience as individuals to adjust to the new realities and from this adjustment to maintain a strong and vigorous nation.

Senator HENRY JACKSON, chairman of the Committee on Interior and Insular Affairs, and Senator WARREN MAGNUSON, chairman of the Committee on Commerce, have provided the leadership and their customary cooperative spirit that enabled us to bring a bill of this nature to the Senate.

Mr. President, the National Fuels and Energy Conservation Act of 1973 deserves the support of the Senate. I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, I wish to express my strong support for S. 2176, the National Fuels and Energy Conservation Act of 1973, which was reported by the Senate Commerce Committee on November 15, and by the Senate Interior Committee on September 27. From all indications, the energy crisis which we are facing will not measurably improve in the immediate future but will, instead, generate wider repercussions and shortages in industries such as the petrochemical and plastics industries. This winter we will begin to fully appreciate the seriousness of an energy shortage and realize the widespread implications of it. The Middle East crisis has very vividly shown us the need for developing and maintaining a reliable domestic source of energy to meet our own requirements, and the need to conserve and use wisely the energy we do have available.

Even though we can ameliorate our current energy shortage through the imposition of many temporary emergency measures, we will still need to enter into some long-term and permanent policies which will curtail our spiraling energy consumption and make our Nation independent in the energy field. The recent interruption of our oil supplies from the Middle East made it all too apparent that our heavy energy usage, even without this crisis, would indicate the need for some type of remedial action to reduce our heavy per capita usage of energy. The United States has the highest per capita energy consumption in the world. Even more amazing is the fact that, although we comprise only one-sixteenth of the world's population, we consume one-third of the world's energy supplies. For example, gas consumption in the United States has increased 49.7 percent in the 10-year period between 1962 and 1972. During the same period, consumption of heating oil rose 18.4 percent; consumption of natural gas rose 65.1 percent, and consumption of electricity rose 104.6 percent.

Historically, our Government has always responded to our ever-increasing energy needs by increasing the supply by whatever means were available, without questioning the legitimacy of the increase. Our Government has always attempted to satisfy this need by increasing supplies rather than taking, or even considering, any action to curtail energy usage.

We are now in the position of having to take a closer look at these past poli-

cies, and since we do not have the domestic supplies available to meet our current needs, much less our projected increases, we have to face the fact that energy conservation has gone from a desirable objective to an absolute necessity.

It is obvious to anyone that when a country like the United States wastes more energy than most countries consume, there is much room for improvement.

S. 2176 declares it to be a national policy of conserving energy resources through more efficient conversion and use; it makes energy conservation an integral part of all programs of the Federal Government; and it encourages an energy conservation ethic among American industry and the consuming public.

I believe S. 2176 will go a long way toward accomplishing these desirable and necessary objectives. And that is why I support this measure.

ORDER FOR CONSIDERATION OF S. 2686, LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the pending business is disposed of, the Senate proceed to the consideration of Calendar No. 471, S. 2686, the Legal Services Corporation Act.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

PROGRAM

Mr. FANNIN. Mr. President, I ask the majority leader what the schedule is for the remainder of today.

Mr. MANSFIELD. Mr. President, for the information of the Senate, first thing tomorrow morning we will take up the railroad legislation affecting the Midwest and the Northeast, to be followed by the OEO legal services measure.

On Wednesday, we will take up the Special Prosecutor measure, to be followed, on a second track, by some other piece of legislation.

On Thursday and Friday, it is hoped that we will be able to take up and dispose of the supplemental and defense appropriation bills.

It is very likely that we will be in on Saturday, so I would urge all Members with Saturday engagements at this time to keep possible cancellations in mind. It is my understanding that it is going to be very difficult to get reservations west after the 19th. We will try to finish by the 20th or 21st, but it will all depend on the degree of cooperation extended by the Senate. May I say that it has been of a very high degree up to this time.

I would hope that it would be possible to get the foreign aid authorization bill out of the Committee on Foreign Relations earlier than Tuesday, at which time hearings are scheduled, because the House has passed the authorization and the appropriation bills. The important factor is to dispose of the appropriation bills before we adjourn.

We have a difficult schedule ahead of us. We will do the best we can to adjourn by the 21st or 22d, earlier if possible. So I would hope that the cooperation, which has been forthcoming up to this time, will continue, with the idea in mind that, if so, it might be possible to adjourn sine die a day or two earlier.

Mr. FANNIN. I thank the majority leader for that very complete report, as I share his concern that if we continue after the 19th, it will be very difficult to get reservations. I have had a report that it is almost impossible to do so. I hope we can finish our business by the 19th or before.

NATIONAL FUELS AND ENERGY CONSERVATION ACT OF 1973

The Senate continued with the consideration of the bill—S. 2176—to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

Mr. FANNIN. Mr. President, while I support the concept of energy conservation, I must vote against this bill. Several months ago the Interior and Insular Affairs Committee reported out a conservation bill, S. 2176. which made good sense. The Jackson amendment in the form of a substitute bears little resemblance to the reported bill. It is in conflict with the administration's Federal Energy Administration legislation. It follows the usual pattern of regulate first, and ask questions later. The bill creates more problems than it solves.

Mr. HANSEN. Mr. President, I would like to associate myself with the remarks of the Senator from Arizona. I support the principle of conservation, but cannot in good conscience vote for this bill.

Mr. BARTLETT. Mr. President, I would like to associate myself with the remarks of the Senators from Arizona and Wyoming. Although I support conservation in principle, I cannot support this bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is 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 Florida (Mr. CHILES) and the Senator from Georgia (Mr. TALMADGE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 75, nays 15, as follows:

[No. 568 Leg.]

YEAS—75

Abourezk	Gurney	Nelson
Baker	Hart	Nunn
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bennett	Hollings	Pearson
Bentsen	Hughes	Pell
Bible	Humphrey	Percy
Biden	Inouye	Proxmire
Brooke	Jackson	Randolph
Burdick	Javits	Ribicoff
Byrd, Harry F., Jr.	Johnston	Roth
	Kennedy	Saxbe
Byrd, Robert C.	Long	Schweiker
Cannon	Magnuson	Scott, Hugh
Case	Mansfield	Sparkman
Church	Mathias	Stafford
Clark	McClellan	Stennis
Cranston	McClure	Stevens
Dole	McGee	Stevenson
Domenici	McGovern	Taft
Dominick	McIntyre	Tunney
Eagleton	Metcalf	Weicker
Eastland	Mondale	Williams
Fong	Montoya	Young
Fulbright	Moss	
Griffin	Muskie	

NAYS—15

Aiken	Cotton	Hruska
Allen	Curtis	Scott, William L.
Bartlett	Fannin	Thurmond
Bellmon	Goldwater	
Buckley	Hansen	
Cook	Helms	

NOT VOTING—10

Brock	Hartke	Talmadge
Chiles	Hathaway	Tower
Ervin	Huddleston	
Gravel	Symington	

So the bill (S. 2176) was passed, as follows:

S. 2176

An act to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes

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

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "National Fuels and Energy Conservation Act of 1973".

(b) TABLE OF CONTENTS.—

STATEMENT OF PURPOSES, FINDINGS, AND POLICY

SEC. B. (a) The purposes of this Act are: to declare a national policy of conserving fuels and energy resources through more efficient conversion and use; to make energy conservation an intergral part of all ongoing programs and activities of the Federal Government; to establish a Council on Energy Policy in the Executive Office of the President and an Office of Energy Conservation in the Department of the Interior; to promote energy conservation efforts through specific directives to agencies of the Federal Government and sectors of private industry; to encourage greater private energy conservation efforts through purchasing policies of the various agencies of the Federal Government; to encourage the allocation of energy resources to their most efficient economic use; and to provide for the development of additional energy conservation programs pursuant to the policy set forth in this Act.

(b) The Congress recognizes that: (i) adequate supplies of energy at reasonable cost are essential to the growth of the United States economy and the maintenance of a high standard of living; (ii) the availability of low-cost energy has stimulated energy consumption and waste through inefficient use; (iii) expanding increases in energy consumption in the United States, which already uses almost one-third of the world's energy with only one-sixteenth of its population, raise serious policy issues; (iv) the finite nature of energy resources and diminishing reserves of fuels pose major questions of domestic and international policy; (v) increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems; (vi) a continuation of the present expansion of demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; (vii) the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing the rate of growth of energy demand and minimizing such adverse impacts; and (viii) realistic pricing of energy in all forms will have a major effect in reducing energy consumption and waste.

(c) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to better assure adequate supplies of energy and fuels to consumers, reduce energy waste, conserve natural resources, and protect the environment.

(d) Every agency of the Federal Government shall have the continuing responsibility of implementing the policy and purposes set forth in this Act. Each agency shall review its statutory authority, policies, and programs in order to determine what changes may be required to assure conformity with the policy and purposes of this Act and shall report the results of its review, together with recommendations for necessary changes, to the President and the Congress within one year from the date of enactment of this Act.

COUNCIL ON ENERGY POLICY

SEC. 3. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in narrow, short range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

(c) (1) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(2) All agencies of the Federal Government shall to the fullest extent possible—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(B) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports, to the extent that such recommendations and reports deal with or have a bearing on energy matters;

(C) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(D) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

(d) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

(e) (1) The Council shall serve as the principal adviser to the President on energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(2) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(3) The Council shall develop within eighteen months after the date of enactment of this Act and thereafter shall annually update an Energy Plan for development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plans shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(4) The Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on

energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor.

(5) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(6) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(7) In carrying out its collection, analysis, and interpretation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

(f)(1) In exercising its power, functions, and duties, the Council shall—

(A) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(B) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(2) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(3) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(g) The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to accompany the Energy Plan. This report shall include—

(1) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(2) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;

(3) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social environmental, economic, and other requirements of the Nation;

(4) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(5) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(6) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(7) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

(h)(1) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(2) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(A) to other Federal Government departments, agencies, and officials for official use upon request;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(D) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(i)(1) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (A) conduct studies of existing statutes and regulations governing Federal energy programs, (B) review the policies and practices of Federal agencies administering such programs, (C) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts and research and development, and (D) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(2) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(3) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(4) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in paragraph (3) of this subsection.

(5) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(6) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of subsection (h)(2) if the information were held by the Council.

(j)(1) There are authorized to be appropriated to carry out the provisions of this section not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 30, 1975, and $4,000,000 for each fiscal year thereafter.

(2) All sums appropriated under this section shall remain available for obligation or expenditure in the fiscal year for which appropriated and in the fiscal year next following.

OFFICE OF ENERGY CONSERVATION

SEC. 4. (a) There is hereby established in the Department of the Interior the Office of Energy Conservation.

(b) The Office of Energy Conservation shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and such other officers

and employees as may be required: *Provided*, That any incumbent Director occupying the office upon the date of enactment of this Act shall not be subject to the advice and consent of the Senate. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Secretary of the Interior, acting through the Office of Energy Conservation, shall—

(1) work with the Council on Environmental Quality in developing new energy conservation initiatives for the Federal Government;

(2) cooperate with private industry in developing energy conservation programs in industry;

(3) provide assistance to State governments in the development of State energy conservation programs;

(4) conduct and promote educational programs to foster public awareness of energy conservation needs and opportunities;

(5) conduct a continuing body of, and maintain current statistics on, patterns of energy consumption;

(6) prepare an annual report to the President and the Congress on his activities and the activities of other Federal agencies in implementing the policy and purposes of this Act. The report shall also review progress in energy conservation for major categories of energy use, and recommend additional energy conservation measures for each such category, and

(7) provide assistance to the Congress in the preparation of energy conservation materials, including booklets and bumper stickers, for distribution to constituent groups.

RESEARCH AND DEVELOPMENT

SEC. 5. (a) The Director of the National Science Foundation shall coordinate the energy conservation research and development programs of the Federal Government, identify energy conservation research and development opportunities, and make recommendations to the President and the Congress for additional research and development programs necessary to achieve the policy and purposes of this Act.

(b) The Secretary of Commerce is authorized to establish within the National Bureau of Standards an energy conservation research and development program to stimulate, through process testing, field demonstrations, and other means, new or improved manufacturing and industrial processes; better building construction, materials, and techniques; and new or improved residential and non-residential appliances and equipment; and to foster more efficient methods of managing energy use.

(c) The Secretary of the Interior is authorized to establish, using existing facilities of the Federal Government for the production and transmission of electrical energy, one or more electrical equipment testing and development centers for the purpose of developing and testing more efficient methods and equipment for the production and transmission of electric energy.

(d) The Secretary of Agriculture is authorized to establish within the Agricultural Research Service a food and fiber energy conservation and efficiency program to be conducted through selected land grant colleges in cooperation with the Agricultural Extension Service. The objectives of such program shall include, but not be limited to, research and development of new energy sources, technologies and techniques applicable to the production, processing and distribution of food and fiber in the United States and the dissemination of information relating to fuel conservation and increased efficiency in energy utilization in agricultural operations and processes.

(e) The research programs authorized by this section shall be coordinated to the fullest extent possible with existing governmental and industrial research and development programs.

(f) For the purposes of subsections (b), (c) and (d) of this section, there are authorized to be appropriated $8,000,000, $4,000,000 and $5,000,000 respectively, for each of the first three fiscal years following enactment of this Act.

FEDERAL BUILDING AND PROCUREMENT POLICIES

SEC. 6. (a) (1) The Congress hereby finds—

(A) that federally owned and federally assisted facilities have a significant impact on the Nation's consumption of energy;

(B) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(C) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(D) that the cost of energy is significant and facility designs must be based on the lowest total life cycle cost, including (i) the initial construction cost, and (ii) the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(2) The Congress declares that is the policy of the United States to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each facility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction for renovation cost.

(b) For purposes of this section:

(1) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes of United States Postal Service.

(2) The term "facility" means any building on which construction is initiated six months or more after the date of enactment of this Act.

(3) The term "major facility" means any building of fifty thousand or more square feet of usable floor space on which construction or renovation is initiated six months or more after the date of enactment of this Act.

(4) The term "Federal facility" or "major Federal facility" means a facility constructed, or a major facility constructed or renovated, by a Federal agency.

(5) The term "federally assisted facility" or "major facility constructed or renovated, in whole or in part with Federal funds or with funds guaranteed or insured by a Federal agency.

(6) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(7) The term "economic life" means the projected or anticipated useful life of a facility.

(8) The term "life-cycle cost" means the cost of a facility including (i) its initial cost, and (ii) the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(9) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

(c) (1) The Congress authorizes and directs that Federal agencies shall carry out the construction of Federal facilities, and the construction and renovation of major Federal facilities, under their jurisdiction or programs for the construction of federally assisted facilities and the construction and renovation of major federally assisted facilities in such a manner as to further the policy declared in paragraph (a) (2) of this section, insuring that energy conservation practices are employed in new Federal and federally assisted facilities and in new or renovated major Federal and federally assisted facilities.

(2) Each Federal agency having jurisdiction over any Federal or federally assisted facilities construction program shall require the preparation of a complete life-cycle cost analysis for each major facility (exceeding fifty thousand square feet of usable floor space), for the expected life of the major facility.

(3) This life-cycle cost analysis shall include but not be limited to such elements as:

(A) the coordination and positioning of the major facility on its physical site;

(B) the amount and type of fenestration employed in the major facility;

(C) the amount of insulation incorporated into the facility design;

(D) the variable occupancy and operating conditions of the major facility, including illumination levels; and

(E) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

(i) the comparison of two or more system alternatives;

(ii) the simulation of each system over the entire range of operation of the major facility for a year's operating period; and

(iii) the evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-cycle cost analysis performed for each major facility shall provide but not be limited to the following information:

(A) the initial cost of each energy-consuming system being compared and evaluated;

(B) the annual cost of all utilities;

(C) the annual cost of maintaining each energy consuming system; and

(D) the average replacement cost for each system expressed in annual terms for the economic life of the major facility.

(5) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis of the economic life of the major facility.

(6) In the selection of locations for new Federal and federally assisted facilities consideration shall be given to proximity to existing or planned mass transit facilities.

(d) The life-cycle cost analysis and consideration of energy conservation practices required by subsection (c) of this section shall be included by the Administrator of the General Services Administration in any prospectus submitted to the Committees on Public Works of the Senate and the House of Representatives under section 7 of the Public Buildings Act of 1959, as amended.

(e) The Administrator of the General Services Administration shall prepare and submit biennial reports to the President and the Congress on the results of the program

established pursuant to subsections (c) and (d) of this section. Such report shall include a description of equipment, methods of construction, and operating practices used to achieve energy conservation, including comparisons of energy consumption and costs for facilities in which such equipment, methods, or policies are and are not used.

(f) The Administrator of the General Services Administration is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(g) The provisions of subsection (c) and subsection (f) of this section shall apply to all the construction and procurement policies of the Department of Defense, except where the Secretary of Defense finds that combat or other specific, critical military needs require otherwise.

BUILDING STANDARDS

SEC. 7. (a) The Secretary of Housing and Urban Development is authorized and directed to develop, in cooperation with the National Bureau of Standards and the General Services Administration, improved general performance standards and specific design, lighting, and insulation standards to promote efficient energy use in residential, commercial, and industrial buildings.

(b) The Secretary, in cooperation with the National Bureau of Standards and the General Services Administration, is authorized and directed to prepare the most practicable standards possible for efficient energy use for different types and classes of buildings, in differing regional environments. Such standards for energy use shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein. The standards should be designed so that they may readily be incorporated in all currently available model building codes and such new model building codes as may be developed by the Bureau or any other entity.

(c) Within six months from the date of enactment of this Act, the Secretary shall review and revise the existing minimum property standards of the Federal Housing Administration to incorporate therein the most advanced practicable standards for efficient energy use, including the most advanced practicable space conditioning and major appliance standards. Such standards shall thereafter be reviewed and where necessary revised not less than once every three years to include new or improved techniques for more efficient energy use.

TRUTH IN ENERGY

SEC. 8. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following: "(b)";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions in the decade following the date of enactment of this section. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant casing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems and household products such as water heaters, room air-conditioners, refrigerators, freezers, stoves, and clothes dryers use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems and products if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners of major energy-consuming products and climate conditioning systems do not know nor can they readily discovered prior to purchase how much each such product or system will cost each year to operate (in terms of energy charges) nor are they able to compare in terms of operating cost, competing products or systems using different energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and the demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the annual operating cost of certain products and systems, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 24 of this Act—

"(1) 'Annual operating cost' means, with respect to a major energy-consuming household product or climate conditioning system, the estimated cost of electricity or fuel needed for normal usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(2) 'Climate conditioning system' means any system which is designed to be installed or is installed in a previously occupied building for the purpose of artificially controlling temperature or humidity levels within such building or portion thereof. Such a system is characterized as being composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as air, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(3) 'Communications medium' means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications, radios, televisions, films, or theater.

"(4) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a major energy-consuming household product or climate conditioning system.

"(5) 'Major energy consuming household product' means a product which: (A) is sold or intended to be sold for use in a residence; (B) is utilized or intended to be utilized for a major residential end use of energy; (C) functions when connected to a readily available source of energy external to the product; and (D) requires, based on average patterns of usage as determined in accordance with section 20 of this Act, more than 200 kilowatt hours per year or in the case of a product powered by fuel, more than 2,000,000 British thermal units per year.

"(6) 'Major residential end use of energy' means one of the following residential uses of energy: (A) space heating; (B) water heating; (C) cooking; (D) clothes drying; (E) refrigeration; (F) air-conditioning; and (G) any other residential use of energy that the Commission, in cooperation with the National Bureau of Standards, determines, by a proceeding pursuant to section 20(j) of this Act, to be included to meet the purposes of sections 18 through 24 of this Act.

"(7) 'Supplier' means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or retailer which has an annual gross volume of business in excess of $1,000,000 of any new major energy consuming household product, or any engineer or contractor who is designing a climate conditioning system for use in a previously occupied building.

"SEC. 20. ESTIMATES OF ANNUAL OPERATING COSTS.—(a) The Commission, in cooperation with the National Bureau of Standards, within 3 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall identify those products which are major energy consuming household products.

"(b) The Commission, in cooperation with the National Bureau of Standards, beginning 12 months after the date of enactment of this section shall establish priority ranking of major energy consuming household products, based on the extent to which such products contribute to residential energy consumption; and shall, in a proceeding pursuant to subsection (j) of this section, adopt interim procedures for determining and disclosing annual operating costs of major energy consuming household products. Such interim procedures shall be adopted in the order of such priority ranking and shall remain in effect until the effective date of the procedures promulgated in accordance with subsections (c) through (i) of this section.

"(c) For each major energy consuming household product identified under subsection (a) of this section, the Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall define an average-use cycle, and devise a procedure for testing or for calculations based upon tests by which an average-use cycle of a product may be simulated and the energy utilized during such cycle measured. In developing such definition and procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the manufacturers of major energy consuming household products in order to enable the Commission to make the best possible utilization of appropriate existing testing procedures and professional expertise.

"(d) The Commission shall direct each manufacturer and importer of each major energy consuming household product identified under subsection (a) of this section to conduct tests on all applicable models of such products in accordance with the procedures established under subsection (c) of this section. Beginning 30 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests, in the form of energy utilized per average-use cycle, to the Commission and shall include such results as part of the information shipped with each such product to all the suppliers who carry such product.

"(e) The Commission, in cooperation with the National Bureau of Standards, within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, shall develop and maintain, on a regional, national, or other basis which the Commission finds appro-

priate in such proceeding, information on the estimated (1) number of average-use cycles performed annually by each major energy consuming household product identified under subsection (a) of this section; and (2) average unit cost of energy for those circumstances under which such products are expected to be utilized. Such costs shall be computed on the basis of energy cost figures which shall be supplied to the Commission by the Federal Power Commission and the Secretary of the Interior.

"(f) (1) The Commission shall, beginning 18 months after the date of enactment of this section and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy consuming household products the information developed under subsection (e) of this section. Such information shall be accompanied by instructions and computational aids for determining the annual operating cost of a given major energy consuming household product in accordance with the procedure established under subsection (g) of this section.

"(2) If, for any particular major energy consuming household product, the Commission develops such information on a national basis, the determination of the annual operating cost shall be made by the manufacturers or importers, and the annual operating cost figures shall be included by the manufacturers or importers as part of the material shipped with each such product to all the suppliers who carry such product.

"(3) For major energy consuming household products, other than those referred to in paragraph (2), the manufacturers and importers shall forward such information, instructions and computational aids to all the suppliers who carry such product. Suppliers engaged in the business of selling new major energy consuming household products for purposes other than resale shall make the determination of the annual operating costs.

"(4) Within 36 months after the date of enactment of this section, and periodically thereafter when a revision is deemed necessary or appropriate, a compilation of information provided to or developed by the Commission under subsections (d) and (e) of this section shal be published by the Commission in a public document to be placed on sale at the Government Printing Office. The Commission shall take steps to encourage the widest possible distribution of such document and any revision thereof.

"(g) The annual operating cost of any major energy consuming household product shall be determined by multiplying the energy utilized per average-use cycle, as determined under subsection (d) of this section, by the number of average-use cycles per annum multiplied by the average unit cost of energy, as determined under subsection (e) of this section.

"(h) Within 18 months after the date of enactment of this section, in a proceeding pursuant to subsection (j) of this section, the Commission, in cooperation with the National Bureau of Standards, shall establish model calculation procedures for use by suppliers in determining the annual operating costs of climate conditioning systems. In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning industry so as to allow the best possible utilization by the Commission of appropriate existing calculation procedures and professional expertise. The model calculation procedures developed under this subsection shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

"(i) The annual operating cost shall be determined at the time the price is stated or advertised upon the basis of the most recent information provided the supplier in accordance with subsections (d) and (f) of this section.

"(j) Except as provided in this subsection, a proceeding shall be conducted in accordance with the provisions of section 553 of title 5, United States Code. Notice and a public hearing are required, and a record of the proceeding shall be maintained. The proceeding shall be structured to proceed as expeditiously as possible, while permitting all interested persons an opportunity to present their views. Participants shall be given a right to cross-examine on matters directly related to the proposed rule, and the Secretary of the Commission may set such conditions and limitations on cross-examination as are deemed necessary to assure fair and expeditious consideration of the contested issues. All testimony shall be presented by affidavit or orally under oath, pursuant to regulations issued by the Secretary or the Commission; where appropriate, persons with the same or similar interests may be required to appear together by a single representative. Each rule issued by the Secretary or the Commission shall be based on substantial evidence in the record taken as a whole and at the conclusion of a proceeding pursuant to this subsection shall be published forthwith in the Federal Register.

"SEC. 21. LABELING AND ADVERTISING.—(a) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with either subsection (b) or subsections (c) through (i) of section 20 of this Act, it shall be unlawful for any supplier to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product or climate conditioning system for which such procedure has been adopted, unless the annual operating cost of such product or system is disclosed by the supplier prior to any such sale. Such disclosure shall appear on the same label, tag, shelf, display case, counter, contract, estimate, proposal, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product or system is stated, in accordance with rules established by the Commission: *Provided*, That if annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(b) Beginning 6 months after the date of adoption of procedures for determining and disclosing annual operating costs in accordance with section 20 of this Act it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium any new major energy consuming household product for which such procedure has been adopted, if such advertisement states the purchase price or acquisition cost of such product, unless the advertisement includes a statement of the annual operating cost of such product in accordance with rules established by the Commission: *Provided*, That if annual operating costs as determined in accordance with section 20(g) of this Act are significantly different in different sections of the country, price advertising covering more than one such section shall include national average values of annual operating costs, and shall disclose clearly and conspicuously that the annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(c) It shall be unlawful for any supplier to give false or misleading information to the Commission or any prospective purchaser with respect to the annual operating cost of any new major energy consuming household product or climate conditioning system or, in the case of a manufacturer or importer, with respect to tests conducted in accordance with section 20(d) of this Act.

"(d) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(e) (1) No requirement with respect to disclosure of the annual operating cost of a new major energy consuming household product shall be applicable to any such product which is shipped in commerce by a manufacturer or importer prior to the date of applicability of any requirement with respect to disclosure of the annual operating cost of such product.

"(1) The Commission may by rule prohibit a supplier from stockpiling any new major energy consuming household product prior to the date of applicability, under paragraph (1) of this subsection, of any requirement with respect to disclosure of the annual operating cost of such product. For the purposes of this paragraph, 'stockpiling' means shipping a new major energy consuming household product between the date of promulgation of a testing procedure for such product and 15 months after the date of enactment of this section at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product was shipped during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the testing procedure.

"(f) Nothing in this section shall be construed to give rise to a cause of action for rescission of any contract or for damages, unless the supplier fraudulently or knowingly gave the client or purchaser false information on annual operating costs, and such client or purchaser reasonably relied thereon to his detriment in entering upon such contract.

"(g) Nothing in this section shall be deemed to prohibit a supplier or an advertiser from representing orally or in writing that the annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual purchaser.

"SEC. 22. (a) PROHIBITED ACTS AND ENFORCEMENT.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subject to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c) (1) Any person may commence a civil action on his own behalf against (A) any supplier who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) or the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of

the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any supplier or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate supplier and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 24 of this Act or regulation thereunder or any other relief.

"SEC. 23. PREEMPTION.—(a) It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy consumption, energy efficiency, efficiency ratio, or annual operating cost of any new major energy consuming household product or climate conditioning system if there is in effect and applicable a Federal disclosure requirement with respect to such product or system.

"(b) Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers greater than that provided in the applicable Commission rule; (2) is required by compelling local conditions; and (3) does not unduly burden commerce. The Commission shall maintain continuing jurisdiction with respect to those States or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption granted by the Commission may be withdrawn by it whenever it is determined that the State or political subdivision thereof is not efficiently enforcing its requirements or that such exemption is no longer in the public interest.

"SEC. 24. REPORT, TERMINATION, AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 24 of this Act.

"(b) The provisions of sections 18 through 24 of this Act shall terminate upon the adoption of a concurrent resolution by the Congress with a determination that the findings set forth in section 18(a) of this Act are no longer applicable.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 24 of this Act, not to exceed $2,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976."

AUTOMOBILE FUEL ECONOMY STANDARDS

SEC. 9. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—FUEL ECONOMY

"SHORT TITLE

"SEC. 501. This title may be cited as the 'Automobile Fuel Economy Act'.

"DECLARATION OF POLICY

"SEC. 502. (a) FINDINGS.—The Congress finds and declares that—

"(1) A serious shortage of refined petroleum products is emerging in the United States.

"(2) The need to import petroleum from foreign nations is causing the Nation substantial international trade deficits in fuels.

"(3) This shortage and trade deficit necessitate reducing wasteful and unnecessary use of petroleum and petroleum products.

"(4) Automobiles are a major user of petroleum products.

"(5) The low fuel economy of many automobiles today is unnecessary since significant increases in fuel economy can be achieved without sacrificing environmental or safety standards and without restricting travel patterns.

"(b) PURPOSES.—Therefore, it is hereby declared to be the purpose of the Congress to—

"(1) encourage the development, manufacture, and sale of automobiles which are more economical to operate in terms of the amount of fuel consumed per mile traveled;

"(2) increase the industrywide average fuel economy for new automobiles by at least 50 per centum by 1984 in comparison to the industrywide average fuel economy for new automobiles in 1974, so that the contribution made by the automobile to the rate of growth of the total annual consumption of petroleum products in the United States will be minimized;

"(3) make the Nation self-sufficient in fuel supplies for automobile transportation; and

"(4) promote and encourage new technologies which may aid in further realization of the foregoing objectives.

"DEFINITIONS

"SEC. 503. As used in this title—

"(1) 'Automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term 'automobile' includes a light duty truck rated at 6,000 pounds gross vehicle weight or less, and a multipurpose passenger vehicle which has as its primary intended function the transportation of not more than ten individuals, other than a motor home constructed on a truck chassis, truck chassiscab, or special chassis, or constructed through utilizing a truck or similar van.

"(2) 'Commerce' means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

"(3) 'Dealer' means any person engaged in the business of selling new automobiles to purchasers who buy for purposes other than resale.

"(4) 'Fuel' means any material or substance capable of propelling an automobile, including, but not limited to, regular and high-octane gasoline, diesel oil, kerosene, natural gas, and propane.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an autombile per unit of fuel consumed, as determined in accordance with test procedures established by the Environmental Protection Agency pursuant to the Clean Air Act, as amended.

"(6) 'Industrywide average fuel economy' means the average fuel economy of all new automobiles sold or expected to be sold in all States in a given model year, which may or may not be weighted in accordance with regulations of the Secretary.

"(7) 'Manufacturer' means any person engaged in manufacturing, importing, or assembling automobiles.

"(8) 'Model' means an automobile of particular brand name, body dimensions, style, engine, and drive train.

"(9) 'Model year' means the period that runs from the date a model is introduced in commerce or first offered for sale to purchasers for purposes other than resale, to no later than December 31 of the next calendar year.

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

"(11) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"MINIMUM STANDARD AND LONG-RANGE PLAN

"SEC. 504. (a) ESTABLISHMENT.—The Secretary shall, within eighteen months after the date of enactment of this title, establish by rule pursuant to section 553 of title 5, United States Code, a minimum fuel economy standard for new automobiles introduced into commerce during and after the 1978 model year.

"(b) FACTORS.—In establishing the standard under subsection (a) of this section, the Secretary shall take into consideration the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Such standard shall be set at a level which, in the judgment of the Secretary, represents, to the extent that is technologically and economically feasible, the first step in an orderly progression toward achievement of the national purpose stated in section 502(b) of this Act.

"(c) LONG-RANGE PLAN.—The Secretary shall submit to Congress, no later than 18 months after the date of enactment of this title, a plan (which may include proposed minimum fuel economy standards for new automobiles introduced into commerce during model years subsequent to 1978, and recommendations for new legislation) for achieving the national purpose stated in section 502(b) of this Act. In the development of such plan, the Secretary shall consider the results of the studies conducted pursuant to section 12 of the National Fuels and Energy Conservation Act of 1973. Any proposed minimum standard for fuel economy included in such plan shall be technologically and economically feasible and shall be promulgated by the Secretary pursuant to section 553 of title 5, United States Code, unless either House of Congress, between the date of transmittal of such plan and the end of a 60-day period following such transmittal date, passes a resolution stating in substance that it disapproves of such plan.

"(d) AMENDMENT.—The Secretary may from time to time, upon the basis of new information, amend, modify, or revise any standard or plan established under subsection (a) or (c) of this section. Any amended standard shall be technologically and economically feasible and shall be issued at least 18 months prior to the commencement of the model year for which such amendment is to be applicable.

"(e) EXCEPTIONS.—Standards established in subsection (a) or (c) of this section shall not apply to any automobile which is intended solely for export (and is so labeled or tagged on the vehicle itself and on the outside of the container, if any) and which is exported.

"(f) JUDICIAL REVIEW.—

"(1) GENERAL.—Any person who may be adversely affected by any rule promulgated under this section may at any time prior to 60 days after such rule is promulgated file a petition in the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such rule. A copy of the petition shall be forthwith transmitted by the clerk

of such court to the Secretary. The Secretary shall thereupon cause to be filed in such court the record of the proceedings upon which the rule which is under review was based, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

"(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceedings before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced in a hearing, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his finding as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his rule, with the return of such additional evidence.

"(3) FOURTH REVIEW.—The judgment of the court affirming or setting aside, in whole or part, any such rule of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) OTHER REMEDIES UNIMPAIRED.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

"DUTIES AND POWERS OF THE SECRETARY

"SEC. 505. (a) GENERAL.—(1) For the purpose of carrying out the provisions of this title, the Secretary, or his duly designated agent, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such agent, deems advisable. The Secretary, or his duly designated agent, shall at all reasonable times have access to, and for the purpose of examination, the right to copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title. The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as he may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary, or his duly designated agent, issued under paragraph (1) of this subsection, issue an order requiring compliance with such subpena or order. Any failure to obey such an order of the court may be punished by such courts as a contempt thereof.

"(3) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) INSPECTION.—(1) Every manufacturer shall establish and maintain such records, make such reports, conduct such tests, and provide such items and information as the Secretary may reasonably require to enable the Secretary to carry out his duties under this title and under any rules or regulations promulgated pursuant to this title. A manufacturer shall, upon request of a duly designated agent of the Secretary, permit such agent to inspect finished automobiles and appropriate books, papers, records, and documents. A manufacturer shall make available all such items and information in accordance with such reasonable rules as the Secretary may prescribe.

"(2) Any of the district courts of the United States within the jurisdiction of which an inspection is carried out or requested may, in the case of contumacy or refusal by any manufacturer to accede to any reasonable requirement or request of the Secretary, or his duly designated agent, issued or made under paragraph (1) of this subsection, issue an order requiring compliance with such requirement or request. Any failure to obey such an order of the court may be punished by such court as a contempt thereof.

"(c) PUBLIC DISCLOSURE OF INFORMATION.—The Secretary is authorized and directed to disclose as much of any information obtained under this section to the public as he determines will assist in carrying out the purposes of this title, except that any information reported to or otherwise obtained by him which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, which if disclosed would result in significant competitive damage, shall not be disclosed to the public (other than officers or employees concerned with carrying out this title), unless such information is relevant to any proceeding under this title. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from any committee of the Congress.

"(d) REPRESENTATION.—Notwithstanding any other provision of law, in any action under this section, the Secretary may direct attorneys employed by him to appear and represent him.

"LABELING AND ADVERTISING

"SEC. 506. (a) STICKER.—Beginning no later than 90 days after the enactment of this title, each manufacturer shall cause to be fixed and each dealer shall cause to be maintained on each new automobile, in a prominent place, a sticker indicating the fuel economy which a prospective purchaser can expect from such automobile, and the estimated average annual fuel costs associated with the operation of such automobile. The form and content of such sticker shall be determined by the Federal Trade Commission, pursuant to section 553 of title 5, United States Code.

"(b) DISCLAIMER.—Nothing in this section shall be deemed to prohibit a manufacturer or dealer from representing orally or in writing that the fuel economy or estimated average annual fuel costs required to be disclosed by this section are based on representative driving cycles as determined by the Administrator of the Environmental Protection Agency and should not be construed as a precise calculation of fuel economy or estimated average annual fuel costs to be experienced by an individual purchaser.

"(c) ADVERTISING.—The Federal Trade Commission shall by rule, pursuant to section 553 of title 5, United States Code, direct that the information regarding fuel economy and average annual fuel costs which is required under subsection (a) of this section be a conspicuous part of any advertisement for new automobiles which mentions purchase price or acquisition cost of such automobile.

"(d) CONFORMING AMENDMENTS.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by striking out in the first paragraph 'disclosing the following information concerning' and inserting in lieu thereof 'disclosing the information required by the Automobile Fuel Economy Act together with the following information concerning'.

"PROHIBITED CONDUCT

"SEC. 507. The following conduct is prohibited—

"(a) the failure to comply with any provisions of this title or any standard, rule, regulation, or order issued by the Secretary or Commission pursuant to this title;

"(b) the failure to provide information as required in accordance with this title;

"(c) the failure to permit inspection pursuant to this title;

"(d) the manufacture, processing, sale, distribution, or importation into the United States of any automobile whenever such manufacture, assembly, sale, distribution, or importation is known to be or should have been known to be for use in violation of this title or any standard, rule, regulation, or order issued under this title. Each such act constitutes a separate violation of this section.

"ENFORCEMENT

"SEC. 508. (a) UNFAIR TRADE PRACTICE.—It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person subject to the provisions of section 506 of this Act to fail to comply with any requirement imposed on such person by or pursuant to such section.

"(b) EQUITABLE REMEDY.—The district courts of the United States shall have jurisdiction over any action brought by the Secretary or any attorney designated by the Secretary for such purpose, for a mandatory or prohibitive injunction to enforce any provision of this title or any standard, rule, regulation, or order thereunder or for equitable relief to redress a violation by any person of any provision of section 507 of this Act. The courts shall have jurisdiction to grant such relief as the equities of the case may require. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction shall be granted without bond: *Provided*, That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the interests of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the judicial district in which the court is held, and to that end process may be served in any district. Upon the request of the Secretary, the Attorney General is authorized and directed to bring and maintain an action under this subsection.

"(c) CRIMINAL VIOLATION.—Any person who willfully violates any provision of section 407 of this Act shall, on conviction, be fined not more than $25,000 for each violation, or be imprisoned for not more than one year, or both.

"(d) CIVIL VIOLATION.—(1) Any person who violates any provision of section 507 of this Act other than willfully shall be liable to the United States for a civil penalty in an amount which is not greater than $25,000 for each violation: *Provided*, That the amount of such civil penalty shall not exceed such person's ability to pay. The amount of such civil penalty shall be assessed by the Secretary after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title

5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with the provision violated.

"(2) Upon the failure of the offending party to pay such civil penalty, the Secretary may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

"RELATIONSHIP TO STATE LAW

"SEC. 509. After the effective date of any standard, regulation or requirement under this title relating to fuel economy or fuel economy labeling of automobiles, no State or political subdivision thereof may adopt or enforce any standard, regulation or requirement relating to such matters, except that a State or political subdivision may adopt and enforce controls and regulations governing the use or operation of automobiles such as speed limit controls designed to conserve the use of fuel.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 510. There is hereby authorized to be appropriated for the purposes of carrying out the provisions of this Act such sums as are necessary, not to exceed $1,000,000 for the fiscal year ending June 30, 1974, and not to exceed $3,000,000 annually for the fiscal years ending June 30, 1975, and June 30, 1976.".

UTILITY ENERGY CONSERVATION REPORTS

SEC. 10. (a) Within six months from the date of enactment of this Act, the Federal Power Commission shall, by rule on the record after opportunity for a public hearing, promulgate regulations requiring electric and gas public utilities to submit to the Commission annual reports on energy conservation policies. The Commission shall make such reports readily available for public inspection.

(b) Each such report shall include—

(1) a statement of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate structures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission and distribution; and

(5) such other relevant information as the Commission may require.

FEDERAL GOVERNMENT ENERGY RATE STUDIES

SEC. 11. (a) Each agency of the Federal Government which produces or sells electrical energy or which certificates or licenses any person to produce electrical energy for sale is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act a comprehensive study of the impact of the rate structure and the policies of such agency on the efficiency of generation and on the consumption and conservation of energy. Each such study shall evaluate all relevant factors, including, but not limited to—

(1) an identification of subsidies and other incentives which promote inefficient generation and unnecessary and wasteful energy consumption;

(2) an indication of how various rate structures, rate changes, and methods of pricing might affect the efficiency of generation and consumption within the regions studied. Such methods shall include fuel cost adjustments, marginal cost pricing, and other pricing measures which may encourage increased efficiency of generation or decreased consumption of electrical energy;

(3) an exploration of the price elasticity of electrical energy consumption within each region studied;

(4) an analysis of the rate structure within each region studied, including its effect on design and use of less efficient power generation equipment;

(5) an indication of whether metering or other measures might be improved or instituted to inform purchasers of electrical energy of their cost and of peak demand responsibilities;

(6) an estimate of the impact various rate changes might have on regional consumption and efficiency of generation; and

(7) recommendations for legislative, executive, and administrative actions in furtherance of the national policy declared in section 2 of this Act.

(b) The Council on Energy Policy established pursuant to section 3 of this Act, upon reviewing reports prepared pursuant to section 10 and subsection (a) of this section and in consultation with Federal and State agencies which establish or regulate rates for or prices, production, or importation of electricity or other forms of energy, shall prepare and submit to the Congress within two years of the date of enactment of this Act a study of the impact of such rates and energy prices generally on the consumption and conservation of energy. Such study shall discuss the factors set forth in subsection (a) of this section and any other factors deemed appropriate by the Council, and shall contain such recommendations for legislative and administrative action as the Council deems necessary.

TRANSPORTATION STUDIES

SEC. 12. (a) The Secretary of Transportation is authorized and directed to prepare and submit to Congress, within nine months from the date of enactment of this Act, a report evaluating the potential for energy conservation in the transportation sector. Such report shall include the results of—

(1) a comprehensive study of motor vehicle characteristics and their effects on and the relationships between fuel economy, safety, reliability, damage resistance, materials used in construction, and cost to motor vehicle purchasers. Such study shall include but not be limited to the cost benefit aspects of the foregoing factors, both to the individual motor vehicle owner and to the Nation, and shall identify combinations of such factors which provide for optimum motor vehicle characteristics;

(2) a study of automobile usage in the United States in relation to other transportation modes and systems. The study shall include, but not be limited to, consideration of travel patterns and ways to better integrate the automobile into urban and intercity transportation systems, including the prospects for dual mode transportation systems, and the extent to which a need exists for public assistance for research and development with respect to transportation modes other than the automobile;

(3) an investigation of the advisability of limiting maximum achievable speeds of motor vehicles and of imposing lower maximum speed limits on various types of roads in various parts of the country;

(4) an evaluation of the impact on fuel consumption of national and regional systems of freight transportation and, to the extent relevant studies do not already exist or are in preparation, commercial passenger transportation. Such study shall include—

(A) an evaluation of the relationship between existing patterns of freight and commercial passenger transportation and energy use;

(B) an evaluation of the role of Federal, State, and local government transportation policies in creating and maintaining existing patterns of freight and commercial passenger transportation. Such evaluation shall, in particular, consider changes in Federal and States policies and laws relating to motorized transport on the interstate highway system which would result in significant savings of fuel;

(C) an evaluation of the role of Federal rate regulation in encouraging freight and commercial passenger transportation practices which are inefficient in terms of fuel use; and

(D) An evaluation of the technological and economic feasibility of achieving at least a 50 per centum improvement within ten years of the industry-wide average fuel economy for transportation vehicles, including airplanes, automobiles, buses, motorcycles, recreational vehicles, trains, trucks, and vessels. At the time of submission of the plan required under section 504 of the Motor Vehicle Information and Cost Savings Act, the Secretary shall also submit to Congress a plan (including recommendations for new legislation) for achieving such improvement.

(b) The Secretary of Transportation shall solicit the views of the Secretary of the Interior, the Administrator of the Environmental Protection Agency and other officers and agencies of the Federal Government during the course of such studies; and his report shall include their views and recommendations, if any, for legislation needed to establish the policies and programs identified in such report.

AUTOMOTIVE RESEARCH AND DEVELOPMENT

SEC. 13. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, is further amended by adding at the end thereof the following new title:

"TITLE VI—RESEARCH AND DEVELOPMENT

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Automotive Transport Research and Development Act of 1973'.

"FINDINGS AND PURPOSES

"SEC. 602. (a) FINDINGS.—The Congress finds that—

"(1) Existing automobiles are inadequate to meet all of the long-term goals of this Nation with respect to providing safety, to protecting the environment, and to conserving energy.

"(2) With additional research and development, several advanced alternatives to existing automobiles have the potential to be mass produced at a reasonable cost with significantly less environmental degradation and fuel consumption than existing automobiles while remaining compatible with other requirements of Federal law.

"(3) Insufficient resources are being devoted to research and development of advanced automobiles and automobile components both by the Federal Government and the private sector.

"(4) An expanded research and development effort into advanced automobiles and automobile components by the Federal Government is needed to increase such efforts by the private sector and encourage automobile manufacturers to seriously consider such advanced automobiles and automobile components as alternatives to existing automobiles and automobile components.

"(5) Because of the urgency of the energy, safety, and environmental problems, such advanced automobiles and components should

be developed, tested, and prepared for manufacture within four years from the date of enactment of this title.

"(b) PURPOSES.—Therefore, it is the purpose of this title: (1) to make grants for, and support through loan guarantees, research and development leading to production prototypes of an advanced automobile or automobiles within four years from the date of enactment of this title and to secure the certification after testing of those prototypes which are likely to meet the Nation's long-term goals with respect to fuel economy, environmental protection, and other objectives; and (2) to interpret and carry out this title to preserve, enhance and facilitate competition in research, development, and production of existing and alternative automobiles and automobile components.

"DEFINITIONS

"SEC. 603. As used in this title—

"(1) 'Advanced automobile' means a personal use transportation vehicle propelled by fuel, which is energy-efficient, safe, damage-resistant, and environmentally sound and which—

"(A) presents, consistent with environmental requirements, the least total amount of energy consumption with respect to the amount of fuel consumed, the type of fuel consumed, or the production, use and disposal of such automobile, and represents a substantial improvement over existing automobiles with respect to such factors;

"(B) can be mass produced at the lowest possible cost consistent with the requirements of this title;

"(C) operates safely and with sufficient performance with respect to acceleration, cold weather starting, cruising speed, and other performance factors;

"(D) to the extent practicable, is capable of intermodal adaptability; and

"(E) at a minimum, can be produced, distributed, operated, and disposed of in compliance with any requirement of Federal law, including, but not limited to, requirements with respect to fuel economy, exhaust emissions, noise control, safety, and damage resistance.

"(2) 'Damage resistance' refers to the susceptibility to physical damage of an automobile when involved in an accident.

"(3) 'Developer' means any person engaged in whole or in part in research or other efforts directed toward the development of production protoypes of an advanced automobile or automobiles.

"(4) 'Fuel' means any energy source capable of propelling an automobile.

"(5) 'Fuel economy' refers to the average number of miles (kilometers) traveled by an automobile per unit of fuel consumed, as determined in accordance with title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

"(6) 'Intermodal adaptability' refers to any characteristic of an automobile which enables it to be operated or carried, or which facilitates such operation or carriage, by or on an alternate mode or other system of transportation.

"(7) 'Low-Emission Vehicle Certification Board' means the Low-Emission Vehicle Certification Board established pursuant to section 212 of the Clean Air Act (42 U.S.C. 1857f–6e).

"(8) 'Production prototype' means an automobile which is in its final stage of development and is capable of being placed into production for sale at retail in quantities exceeding ten thousand automobiles per year.

"(9) 'Reliability' refers to the ease of diagnosis and repair of an automobile and its systems and parts which fail during use or are damaged in an accident and the average time and distance that proper operation can be expected without repair or replacement.

"(10) 'Safety' refers to the performance of an automobile or automobile equipment in such a manner that the public is protected against unreasonable risk or accident and against unreasonable risk of death or bodily injury in case of accident.

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

"(12) 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

"DUTIES OF THE SECRETARY

"SEC. 604. The Secretary is authorized and directed to insure the development of one or more production prototypes of an advanced automobile within four years after the date of enactment of this title. The Secretary and the Administrator of the Environmental Protection Agency shall to the fullest extent practicable coordinate motor vehicle research programs and the Administrator is directed to give careful consideration to any request, on a reimbursable basis or otherwise, for such assistance as the Secretary deems necessary to promote such development. In furtherance of the purposes of this title and to promote such development by private interests, the Secretary is further authorized and directed to—

"(a) make grants for research and development efforts likely to lead or contribute to the development of an advanced automobile or automobiles, in accordance with the provisions of section 606 of this title;

"(b) make loan guarantees for research and development efforts which show promise of leading or contributing to the development of an advanced automobile or automobiles, in accordance with the provisions of section 607 of this title;

"(c) conduct and accelerate research and development programs within the Department of Transportation for the purpose of contributing to the research and development of a production prototype of an advanced automobile or automobiles;

"(d) test or direct the testing of production prototypes and secure certification as advanced automobiles those which meet the applicable requirements, in accordance with section 608 of this title;

"(e) collect, analyze, and disseminate to developers information, data, and materials relevant to the development of an advanced automobile or automobiles;

"(f) prepare and submit studies as required under section 611 of this title; and

"(g) receive and evaluate any reasonable new technology, a description of which is submitted to him in writing, which could lead to the development of an advanced automobile.

"POWERS OF THE SECRETARY

"SEC. 605. In addition to the powers specifically enumerated in any provision of this title, the Secretary is authorized to—

"(a) appoint such attorneys, employees, agents, consultants, and other personnel as he deems necessary, define the duties of such personnel, determine the amount of compensation and other benefits for the services of such personnel and pay them accordingly;

"(b) procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for qualified experts;

"(c) obtain the assistance of any department, agency, or instrumentality of the executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise, identifying the assistance he deems necessary to carry out his duties under this title, including, but not limited to, tranfer of personnel with their consent and without prejudice to their position and rating;

"(d) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of his duties under this title, with any government agency or any person; and

"purchase, lease, or otherwise acquire, improve, use, or deal in and with any property; sell, mortgage, lease, exchange, or otherwise dispose of any property or other assets; accept gifts or donations of any property or services in aid of any purpose of this title.

"GRANTS

"SEC. 606. (a) GENERAL.—(1) The Secretary shall provide funds by grant or contract to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles.

"(2) The Secretary is authorized to make such grants, and contracts with any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) CONSULTATION.—The Secretary, in the exercise of his duties and responsibilities under this section, shall consult with the Administrator of the Environmental Protection Agency and shall establish procedures for periodic consultation with representatives of science, industry, and such other groups as may have special expertise in the areas of automobile research, development, and technology. The Secretary may establish an advisory panel or panels to review and make recommendations to him on applications for funding under this section.

"(c) PROCEDURE.—Each grant under this section shall be made in accordance with such rules and regulations as the Secretary shall prescribe in accordance with the provisions of this section and of section 602 of this title. Each application for funding shall be made in writing in such form and with such content and other submissions as the Secretary shall require.

"LOAN GUARANTEES

"SEC. 607. (a) GENERAL.—(1) The Secretary is authorized, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and the principal balance of, an obligation to initiate, continue, supplement, and maintain research and development programs or activities which, in his judgment, appear likely to lead to the development, in production prototype form, of an advanced automobile or automobiles. Each application for such a loan guarantee shall be made in writing to the Secretary in such form and with such content and other submissions as the Secretary shall prescribe to reasonably protect the interests of the United States. Each guarantee and commitment to guarantee shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Secretary deems appropriate. Each guarantee and commitment to guarantee shall inure to the benefit of the holder of the obligation to which such guarantee or commitment applies. The Secretary is authorized to approve any modification of any provision of a guarantee or a com-

mitment to guarantee such an obligation, including the rate of interest, time of payment of interest or principal, security, or any other terms or conditions, upon a finding by the Secretary that such modification is equitable, not prejudicial to the interests of the United States, and has been consented to by the holder of such obligation.

"(2) The Secretary is authorized to so guarantee and to make such commitments to any Federal agency, laboratory, university, nonprofit organization, industrial organization, public or private agency, institution, organization, corporation, partnership, or individual.

"(b) EXCEPTION.—No obligation shall be guaranteed by the Secretary under subsection (a) of this section unless he finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

"(c) CHARGES.—(1) The Secretary shall charge and collect such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, or for the issuance of commitments.

"(2) The Secretary shall set a premium charge of not more than 1 per centum per annum for a loan or other obligation guaranteed under this section.

"(d) VALIDITY.—No guarantee or commitment to guarantee an obligation entered into by the Secretary shall be terminated, canceled, or otherwise revoked, except in accordance with reasonable terms and conditions prescribed by the Secretary. Such a guarantee or commitment to guarantee shall be conclusive evidence that the underlying obligation is in compliance with the provisions of this section and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Secretary entered into the contract of guarantee or commitment to guarantee, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

"(e) DEFAULT AND RECOVERY.—(1) If there is a default in any payment by the obligor of interest or principal due under an obligation guaranteed by the Secretary under this section and such default has continued for sixty days, the holder of such obligation or his agents have the right to demand payment by the Secretary of such unpaid amount. Within such period as may be specified in the guarantee or related agreements, but not later than forty-five days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid interest on and unpaid principal of the obligation guaranteed by the Secretary as to which the obligor has defaulted, unless the Secretary finds that there was no default by the obligor in the payment of interest or principal or that such default has been remedied.

"(2) If the Secretary makes a payment under paragraph (1) of this subsection, he shall have all rights specified in the guarantee or related agreements with respect to any security which he held with respect to the guarantee of such obligation, including, but not limited to, the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements.

"(3) If there is a default under any guarantee or commitment to guarantee an obligation, the Secretary shall notify the Attorney General who shall take such action against the obligor or any other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such obligation shall make available to the United States all records and evidence necessary to prosecute any such suit.

"(f) AUTHORIZATION FOR APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary not to exceed $200,000,000 to pay the interest on, and the principal balance of, any obligation guaranteed by the Secretary as to which the obligor has defaulted: *Provided*, That the outstanding indebtedness guaranteed under this section shall not exceed $200,000,000.

"TESTING AND CERTIFICATION

"SEC. 608. (a) ADMINISTRATOR.—The Administrator of the Environmental Protection Agency shall test, or cause to be tested in a facility subject to his supervision, each production prototype of an automobile developed in whole or in part with Federal financial assistance under this Act, or referred to him for such purpose by the Secretary to determine whether such production prototype complies with any exhaust emission standards or any other requirements promulgated or reasonably expected to be promulgated under any provision of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), the Noise Control Act of 1972 (42 U.S.C. 4901), or any other provision of Federal law administered by him. The Administrator shall submit all test data and the results of such tests to the Low-Emission Vehicle Certification Board.

"(b) SECRETARY.—The Secretary shall test, or cause to be tested in an independent facility subject to his supervision, all new production prototypes of automobiles which he or a developer may submit to the Low-Emission Vehicle Certification Board for certification under subsection (c) of this section. Such tests shall be conducted, according to testing procedures to be developed by the Secretary to determine whether each such automobile complies with any standards promulgated as of the date of such testing or reasonably expected to be promulgated prior to sale at retail of such automobile under any provision of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381), the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) as amended by section 9 of this Act, the Automobile Information Disclosure Act (15 U.S.C. 1232), and any other statute enacted by Congress and applicable to automobiles. The Secretary shall also refer any such automobile to the Administrator of the Environmental Protection Agency for testing pursuant to the provisions of subsection (a) of this section. All new automobiles may be submitted to the Secretary for testing under this subsection, including vehicles developed without any Federal financial assistance under this title. The Secretary shall submit all test data and the results of all tests conducted by him or subject to his supervision to the Low-Emission Vehicle Certification Board together with his conclusions and reasons therefor as to whether the automobile tested merits certification as an advanced automobile. The Secretary, or the Administrator of the Environmental Protection Agency, if appropriate, shall conduct, or cause to be conducted, any additional tests which are requested by the Low-Emission Vehicle Certification Board and shall furnish to such Board any other information which it requests or which he deems necessary or appropriate.

"(c) BOARD.—The Low-Emission Vehicle Certification Board, shall, upon application by a developer or by the Secretary and the receipt of test data and test results submitted pursuant to subsections (a) and (b) of this section, issue or deny certification as an advanced automobile. Each determination as to certification shall be made in accordance with such rules and regulations as such Board shall prescribe in accordance with this title. Each application for certification shall be made to the Board in writing in such form and with such content and other submissions as the Board shall require.

"PROPRIETARY INFORMATION AND PATENTS

"SEC. 609. (a) AVAILABILITY.—(1) All research and development contracted for, sponsored, or cosponsored by the Secretary pursuant to this title, shall require, as a condition of Federal participation, that all information—whether patented or unpatented in the form of trade secrets, know-how, proprietary information, or otherwise—resulting in whole or part from federally assisted research shall be made available at the earliest possible date to the general public, including but not limited to nongovernmental United States interests capable of bringing about further development, utilization, and commercial applications of such results.

"(2) The Secretary, in administering patents pursuant to this title, shall make a determination, in a proceeding conducted in accordance with the provisions of section 553 of title 5, United States Code, as to whether patent licenses 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 Federal research. The Secretary shall make government patent rights and technological and scientific know-how available on nonexclusive and nondiscriminatory terms to qualified applicants.

"(3)(A) Whenever a participant in an advanced automobile development project holds background patents, trade secrets, know-how, or proprietary information which will be employed in the proposed development project, the Secretary shall enter into an agreement which will provide equitable protection to the rights of the public and the participant: *Provided*, That any such agreement shall provide that when the advanced automobile development project reaches the stage of possible commercial application, any of the participant's previously developed background patents, trade secrets, know-how, or proprietary information reasonably necessary to possible commercial production of an advanced automobile developed under this title will be made available to any qualified applicant on reasonable and nondiscriminatory license terms or in other forms which shall take into account that the commercial viability of the advanced automobile 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 title for or under the sponsorship or cosponsorship of the Secretary 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 title.

(b) PROTECTION OF RIGHTS.—Whenever the Secretary determines that—

"(1)(A) in the implementation of the requirements of this title a right under any United States patent, which is not otherwise reasonably available, is reasonably necessary to the development of an advanced automobile pursuant to this title, and

"(B) there are no reasonably equivalent methods to accomplish such purpose, and

"(2) 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 Secretary shall so certify to a district court of the United States, which shall review the Secretary's determination. If the district court upholds such determination, the court shall issue an order requiring the person who owns such patent, or rights thereunder, to license it on such reasonable and nondiscriminatory terms and conditions as the court, after hearing, may determine. Such certificaton may be made to the district court in which the person owning the patent resides, does business, or is found.

"(c) COMPETITION AND SMALL BUSINESS.—The Secretary shall, in determining license terms, duly consider and give weight to the effects of such terms on competition and small business.

"RECORDS, AUDIT, AND EXAMINATION

"SEC. 610. (a) RECORDS.—Each recipient of financial assistance or guarantees under this title, whether in the form of grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, obligation guarantees, or other arrangements referred to in such subsection.

"REPORTS

"SEC. 611. On or before August 1 of each year, the Secretary shall submit to Congress an annual report of activities under this title. Such report shall include an account of the state of automobile research and development in the United States, including the number of grants made, and number of loans or other obligations guaranteed, and the progress made in developing production prototypes of advanced automobiles within four years after the date of enactment of this title; and suggestions for improvements in automobile research and development, including recommendations for legislation.

"GOVERNMENT PROCUREMENT

"SEC. 612. The Administrator of General Services shall consult with the Low-Emission Vehicle Certification Board periodically to determine the earliest date at which production prototypes of an advanced automobile will be available. When the Low-Emission Vehicle Certification Board determines that an advanced automobile may soon be available, it shall propose a system of guidelines recommending to any Federal agency using and procuring automobiles the procurement of such automobiles. After a production prototype has been certified by such Board as an advanced automobile, the Board is authorized and directed to prescribe such regulations as are necessary requiring all Federal agencies to procure and to use such advanced automobile to the maximum extent feasible.

"AUTHORIZATION FOR APPROPRIATION

"SEC. 613. (a) AUTHORIZATION.—There is hereby authorized to be appropriated to carry out the purposes of this title other than section 607 of this title not to exceed $30,000,000 for the fiscal year ending June 30, 1974, not to exceed $50,000,000 for the fiscal year ending June 30, 1975, and not to exceed $60,000,000 for the fiscal year ending June 30, 1976.

"(b)(1) RATIO NOT REDUCED.—Funds expended for each fiscal year for the purposes of this title and funds expended for such fiscal year for all energy research, development, and demonstration activities shall be in the same ratio as the funds appropriated for such fiscal year pursuant to this title bear to funds appropriated for such fiscal year for all energy research, development, and demonstration activities of the Federal Government.

"(2) For the purposes of this subsection, the term 'energy research, development, and demonstration activities of the Federal Government' includes, but is not limited to—

"(A) the planning, management, and coordination of the energy research, development, and demonstration activities of the Federal Government;

"(B) research, development, and demonstration of coal as an energy source including coal gasification, coal liquefaction, and improved mining techniques;

"(C) research, development, and demonstration of oil shale as an energy source;

"(D) research, development, and demonstration of unconventional energy sources including solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, the use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, electric energy storage methods, solvent refined coal, utilization of waste products for fuels, and direct conversion methods; and

"(E) research, development, and demonstration of new methods of converting fossil fuels into electrical energy.

"RELATIONSHIP TO ANTITRUST LAWS

"SEC. 614. (a) DISCLAIMER.—Nothing herein shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability or to create defenses to actions under the antitrust laws.

"(b) ANTITRUST LAWS DEFINED.—As used in this section, the term 'antitrust laws' includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730) as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended."

TRANSPORTATION ENERGY CONSERVATION DEMONSTRATIONS

SEC. 14. (a) GENERAL.—The Secretary of Transportation is authorized and directed to enter into such contracts or other arrangements as may be necessary or appropriate for research and the development, establishment, and operation of demonstration projects to determine the feasibility of programs to conserve energy utilized in the transportation of individuals, including fare-free urban mass transportation systems; low-fare urban mass transportation systems; and arrangements such as reduced fees for multipassenger automobiles on toll highways, bridges, and tunnels.

(b) FEDERAL SHARE.—Federal grants or payments for the purpose of assisting projects pursuant to subsection (a) of this section shall cover not to exceed 80 per centum of the cost of the project involved, including operating costs and the amortization of capital costs, if any, for any fiscal year as to which such contract or other arrangement is in effect.

(c) CRITERIA.—The Secretary of Transportation shall select cities or metropolitan areas for projects assistance under this section upon the basis of applications in writing in such form and with such content as he shall require and in accordance with the following criteria:

(1) to the extent practicable, such cities or metropolitan areas shall have a failing or nonexistent transit system, a decaying central city, automobile-caused air pollution problems, or an immobile central city population;

(2) projects shall be selected from cities or metropolitan areas of differing size and characteristics, including population density and distribution;

(3) preference shall be given to projects that will introduce a high level of innovative transportation service to such cities or metropolitan areas consistent with the needs of residents for convenient access to employment, shopping, and recreation; and

(4) to the extent practicable, projects utilizing different techniques, methods, and modes of transportation energy conservation shall be approved.

Recipients of project assistance under this section shall make periodic reports and evaluations of each such project to the Secretary of Transportation in such form and with such content as the Secretary shall require.

(d) EVALUATION.—The Secretary of Transportation shall study transportation energy conservation methods and systems assisted under this section to determine—

(1) the effects of such methods or systems on energy and fuel conservation;

(2) the effects of such methods or systems on motor vehicle traffic and attendant air pollution, congestion, and noise; the mobility of urban residents; and the economic viability of central city business establishments;

(3) the techniques, methods, and modes of mass transportation that can best meet desired national objectives; and

(4) in the case of fare-free or low-fare systems, the extent to which frivolous ridership increases; the extent to which systems may reduce the need for urban highways; and the best means of financing such systems on a continuing basis.

(e) ANNUAL REPORT.—The Secretary of Transportation shall make annual reports to the Congress on the information gathered pursuant to this section and shall make a final report, including recommendations for legislation, not later than June 30, 1976.

(f) ADVISORY COMMITTEES.—In carrying out the provisions of this section, the Secretary of Transportation may provide for advisory participation by interested State and local government authorities, mass transportation systems management personnel, computerized data processing experts, employee representatives, commuters, and such other persons as he deems necessary or appropriate.

(g) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this section not to exceed $20,000,000 for fare-free demonstrations, and $10,000,000 to effect the other purpose of this section, for each of the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively.

CARPOOL INCENTIVE PROJECTS

SEC. 15. Chapter I of Title 23 of the United States Code is amended by adding the following new section 154:

"CARPOOL INCENTIVE PROJECTS

"SEC. 154. (a)(1) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary shall approve projects designed to encourage the use of carpools in urban areas throughout the country while not adversely affecting bus and other mass transportation ridership in such areas.

"(2) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of subsection (d) of section 105 of this title. The Secretary shall approve for funding those projects which offer reasonable prospects of achieving the objectives stated in subsection (a)(1).

"(3) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities; preferential carpool highway lanes or shared bus and carpool lanes; and preferential parking for carpools.

"(4) A project under this section shall be carried out in accordance with procedures of law and regulations applicable to urban area traffic operations improvement projects pursuant to section 135 of this title, except that the Federal share of the cost of such work shall be 90 per centum, and that the Federal share shall not exceed $1,000,000 for any single project.

"(b) The Secretary shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of this title are authorized to be used to carry out the investigation and study authorized by this subsection."

ENERGY CONSERVATION TAX INCENTIVES STUDY

SEC. 16. (a) The Secretary of the Treasury shall undertake a study of the feasibility and the costs and benefits of employing modifications in the Federal tax structure to encourage energy conservation, including, but not limited to, a study of—

(1) a progressive tax on increments of electricity consumed in excess of basic or ordinary residential and commercial use;

(2) measures to encourage the manufacture and purchase of energy-efficient automobiles;

(3) measures to encourage the use of efficient insulation in new structures and the installation of improved insulation in existing structures;

(4) measures to encourage research and development on technology for the removal of sulfur from fuels; and

(5) measures to encourage the installation of stack gas cleaning and other continuous emission reduction systems for the control of sulfur oxide emissions in fuel burning stationary sources.

(b) The Secretary shall submit to Congress a report of this study, together with any legislative recommendations he deems appropriate, no later than two years from the date of enactment of this Act.

PRODUCTS IMPORTED AND EXPORTED

SEC. 17. (a) Any product offered for import into the United States shall, as a condition of such importation, meet the applicable requirements of this Act.

(b) Any person importing into the United States any products to which the requirements of this Act are applicable shall be subject to the imposition of appropriate fees to defray expenses incurred in assuring compliance with such requirements.

(c) The requirements of section 8 of this Act shall not apply to any major energy consuming household product which is intended solely for export and which is exported.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. In addition to the sums authorized to be appropriated by specific sections of this Act to implement certain provisions of this Act, there are authorized to be appropriated each fiscal year such sums as may be necessary to carry out other provisions of this Act.

REDUCTION OF FEDERAL GOVERNMENT FUEL CONSUMPTION

SEC. 19. It is the sense of the Congress that—

(a) the President should determine and take immediate steps to reduce Federal Government consumption of fuels by a third; and

(b) the President should initiate a program within the Federal Government to immediately reduce non-essential uses of all Government vehicles and equipment, and commercial and mass transportation should be utilized whenever practical in the conduct of Government business; and

(c) the President should allot Federal Government departments and agencies a fixed quantity of fuel for a fixed period for essential purposes only, and critical national security activities and other vital services may be exempted on a case-by-case basis; and

(d) the Secretary of Defense should immediately initiate innovative measures to reduce the amount of fuels used for defense activities; and

(e) the President should immediately urge State, local, and other public authorities to adopt similar measures.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD and Mr. JAVITS moved to lay the 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 necessary conforming changes in S. 2176, the bill which just passed.

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

ORDER TO PRINT S. 2176 AS PASSED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2176 be printed as passed by the Senate and that an extra 500 copies be printed for the use of the Committee on Interior and Insular Affairs.

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

TRIBUTE TO SENATOR JACKSON AND OTHER SENATORS

Mr. MANSFIELD. Mr. President, I rise to commend the distinguished Senator from Washington (Mr. JACKSON). Thanks to his strong initiative and foresight, the Senate has been able to act swiftly and decisively with respect to measures designed to ease the Nation's energy crisis. Thanks to the strong and effective advocacy of Senator JACKSON, the Senate has been able to compile a record on energy proposals unequaled by other institutions, within Government and without.

Indeed, the Senate is deeply indebted to Senator JACKSON for his efforts on this issue. The massive energy research bill disposed of last week, followed today by the energy conservation proposal have served to demonstrate beyond a doubt the devotion of this body to resolving this most pressing matter.

I wish to single out as well the efforts of the Senator from Arizona for his assistance on these measures. As the ranking minority member of the Interior Committee, his support was indispensable to these achievements.

And to other Senators goes equal praise. The Senator from Washington (Mr. MAGNUSON), the Senator from West Virginia (Mr. RANDOLPH), the Senator from North Carolina (Mr. HELMS), and many others joined to assure that the Senate record on such a vital issue is one of which all Senators may be justly proud.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. BARTLETT) laid before the Senate a message from the President of the United States submitting the nomination of WILLIAM B. SAXBE, of Ohio, to be Attorney General, which was referred to the Committee on the Judiciary.

ORDER FOR DEBATE ON CLOTURE TO BEGIN AT 1 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, at the direction of the distinguished majority leader, I ask unanimous consent that the 1 hour for debate under rule XXII on the cloture motion begin running tomorrow at 1 o'clock p.m.

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

LEGAL SERVICES CORPORATION ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate Calendar No. 471, S. 2686, which the clerk will state by title.

The assistant legislative clerk read the bill by title as follows:

A bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services Program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Stanley

Hackett, a member of the staff of the Committee on the Judiciary, be permitted on the floor during the consideration of this legislation.

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

Mr. MANSFIELD. Mr. President, I wonder if the distinguished Senator from North Carolina (Mr. HELMS), with his associates who are interested in this legislation, would consider the possibility of a time limitation on the pending business, in view of the limiting factors which affect the Senate this week and the next.

Mr. HELMS. Mr. President, I will say to my friend from Montana, the distinguished majority leader, that it would be my hope that this legislation could be carried over until after the first of the year, inasmuch as no hearings have been held this year, inasmuch as there are many Senators in this Chamber who are opposed to it, and I could see that there might be a considerable delay in Senators returning to their homes for the yuletide.

I see no pressing urgency for consideration of the measure at this time. As a matter of fact, I think it would only delay the Senate, and I do not want to be a party to that if I can at all escape it.

Mr. MANSFIELD. Mr. President, the message is clear, and I appreciate the candor of the distinguished Senator.

Mr. HELMS. I thank the Senator.

Mr. NELSON. Mr. President, I ask unanimous consent that the following staff members be permitted the privileges of the floor during the course of the debate on this legislation and on the voting:

Richard Johnson, Larry Gage, and Bill Spring, of the subcommittee staff; John Scales, minority counsel; Jeff Dorrance, of the full committee; Roger King, Roger Kolloff, Jon Steinberg, Angus King, Mark Schneider, and Pam Duffy be permitted the privileges of the floor during the course of the debate and during the voting.

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

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

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota without losing my right to the floor.

Mr. MONDALE. Mr. President, I rise to support the committee reported bill and urge its speedy adoption.

I would like to commend the leadership of the distinguished Senator from Wisconsin (Mr. NELSON) in reporting a bill which truly represents a product of constructive compromise.

For over 2 years, the distinguished Senator from Wisconsin (Mr. NELSON) has shown outstanding leadership in dealing with one of the most complex and delicate pieces of legislation with which I have ever been associated. His efforts are appreciated by us all.

In addition, I would like to commend the distinguished Senator from New York (Mr. JAVITS) for the tireless effort which he has expended in bringing about a legal services bill which meets the standards of professional integrity required of all in the legal profession.

Finally, I wish to commend the distinguished Senator from California (Mr. CRANSTON) for the many hours which he has devoted over the course of more than 2 years to bring about an effective and professionally responsible legal services corporation.

Mr. President, the pending measure tries once again to establish a Legal Services Corporation and to establish the Legal Services Program in that Corporation on a sound, continuing, ethical basis.

The OEO Legal Services program has been one of the most successful, if not the most successful, of all the poverty programs despite the fact that it has been modestly funded and despite the fact that, largely because of its success, there have been mammoth and widespread, continuing efforts to destroy it.

I consider it especially ironic that this program which seeks only to assert the constitutional and legal rights of American citizens should have been singled out above all as the poverty program to be destroyed.

Once again we are obviously being faced by a filibuster, this time a filibuster by amendments. And it is my opinion that this program is being opposed, not because it has been a failure, but because it has been a success.

This program is designed to assert the rights of the poor under the Constitution and under the law before the courts of the land. It is undeniable that those whom it serves, the Nation's poor, have often been denied many adequate opportunities to assert their legal rights before the courts and under the law of the land.

There has been an attempt now for some months, led by Mr. Howard Phillips and others, to destroy this program through subterfuge and to deny the right to bring essential lawsuits on behalf of the poor, and to deny an opportunity for the establishment of a Legal Services Corporation which would assure that the ethical requirements of the bar are met.

Once again we are faced by this assault. However, I am very hopeful, this time, especially in light of the fact that many compromises have been made and now, unlike in the other debates, we are enjoying the support of the White House at this point, I am sure that we will shortly have introduced into the RECORD a letter from Mr. Laird showing the support of the White House for passage of this measure in the Senate.

Now we have a measure that is completely supported by every member of the Committeee on Labor and Public Welfare, Republican and Democrat alike, the White House, the American Bar Association, and the vast majority of attorneys in this country regardless of political background. And if there ever was a chance to establish this program on a basis that assures its continuation on a proper basis, it is now.

Mr. President, as we debate the future of the legal services program, we stand in the midst of the most shattering crisis of confidence ever to confront our Nation's system of justice. For months, the American public has watched with horror as violations of law and political morality at the highest levels of government have been revealed—often, with seemingly little remorse on the part of those who undertook the wrongdoing.

Public officials at the highest levels have resigned or been forced out of office. Public confidence in our governmental institutions has reached new lows. And our Nation's system of justice has been tested as never before.

In this context, the debate today, which will help determine the future of the Legal Services program takes on added significance.

No group within our society has historically had more contact with and distrust for the law than our Nation's poor. Until recent decades, the massive legal problems facing the Nation's poor were simply disregarded by Government. Yet, as our society became increasingly complex, the legal needs of the poor continued to mount.

Then, in 1965, the Federal Government embarked on an experiment to insure equal justice to low-income Americans.

That program—the OEO Legal Services program—in the 9 years since its establishment has proven its effectiveness, and now must be given the security it requires through an independent and professionally responsible Legal Services Corporation.

During the years of its existence, the program has served millions of clients, dealing with a wide variety of problems. Yet throughout these years, the legal services program has been subjected to a constant series of political assaults. These attacks have occurred at every level of government, from those who would prefer to see the poor provided only with second-class legal assistance. Despite these attacks, however, the program has continued to operate effectively. Despite the overblown rhetoric of the opponents of the legal services program—culminating in the illegal attempts by Howard Phillips to destroy through subterfuge what could not be undone by law—legal services lawyers around the country have continued to provide the type of legal assistance which aids the cause of justice.

The Legal Services program has served well over 1 million clients annually, at a cost of only about $50 per case. Quite simply, it is one of the most cost-effective programs in Government today. And, contrary to the claims of those who argue that legal services lawyers have improperly sought out litigation, recent figures show that 83 percent of the matters handled by Legal Services attorneys have been disposed of without litigation and 85 percent of those matters on which litigation proved necessary have been won for their clients by Legal Services attorneys.

This is the type of record of which any group of lawyers should be proud. And figures from the General Accounting Office reveal that Legal Services attorneys, in providing this type of effective service, have concentrated their attention on the day-to-day problems of poor clients. For example, 42 percent of matters dealt with domestic relations, 18

percent with consumer and job-related problems, and 20 percent with housing and welfare problems. And that small proportion of time which has been spent by Legal Services attorneys in attempting to win collective rights for the poor has resulted in hundreds of millions of dollars, as well as expanded human rights—to which the poor were legally entitled—from Federal, State, and local governments which had been violating the law.

The activities of the Legal Services program, without doubt, have been controversial in some respects. But this controversy has been created by attempts to redress grievances within the legal system, rather than outside of it. The Legal Services program has helped extend the Federal school lunch program, prevented unlawful reductions in welfare payments, aided State efforts to get strong lead-paint poisoning protection legislation passed, and participated in many other important efforts to enhance the rights of the Nation's poor. It has attracted dedicated, motivated, able lawyers to its programs in a manner which has strengthened our ability to achieve peaceful change with the American legal system.

Using any standard, this unique program has been an outstanding success. And perhaps the most significant proof of that success has been the fact that the organized bar throughout the country has led the fight to preserve an independent and effective legal services program.

Without this leadership by the bar and by the heads of the organized bar, this program would have been dead long ago.

Yet the sad truth is that despite the success of the program, it has been subjected from its inception to attacks from those who believe that lawyers should not be too aggressive—nor too effective—in defining the rights of their clients.

No one who has had contact with the legal services program would deny that there have been some abuses in that program over the past 9 years. In fact, no one who has maintained any association with any Federal program operating over that period of time could deny that such a program would have some abuses of its own.

Yet the overwhelming record of achievement which the legal services program has realized in a short period of time is difficult to refute. And to ensure the continued effectiveness of the program and to remove it from the constant political harassment to which it has been subjected, there is a pressing need to establish an independent legal services corporation.

Over 2 years ago, in March of 1971, I—along with 22 of my fellow Senators—offered legislation to create an independent Legal Services Corporation. In introducing that legislation, I stated that it was designed "to insulate this vital program from political interference—and in so doing, to insure its integrity and independence."

This remains our goal today. But we should all recognize that over the past 2 years a process of compromise has made achieving this goal more difficult. Over this period of time the principal point of disagreement between the Congress and the President in achieving enactment of a Legal Services Corporation has been the appointment power to the Board of Directors of the Corporation.

For over 2 years, those of us who believe strongly in the legal services program have been insistent that there be some checks on the President's discretionary appointment power to the Legal Services Corporation Board of Directors. In the legislation which I introduced over 2 years ago this check would have been provided by allowing those groups most intimately involved with the legal services program—the legal profession, legal education, clients and project attorneys—to have an important voice in choosing Board members.

In the committee-reported bill, the President has complete discretion in his appointments to the Board, subject only to Senatorial advice and consent. This represents a major concession on the part of those favoring a strong, independent legal services corporation. It also represents a strong reason for insuring in the legislation creating such a Corporation, that the Board's powers are not so broad as to enable them to transgress the boundaries of professional ethics, as spelled out by the American Bar Association's canons of ethics and code of professional responsibility.

Quite frankly, this bill is not the bill which those of us on the committee who strongly support a strong legal services program would have preferred to see adopted to insure the political independence of the Legal Services Corporation. Under the present circumstances, however, it is the product of constructive compromise, and the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS) are to be congratulated for their efforts in achieving this compromise.

Because this bill is the product of compromise, however, there is little room for additional movement which might further imperil the independence of the Corporation. In many respects, this bill comes perilously close to invading the professional responsibility of attorneys—all attorneys—mandated by the ABA's canons and code.

The important place of the canons and code is well known to all attorneys, and enabling legal services attorneys to operate independently on behalf of their clients is not a special privilege for attorneys serving the poor. It is required by the standards of the profession.

Disciplinary rule 5–107(b) states: A lawyer shall not permit a person who recommends, employs or pays him to render legal services for another to direct his professional judgment in rendering such legal services.

And ethical consideration EC 5–23 makes clear the same concerns:

Since a lawyer must always be free to exercise his professional judgment without regard to the interest or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom.

These standards reflect the fact that our system of justice is based on the adversary process—which in turn depends upon effective advocacy. A dilution of the lawyer's independence threatens this adversary process. As former Chief Justice Warren has stated:

A right without an advocate is as useless as a blueprint without a builder or materials.

No attorney can meet his professional responsibilities to a client if there are outside restraints on the types of cases in which he can participate or the kinds of issues he can raise. No large corporation would tolerate outside interference with their retained attorneys. Certainly the poor should not be expected to tolerate such interference.

This Corporation will not and should not be free of controversy. No method of resolving conflict is without controversy—except total suppression.

The conference with the House will not be easy. I, and many other supporters of the legal services program, have on many occasions indicated our complete dissatisfaction with the legal services bill passed by the House.

That bill cannot be the basis for an effective and independent legal services program. And this type of program—housed in an independent corporation, free from outside political interference—must be our goal in the weeks ahead, as we attempt to bring a new sense of independence and security to a program desperately in need of our continued support.

Mr. President, I am very hopeful that the Senate will move quickly to adopt this bill and that it can quickly be sent to the President. And I am very hopeful that before we adjourn, this simple act, this simple act of justice, will have been taken.

I thank the Senator for yielding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I rise in support of the legislation that we are considering here today, the Legal Services Corporation Act. I urge the Senate to support this proposal.

It was really in the early part of the 1960's that the Supreme Court made an historic ruling in the Gideon case to the effect that even the poorest Americans were entitled to full representation in our courts of law. It was in 1965 under the poverty program that an effort was made in the development of a legal services program to really say that the poor people in this country should have as a matter of right the same kind of access to quality legal services that those who are affluent ask for and do have in this Nation.

Under the OEO program of 1965, we saw an effort to begin to provide quality health care to the poor, with the development of the neighborhood health centers, and that program has set the model for meeting the health care needs of the poor.

It was recognized in those days that we were committed as a people and a country to try to provide decent health care for people in this Nation at prices they could afford to pay.

We were attempting to do the same thing with education, and developed the Headstart program. We are attempting to do the same in the area of legal services, with this legislation to build on the record of the legal services program, and establish an independent legal services corporation.

I think the program has been a success, and a remarkable success, in providing such services to millions of Americans who otherwise would not be able to participate in the judicial system of this country.

The statistics, if we were to use them as a standard, would indicate that of the cases that actually have been tried by the legal services lawyers, they have been successful in over 85 percent of those cases, which must indicate that in the cases which are actually brought to trial and brought to the judicial system, the merits were on the side of the poor.

Legal services attorneys annually serve some 500,000 poor clients and resolve some 1.5 million legal disputes.

We have seen a very substantial number of cases that have been settled outside of the court system, and those have been overwhelmingly in favor, again, of the poor and the indigent. So this record has been one of success, and it is one that has won the overwhelming support of the American Bar Association and of bar associations all over this country. We have heard the president of the American Bar Association speak in favor of it, and we have witnessed the votes that have taken place in the Houses of Delegates of the American Bar Associations and in its governing board. Each and every time this issue has been put to the legal profession in this country, the response has been an overwhelming endorsement for this program.

Mr. President, one of the bitterest ironies of this debate as it now begins, and as we have seen the list of dilatory amendments which have been introduced, is the fact that so many of these amendments are coming from Members of the Senate who, time and again, have spoken about law and order in this country, and have been the leading advocates of resolving conflicts through legal processes.

Here we find, perhaps, the most obvious legislation that we might consider to provide a system by which those who have been excluded from the legal and judicial systems of this country may have access to them, through access to attorneys and legal advice, so that they will not feel their only option is to take the law into their own hands. We hear the counsel of reason to urge individuals to follow this procedure; but now we find that those who are speaking about law and order so loudly are refusing to provide the opportunity for the indigent and the poor to participate in the legal and judicial system.

Mr. President, this bill is not all that I would like to see in the way of Legal Services legislation. I have outlined in a formal statement the areas of my principal concern and the areas which I had hoped might be included in the legislation. But it does represent a compromise—a compromise between those within the administration, primarily in the White House, and those who felt that the Legal Services program should be much more independent of the White House and much more flexible in its opportunity to respond to particular needs of the poor in this country.

It represents a compromise, and therefore it received the unanimous support of the members of the Committee on Labor and Public Welfare and is now before the Senate. I am hopeful that we will have an opportunity to act on this measure quickly and expeditiously.

Mr. President, I think the members of the committee have traveled a substantial distance to accommodate the objections which were raised in the President's Legal Service veto in the preceding Congress. I disagree with that veto and continue to believe it contrary to the interests of the Nation. However, the most important need before us is to assure the continuation of the Legal Services program. With that overriding objection, we have attempted to find a middle road beween the views of the Congress and the administration.

It is uncommon for a piece of legislation concerned with a highly controversial program to emerge from committee with a unanimous report. It is indeed uncommon for a unanimous committe and the White House both to reach basic agreement on the wording of a bill. I think White House spokesmen and the committee members have achieved a reasonable compromise.

There are of course, some things in the bill with which I am not entirely satisfied. I am concerned that the bill as drawn may not isolate the program from political interference to the extent that it should. I would like to see the members of the Board chosen from among those who have worked with professional organizations of the bar, who have some professional qualifications and experiences with the actual problems connected with delivering legal services to poor people, or who are themselves poor and have been recognized by other people as their spokesmen.

As the bill now stands, the only control over who will sit on the board of this corporation is this body's power to withhold consent from Presidential appointments. No qualifications for membership are spelled out. The White House demanded that, and the committee felt that it had to accommodate itself to the demand.

But those of us who consider ourselves to be supporters of the Legal Services program, and those of us from States with a number of Legal Services projects, have reason to be concerned over how seriously the White House takes its obligation to see that legal services are provided to poor people in an orderly, professional manner totally free of partisan political concerns.

During the first 9 months of this year, we have seen the legal services program subjected to an extraordinary amount of unnecessary harassment. We have seen projects with excellent professional records placed on month-to-month funding. In Massachusetts, we are proud to have two of the national backup centers: the center on law and education at Harvard and the national consumer law center which has been associated with Boston University. Both of these programs have earned repeated praise from lawyers, legislators, and program evaluators alike. For months they were subjected to the burden of never knowing from one week to the next whether they would have funds sufficient to meet salaries and outstanding obligations. They were unable to sponsor training conferences for legal services attorneys. They were unable to make commitments of personnel and time to assist with solutions to the problems faced by local attorneys. They were unable to offer employment to new personnel. And all of this was because of harassment from Washington apparently done not because there were valid criticisms that could be offered of the substantive work done by these centers. It was done simply because the Acting Director of OEO was personally opposed to the notion of poor people having access to Government-paid lawyers to sue for the enforcement of their constitutional rights, and he was opposed to the consumer center's having drafted the National Consumer Act, an act which had been adopted by the Wisconsin State Legislature.

All over the country we saw local legal services projects that were being forced to close their doors for want of funds, turning away clients, disrupting court dockets, disappointing State legislators, and dissipating professional staffs that had been painstakingly assembled and trained. And this was not being done because these legal services projects had violated the law, misused funds, or exceeded program guidelines. It was being done for ideological reasons that were sometimes plainly stated.

The prestigious National Advisory Council of the Legal Services program, which included representatives from the American Bar Association, the National Legal Aid and Defender Association, the National Bar Association, the Poor People's Clients Council and other groups was suddenly abolished.

These experiences constituted disturbing evidence of the need to insulate the corporation directors from political influence.

I would like to believe that the power of appointment will be exercised wisely. I would like to believe that none of those who associated themselves with the shameful, and in some cases openly political, activities of the first part of this year will be considered for membership on the Board of the new Corporation. I would hope that the White House would take the problems of the poor seriously. I would hope that they would take their own obligation to deal with those problems seriously and give the most careful consideration to the professional qualifications, the experience, the aptitude, and the nonpartisan spirit which will be necessary if this corporation is going to do its job well. Their support for this legislation now is a strong indication that they are willing to look with greater compassion to the problems of the poor.

The Corporation is going to face many

grave problems. The present distribution of local Legal Services projects around the Nation is far from adequate. Many areas are as yet unserved; and even those which are served the best are not receiving truly adequate legal services for their poor citizens. This is primarily a function of money. The Legal Services program does not have a particularly large budget if we realize that what we are talking about is providing service to more than 25 million Americans and what we are paying is $71.5 million. The dollar figure for the program has been frozen for the last 3 fiscal years, and with the rise in the cost of living over that period of time, the rise in rental expenses, in the cost of equipment, salaries, and utilities, the program has actually suffered a substantial reduction in its ability to purchase goods and services. Added to this burden have been two others: the decision by the GSA that Legal Services offices would no longer be able to purchase equipment and supplies through the Government or to obtain the Government discount, and the decision that Legal Services' projects would no longer be able to obtain long distance telephone service through the Government rented WATS lines.

As a consequence, local projects all over the country are in very severe financial shape. They cannot match the entering salaries offered to young lawyers by private law firms, district attorneys' offices, the public defenders, or the Federal Government. In my home State of Massachusetts, the Boston Legal Assistance project has been held to the same dollar budget for 4 years, as a result of which they now have six staff vacancies which they are not in a position to fill.

I would have liked to see this administration exercise a little bit more generosity in its funding for the Corporation. But in a spirit of compromise, the committee accepted the administration's authorization figure even though we have have been asking the local Legal Services' lawyers to subsidize the Nation's drive to provide equal justice under law by accepting low salaries and few benefits. Few people are aware of how generously these lawyers have done so. Currently 2,500 attorneys are employed by the program. Out of its total budget of $71.5 million, the program not only has to pay these lawyers, but it also has to pick up the cost of investigators, secretaries, office rental, supplies, equipment, publishing, printing, training, backup services, and the Federal apparatus of a national office of Legal Services and 10 regional offices. The total cost to the Federal Government for recruiting, paying, and supporting an attorney on the line, has been $28,400 a year, the average salary each lawyer has received is $11,500; a truly remarkable bargain. But we cannot expect to continue getting first-rate service and dedicated work if we continue to shortchange the local projects.

What amazes me is that underfunded and understaffed as most local projects are, they still have managed to accomplish some remarkable things.

In Massachusetts, the Boston Legal Assistance project has shown what "law reform," as the Legal Services program uses that term, is all about, whether they were suing to establish a new right, defending a Government policy that benefits the poor, helping low-income clients to secure the passage of legislation that affects the poor specifically, or to secure legislation that affects the poor and others as well. Let me give some examples.

In Massachusetts, all local police departments draw their recruits from one central pool of applicants who have passed the civil service entrance test. Boston Legal Assistance represented a group of black and Spanish-surnamed applicants who had been rejected on the basis of a written test. In the landmark decision of Castro against Beecher the U.S. Court of Appeals for the First Circuit ruled that the test was clearly biased and had no apparent relationship to the ability of a recruit to perform the job as a police officer. As a result, the court threw out the test and local police departments around the State now for the first time have access to a much larger pool of black and other minority men and women from whom to choose their officers. It is estimated that in the next year or so local departments in Massachusetts, both urban and suburban will be able to add an additional 250 minority members to their forces, and that most of these will be men and women who have come from low-income backgrounds.

Legal Services lawyers in Massachusetts have, over the course of years, come to work closely with the State legislature. Earlier this year, they helped secure for their clients passage of a statute which requires that the maximum rental in any State supported public housing for the poor be no higher than 25 percent of the family's monthly income. The act also provided retroactive benefits of some $200 to $300 thousand for low-income families living in public housing. I consider that to be an exemplary instance of law reform and an exemplary demonstration of why representation before the legislature can be of tremendous importance to low-income people.

But law reform efforts carried out for poor clients at the legislative level can often have spillover effects that benefit the entire community. Massachusetts now has one of the strongest consumer protection acts in the country. Much of the work in securing the passage of that act was done by Legal Services attorneys who work for the Massachusetts Law Reform Institute, a statewide back-up center, and by the Boston Legal Assistance project. The act not only makes it a crime to knowingly engage in deceptive practices in the sale of goods and services, but it also extends to the rental and sale of housing. It not only makes it a crime, but it also permits the wronged party to sue for treble damages. It is a fine act. I think it is a model for the Nation. And I think the Legal Services lawyers who worked on it for their clients are to be commended.

If such work is to continue, the Corporation must be careful to see to it that politics and ideological disputes do not again come to dominate the program the way they did earlier this year. And we, here in Congress, must see to it that the Corporation receives adequate funds to provide legal services of a high quality throughout the entire country. The Legal Services program in America is unique. There is no other country that has anything even remotely approaching it, either in terms of comprehensiveness, nor in terms of success. We have something to be proud of. The attorneys who have done such dedicated work have something to be proud of. I support the bill in the confident expectation that the pride of all of us will continue to grow, and that the establishment of the Corporation will mark a new, sincere, nonpartisan dedication to the provision of equal access to justice for all our citizens.

Mr. President. I also would like to comment on the benefits provided by the Legal Services backup centers.

LEGAL SERVICES BACKUP CENTERS

The legislation before the Senate to create a National Legal Services Corporation deserves support and speedy action to insure the continuation of the nearly 900 local legal services offices and over 2,200 full-time attorneys who have dedicated their professional lives to the indigent of our country. I know we all want the Legal Services program to continue to serve the poor as efficiently and effectively as possible. I am therefore pleased to note that the bill authorizes the continued functioning of the national and statewide support or "backup" centers which provide local legal services attorneys with specialized assistance, essential to a modern and efficient law practice, in areas relevant to the needs of the indigent.

Because these support centers have come in for criticism, I would like to take a few minutes to review the method of operation and past performance of these programs. In doing so, I shall draw upon the recent series of evaluations conducted by the American Technical Assistance Corporation, under contract to the Office of Economic Opportunity. In the spring of 1973, the Evaluation Division of the OEO Office of Legal Services ordered an extraordinary evaluation of all the national support centers. The evaluators, who were specifically approved by the Director of Evaluations, a man openly hostile to backup centers, found that the centers were providing excellent support, performing with a high degree of professional competence, and responding rapidly and thoroughly to thousands of requests for service from local legal services attorneys. The centers were found to be operating completely within their grant guidelines and succeeding in their mission to effectively back up local legal services programs.

Why are backup centers needed? I think the answer is simple. Most neighborhood offices carry a huge caseload be-

cause there are far too few attorneys to meet the demand for services. The local attorneys' time is largely spent appearing in court and interviewing clients and witnesses. Little time is available for complex research or to give comprehensive consideration to all potential client claims. Moreover, many programs are unable, because of caseload pressures and a small staff, to respond adequately to a complicated or unfamiliar problem or to a case which requires substantial manpower, resources and expertise to litigate or appeal. How these backup centers help local attorneys serve their clients more fully and effectively is illustrated by the following examples:

1. TRAINING OF LOCAL ATTORNEYS

The Migrant Legal Action program helped the Toledo Legal Aid program establish an Ohio migrant program and helped Michigan Legal Services establish a Michigan migrant program by training staff and providing extensive on-site assistance during the migrant season on numerous matters requiring specialized expertise, such as enforcement of Federal health and sanitation codes and the Fair Labor Standards Act, and implementation of the Federal food programs for migrants.

The Center on Social Welfare Policy and Law, the Center on Law and Education, and the National Employment Law Project have conducted training programs for lawyers specializing in their areas of expertise, both at the office site of the center and in the field with attorneys.

Almost all of the centers have prepared substantial manuals and materials on the subject area of the center's activity. These manuals are distributed to all Legal Services offices and are widely sought by others. The manuals prepared by the National Housing and Economic Development Law project, for example, were described by the evaluators as "very thorough, almost too thorough" and as "likely to provide the basis for future legal scholarship within many areas of the housing sector."

2. COMPLEX OR TECHNICAL LITIGATION

Litigation surrounding the enforcement of the Hill-Burton Act mandate that local hospitals provide a reasonable volume of services to the indigent is extremely complex and requires substantial resources. The National Health Law project has assisted seven Legal Services programs in seven different States in conducting litigation on this issue. The trials of these cases often run for 3 to 4 weeks and involve extensive discovery and litigation experience.

The Wayne County Jail—Detroit—case and litigation involving the Suffolk County Jail—Boston—both of which resulted in landmark court decisions ordering the jails closed, were dependent upon the expertise, resources, manpower and litigation experience of the statewide backup centers in the respective states, Michigan and Massachusetts. The Wayne County case, for example, required the work of three attorneys to handle a 5-week trial and 7 weeks of hearings on plans to implement court orders.

Several Legal Services programs, with the assistance of the Center on Social Welfare Policy and Law, New York, have sued to implement provisions of the National School Lunch Act requiring school districts to institute school lunch programs in all schools with a large number of poor children and to provide the poor with free or reduced-price lunches. The specialized expertise of the Center and the litigation resources which it could provide were essential to the development and success of these cases. As a Detroit legal services attorney explained to members of the House Subcommittee on Equal Opportunities:

My research disclosed the following: the suit would have to be brought in federal court and would involve the local and state school boards and possibly the Department of Agriculture (which administers the school lunch program); there was no case interpreting the School Lunch Act though the statutory arguments were viable; and to provide competent representation, I would have to acquaint myself with large sections of legislative history, obtain extensive knowledge of the intricate and complicated financing arrangements of the school lunch programs (which were financed under four different statutory sections) and have the testimony of national experts on nutrition and school financing.

Because of the large intake and hundreds of requests for service with which I was faced, it was clear that I could not take the time to properly develop the case without adversely affecting my other clients. No one else in the entire program had any knowledge of this specialized area and there was no other research source available in Michigan.

Fortunately, I became aware that the Center on Social Welfare Policy and Law had begun to develop the background of the Act, explore the possible remedies and amass information about the operation of the school lunch program. I knew, too, that they had the resources and time to develop the case properly. Thus, I turned to them for assistance in order to provide my clients and others like them in Michigan with representation.

Without this litigation, thousands of children in Michigan and Detroit would today be without the free and reduced-price school lunches the Congress mandated when it enacted the National School Lunch Act.

As these examples indicate, elimination of the backup centers would deprive local lawyers of the expertise and resources to properly handle complex problems which their clients face. As the evaluators of the Youth Law Western States project concluded:

The principle of litigation backup centers is a valid one. . . . Major litigation with its concomitant research, discovery, etc., is just too time-consuming and requires backup assistance.

3. ENFORCING RIGHTS CREATED BY STATUTE OR REGULATION

These centers do not set national policy, as some have charged. Rather, working in conjunction with local programs, they have been remarkably successful in enforcing present rights and entitlements accorded by Federal, State, and local statutes, ordinances and regulations on behalf of indigent clients. Several examples illustrate the point.

The National Employment Law project, located in New York, has assisted clients and local legal services programs in enforcing the Emergency Employment Act which provides funds for training and employment of unemployed and underemployed persons in needed public service jobs. In one instance, this center responded to a request by the Genesee County legal aid program and helped represent several indigent clients in securing enforcement of the act, which the court found the city of Flint to be deliberately violating.

The Center on Social Welfare Policy and Law, another New York backup center, participated as cocounsel in administrative and litigative efforts on behalf of welfare recipients to enforce mandatory provisions of HEW regulations. These efforts have produced a more efficiently administered and far superior hearing system for welfare recipients in New York State.

It is interesting to note that the Center on Social Welfare Policy and Law was described by the evaluators as follows:

They stand ready to litigate but are willing to and often initiate negotiations with the admirable purpose of avoiding litigation if it is possible to do so while, at the same time, serving the best interests of the clients.

The National Health Law project and the Youth Law Center, both located in California, have been active in efforts to implement the Early and Periodic Screening, Diagnosis and Treatment—EPSDT—program, a mandatory Federal program providing preventive health screening and dental care for indigent children. Both centers have not only worked with HEW in its enforcement efforts, but have also joined with local programs, including Greater Lansing Legal Aid and San Francisco Neighborhood Legal Services, in litigation on behalf of indigent clients denied benefits under the program.

As the evaluators for the Indian Law backup center noted:

In contrast to so-called "law reform" . . . cases, thees cases more properly should be described as raising questions about enforcement of laws which have been neglected for many decades.

4. DEVELOPMENT OF LEGISLATION RESPONDING TO CLIENT NEEDS

Local legal services programs do not often have the time, expertise or capability to work on complex legislative solutions to client needs. Law revision commissions and uniform State law commissions, both fertile sources of new legislation, generally do not make provision for securing participation by the poor or their attorneys. Backup centers perform this inavailable role. For example, upon request, the National Consumer Law Center presented testimony and expert advice to the Commission on the Bankruptcy Laws of the United States; many of its suggestions were ultimately adopted

by the Commission. Additionally, the National Housing and Economic Development Law project has participated with the Conference of Commissioners in Uniform State Laws and the American Bar Association in developing the Uniform Residential Landlord-Tenant Act. It then helped enact the act in several States.

The Michigan backup center participated with the Michigan Law Revision Commission in its development of the new State housing and construction code and a legislative package revising the Michigan commercial codes. Both were introduced by the Governor and have been or will shortly be enacted.

Backup centers do not seek to foment social change, but to assure that the interests of the poor are heard in the process of drafting changes in the law. Their actions are rational and professional and should be supported by this Congress.

5. ASSURING PROTECTION OF CLIENT RIGHTS BY FEDERAL AGENCIES

Another reason to retain the national backup centers in the new Legal Services Corporation is the important role they play in assuring that the rights of the indigent are properly protected by Federal agencies.

No local program could hope to develop the staff and expertise to monitor Federal agencies, nor work to develop Federal regulations to meet the needs of its clients. The national backup centers have represented clients before the Federal agencies, and have assured that their interests are protected in administrative regulations being drafted for their benefit. Indeed, Federal agencies often seek the assistance of backup center staffs.

One of the best examples is seen by the work done by the national housing and economic development law project. It participated in the HUD task force which developed the model lease and grievance procedures for use in public housing and helped assure effective enforcement of the HUD regulations once they were issued by representing tenants as intervening defendants in litigation which was unsuccessfully brought to invalidate the procedures. The role of the housing project is best illustrated by two letters sent to the director of the project, Al Hirshen, from HUD officials. David Maxwell, of the General Counsel's office, wrote:

This letter is to express the appreciation of the Department of Housing and Urban Development . . . for your assistance in the case of *The Housing Authority of the City of Omaha, Nebraska, et al.* v. *The United States Housing Authority, et al.* Your participation in this litigation, especially your involvement in the negotiations with the plaintiffs, as well as your excellent briefs and oral presentations, materially contributed to the successful outcome before the Court of Appeals for the Eighth Circuit.

Norman V. Watson, former Assistant Secretary of HUD, wrote:

As you know, I am leaving the Department on January 20, 1973, and wanted to personally thank you for the efforts in assisting the Department over the past four years. More particularly, the advice and counsel given HUD during the negotiations between HUD, NAHRO and NTO on developing the lease and grievance procedure which resulted in the Department issuing a policy agreeable to two very volatile national organizations.

6. RESPONDING TO REQUESTS

Each backup center responds to requests for information or guidance from lawyers in local programs on a wide variety of matters. The larger backup centers review, and respond to, at least 1,000 or 2,000 such requests each year. The evaluation teams concluded that this work was being performed in a capable and comprehensive manner:

"Insofar as the quality of the support given Legal Services programs is concerned, the latter report overwhelming approval of the work product." (Indian Law Back-up Center.) "The [National Consumer Law Center] responds well to the needs of Legal Services attorneys in the field." "The customers of [the Legal Action Support Project] generally praise it and are very happy with the work they do receive."

The National Employment Law Project "prepares prompt and thorough responses to specific requests for legal advice and assistance from legal services programs. . . ." After three days of intensive interviewing and perhaps as many as 60 telephone contacts with offices in the field, the team was faced with only positive reactions." (Center on Social Welfare Policy and Law). "The [National Housing and Economic Development Law Project] seems to be staffed with talented individuals who are performing an exceptional role in servicing the needs of Legal Services attorneys throughout the United States."

In addition, the National Senior Citizens Law Center has achieved a remarkable record, even though it has been sorely underfunded. It has provided the special research and technical assistance to legal service projects across the country to enable them to more effectively serve the elderly poor.

In sum, it is clear that the backup centers are an invaluable resource to the local legal services offices. The dedication and expertise of their staffs is remarkable, and is commented on again by the evaluation teams. The action by the House in eliminating provision for these programs was, I believe, precipitated by certain sensational charges made late in the day. I am confident that the board of directors, nominated by the President and confirmed by the Senate, will assure that no grantee, local program, or backup center, will be permitted long to act in a manner contrary to the interests of the legal services program. I am pleased to add my support to a legal services bill that provides for the continuation of good, strong programs, including the backup centers.

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

ACTIVITY REPORT: NATIONAL SENIOR CITIZENS LAW CENTER, JANUARY 1, 1973 TO JUNE 30, 1973

(This report does not include the activities of CRLA/NSCLC)

The following report summarizes the work accomplished by the National Senior Citizens Law Center (NSCLC) during the first six months of 1973. To show the relationship of all activities to the Center's primary goal of increasing the delivery of legal assistance to the nation's elderly poor, the report is divided into three sections: (1) efforts to expand such Legal Services, (2) substantive areas of litigative and legislative activity, and (3) internal administrative operation.

I. EXPANSION OF LEGAL SERVICES TO ELDERLY POOR

A. Increased visibility of need

In the past, the needs of the elderly poor have frequently not been clearly articulated to the individuals, organizations and agencies most able to assist in framing meaningful remedies. Therefore, NSCLC has attempted to use every vehicle possible to make these needs visible and challenging to Legal Services attorneys, as well as to governmental agencies, public and private organizations, legislative bodies, and the public in general.

1. *Publications.*—Four articles on legal problems of the elderly poor were prepared by NSCLC staff and published in *Clearinghouse Review*. These were:

Receipt of Cash Assistance Suspends Certain Benefits Under the Social Security Act (January, 1 page).

Litigation as a Tool for Private Pension Reform (February, 19 pages).

State Supplementation of Benefits Under the Supplemental Security Income Program (March, 6 pages).

Legislation for the Elderly (June, 2 pages).

Four papers on substantive issues were prepared and distributed to Legal Services attorneys and other interested parties. These were:

Model Statute for State Supplementation

Overview of SSI

Two papers on Medicaid

Nine issues of *Seniors in Sacramento* were published to inform Legal Services attorneys, and other concerned, about California legislation affecting the elderly poor, and to serve as a model for similar newsletters in other states. Arrangements were made with various groups to distribute similar information through their organizational newsletters. Work continued with the law firm of O'Melveny & Myers on a manual for senior citizens on estate planning and will drafting, with emphasis on how to avoid probate. The groundwork was laid for the early publication of an elderly law newsletter for all Legal Services programs throughout the nation.

2. *Speeches and Conference Participation.*—Presentations were made to a number of organizational meetings and conferences. These included: U.S. Commission on Aging; Gerontological Conference of the U.S. Gerontological Society; 19th Annual Meeting of the Western Gerontological Society; Conference on Law and the Aging at Syracuse University; Black Caucus on Aging in Philadelphia; Interfaith Conference on Aging sponsored by the Southern California Interfaith Coalition on Aging and the USC Gerontology Center; USC Gerontology Center's Summer Institute for the Study of Gerontology; California Attorney General's Conference for Elderly Consumers (three sessions); California State Crime Prevention Division; Food Advocates' Western Region Conference on Nutrition for the Elderly; Contra Costa County's Tri-City Project on Aging; Bi-County Senior Citizens Planning Commission in Yuba City; Los Angeles Bar Association Consumer Law Conference; and Los Angeles County Department of Senior Affairs.

Subject matter of these speeches and presentations included: age discrimination; public housing problems; legal services and the elderly; NSCLC and the involvement of

the elderly in prosecuting their own claims; general consumer matters affecting the elderly; pre-need funeral plans; and pension plans from the standpoint of the indigent individual plan participant.

3. *News Media.*—NSCLC attorneys were requested to appear on a number of radio and television programs to discuss substantive legal issues which affect senior citizens. News stories on the activities of the Center appeared in a variety of publications, including major metropolitan dailies, legal newspapers and senior citizen papers. Among these were a feature story on the problems of the elderly poor in the March 6 issue of the *Los Angeles Times;* and extensive coverage of the filing of a pension lawsuit which resulted in a flood of inquiries from attorneys concerned with similar problems.

4. *Testimony.*—Testimony was requested and given before various legislative bodies on matters of special importance to elderly Legal Services clients in which NSCLC has particular expertise. These included the Labor Subcommittee of the U.S. Senate Labor and Public Welfare Committee, the Labor Subcommittee of the House Education and Labor Committee, hearings by Senator Adlai Stevenson III on the termination of the Elgin pension plan, the California State Senate Committee on Business and Professions, the California State Assembly Retirement Committee, and the California Legislative Commission on the Status of Women.

5. *Workshops for Seniors.*—A series of four lectures were held, in collaboration with the USC Community Center Department of Senior Affairs, for seniors in the Los Angeles area in June and July to alert them to the legal aspects of issues with special impact on their lives, and to emphasize that eligible individuals should utilize their local Legal Services Offices. Substantive areas presented were: income maintenance, health care, housing and employment discrimination and consumer matters. This series, which will serve as a model for similar sessions in other parts of the country, had a combined attendance of 300 persons.

B. Training of Legal Services personnel

1. *Attorney Training.*—As noted above, substantive training materials on problems of the low-income elderly were prepared and appeared in the *Clearinghouse Review,* and special papers on issues of concern to the elderly poor were also prepared and distributed to Legal Services attorneys. A probate manual is being prepared in cooperation with the private bar. A 125-page bibliography on legal problems and concerns of low-income senior citizens was prepared and mailed to all back-up centers. Arrangements were made for Legal Services attorneys in the western region to attend the "Law and Elderly" Institute portion of the 19th Annual Meeting of the Western Gerontological Society free of charge, and attorneys were so notified. Plans were laid for participation in the Reginald Heber Smith Community Lawyer Fellowship Program this fall, as was done last year.

All major national legislation of interest to the low-income elderly was monitored, and interested Legal Services attorneys were provided with information regarding the status of the bills. A legislative reference service was maintained in Washington, D.C. and Sacramento, and attorneys were provided with information on issues of concern to Legal Services clients.

A proposal was submitted to the Office of Economic Opportunity for a National Training Program on Legal Problems of the Elderly Poor.

Although this has not yet been funded, NSCLC laid plans for five regional training seminars to be held in the North, South, Atlantic States, Midwest and Far West in the fall. Approximately 75 Legal Services programs which had expressed an interest in problems of the elderly were contacted by mail to provide the name of their elderly law specialist who would be invited to attend the sessions.

The Legal Aid Society of Pima County (Tucson, Arizona) was assisted in planning a series of training sessions to be held in September for lawyers wishing to specialize in problems of the elderly poor. NSCLC will assist specifically with the probate, conservatorship, involuntary commitment and housing sections of the training sessions.

2. *Paraprofessional Training.*—Plans were laid for a demonstration paralegal project in Los Angeles to begin in July. Volunteers were sought from the senior citizen community to be trained to act as legal interviewers at existing senior centers. Arrangements were made with Legal Services programs and the private bar to accept cases resulting from these interviews. Approximately 70 senior citizens will be participating in this pilot project, which, it is anticipated, will be replicated across the country.

3. *On-site Training.*—Requests were received for litigation assistance from many Legal Services attorneys throughout the Nation. Some of these will be discussed in detail in the following sections. However, the educational aspects of such requests for assistance are important, since assistance provided by NSCLC is slowly building up a cadre of Legal Services elderly law specialists throughout the Nation, who, in turn, will be able to offer training to their coworkers.

C. Amplification of legal assistance

1. *Proposals for Model Legal Clinics.*—In late 1972, OSO Legal Services indicated the availability of $107,500 for special demonstration projects on behalf of the elderly poor. NSCLC solicited proposals for innovative projects from Legal Services offices in areas with heavy concentrations of elderly persons and received responses from Indiana, Georgia, California, Washington State, Colorado, Arizona, Maryland. Florida, Washington, D.C. and Pennsylvania. Of the 11 proposals received, nine are presently under consideration, and negotiations are under way with OEO on the final selection of those to be funded.

2. *Elderly Law School Curriculum Project.*—Together with the U.S. Gerontological Society and the ABA Family Law Section, NSCLC participated in a project to develop a law curriculum on the problems of the elderly poor for law schools across the country. NSCLC is also giving technical assistance in the preparation of a textbook which will be developed for the courses. It is anticipated that these courses will provide more elderly law specialists in the future. They will also serve to disseminate knowledge of the problems of the elderly poor, and as a catalyst to bring the resources of the law schools together with the needs of individual poor elderly clients in neighborhoods surrounding the schools.

3. *Law School Resources.*—Arrangements were made for NSCLC's participation in the UCLA Law School Quarter Away Program through which students spend one academic quarter working in a law office outside the law school. At least one, and possibly two of these students, will be working with NSCLC full time in the fall. To further increase awareness of problems of the low-income elderly at the law schools, negotiations were also initiated wth Northeastern Law School in Boston for a student from its cooperative program to work with one of NSCLC's offices. Data were compiled and disseminated to USC Law Center regarding transportation needs, problems and proposals for low-income seniors.

4. *Revenue Sharing and Other Available Funding.*—A memorandum was prepared at the request of the Sacramento County Counsel for the Office of the California Attorney General on the subject of whether revenue sharing funds can lawfully be used to develop Legal Services programs for the elderly poor in the state. A prior Attorney General's opinion raised questions as to the legality of using revenue sharing funds for this purpose, although such funds had been offered by the County to the Legal Aid Society of Sacramento County. A mailing is being prepared to all Legal Services programs to explain how revenue sharing has helped the elderly poor in Sacramento and how they can utilize these resources in their areas. National legislation to amend the Revenue Sharing Act was also monitored in a further effort to tie Legal Services programs into these resources.

A position paper was prepared on California A.B. 311, which would create a state-funded Legal Services program for the elderly poor. The paper, together with a redrafted form of the bill, was sent to the Assembly Committee on Ways and Means.

Research was conducted on private foundations which might be willing to fund legal projects for the low-income elderly, and approximately 25 were approached by letter to explore their interest. At their request, the San Diego Department of Human Resources was provided with information on possible funding sources for a senior citizens project.

Legal materials on probate were obtained from the Judge Advocate General's Corps to the U.S. Army and were transmitted to the private bar for use in the preparation of the probate manual for elderly Legal Services clients.

II. SUBSTANTIVE LITIGATIVE AND LEGISLATIVE ASSISTANCE

NSCLC received, and responded to, a large number of requests for technical assistance from Legal Services offices all over the nation. This assistance included not only the services already mentioned but also basic legal research into problems of individual elderly clients and the preparation of memoranda on a wide variety of substantive issues. In addition to this on-going service, NSCLC was involved in depth on the following substantive litigative and legislative matters.

A. Income adequacy and maintenance

1. *State Supplemental Income Program under H.R. 1.*—The new federal adult assistance program, SSI, which replaces the former state-by-state old age assistance programs, has generated far-reaching and complex problems. NSCLC worked closely with many Legal Services attorneys throughout the nation, who had been stimulated by its papers on SSI, on issues which arose from the legislation's implementation, as they were relevant to client needs in particular state jurisdictions. The Center also served as a respected national technical resource on the subject for private senior organizations, administrators, at the Social Security Administration and members of Congress. In addition, it provided technical assistance to other concerned organizations, including labor unions, gerontologists, welfare workers and commissions on aging throughout the nation. In California, many bills were introduced in this area, and NSCLC and the CRLA/NSCLC office were available for testimony before committees of the Legislature, and responded to numerous requests for information from citizens groups and state organizations.

2. *Private Pension Plans.*—NSCLC has been able to provide a unique input into pen-

sion matters since it is the only national legal program considering this issue from the perspective of the elderly poor. All pension cases in which it is involved are of first impression and have far-reaching significance.

Harrison and Lynch v. Crowell, et al., a case challenging the conditions of eligibility for pension benefits under the Construction Laborers Pension Trust for Southern California, was filed on June 20. The complaint attacks the requirement that a construction worker's employment be continuous if he is to qualify for a pension, and that the period of this continuous service total at least 15 years. These requirements are based on actuarial assumptions which NSCLC believes fail to take into account the hazardous nature of construction work which results in a high instance of disabling injuries, and the frequency with which construction workers are required to move from region to region and state to state in order to find work. NSCLC hopes to prove that as a consequence of these inaccurate assumptions the challenged eligibility conditions effectively exclude most workers covered by the trust from receiving retirement or disability pensions.

It is believed that *Harrison* is the first lawsuit filed in the U.S. to assert a duty on the part of administrators of a pension fund to employ actuarial assumptions which accurately reflect the employment patterns of workers covered by the fund, and to challenge the legality of the requirement that a worker complete a specified period of consecutive service in order to become entitled to even minimal pension benefits. The suit is based on Section 302(c)(5) of the Taft-Hartley Act which requires that all pension funds which are jointly held by union and management trustees be administered for the "sole and exclusive benefit of their participants and beneficiaries." Plaintiffs are clients of the Legal Aid Foundation of Los Angeles and the Santa Maria office of California Rural Legal Assistance.

The Legal Aid Society of Alameda County is being assisted on behalf of a client who was refused a disability pension (at age 57) by the Pension Fund of the East Bay Restaurant and Tavern Unions and Employers because her disability was incurred more than six months from the time for which an employer contribution was made on her behalf, although she is vested under the plan (which requires more years of credit than a usual disability benefit). The client has paid her union dues continuously, and the plan nowhere indicates that "disability" must be incurred in covered employment. Thus, although the client is eligible for a larger pension at age 65, she is now unable to work and has no income or disability pension at age 57.

The San Fernando Valley Neighborhood Legal Services Program is being assisted in pending litigation challenging the right of the International Association of Machinists Pension Fund to terminate pensions of retired workers whose former employers discontinue contributions into the pension fund after their retirement.

Other anticipated litigation involves a challenge to the Maritime Union Pension Plan's continuous service requirement (with the Legal Aid Office of Savannah, Georgia; and the Legal Services for the Elderly Poor, New York); a challenge to a similar provision of the West Coast Conference of Teamsters Plan (with Legal Aid Foundation of Los Angeles); and a challenge to Kaiser Steel's punitive refusal to reemploy a worker following his recovery from a temporary disability, thereby causing him to forfeit all pension credits.

A proposal was prepared in cooperation with the Industrial Relations Department at UCLA for a research grant from the National Science Foundation to study alternative pension schemes and labor mobility, including portable pension schemes.

At the request of the Labor Subcommittee of the U.S. Senate Labor and Public Welfare Committee, an analysis of the constitutionality of the retrospective features of S. 4, the Javits/Williams pension reform bill, was prepared. Testimony was also presented before the House Labor Subcommittee of the Education and Labor Committee, and hearings by Senator Adlai Stevenson III on the termination of the Elgin pension plan. A bill to reform the California Retirement Systems Disclosure Act was drafted, and materials and testimony in support of its enactment were prepared on behalf of clients. The bill passed the California Assembly and will be heard by the Retirement Committee of the State Senate in August.

A detailed analysis of a broad pension reform bill offered in the State Assembly was also prepared, and testimony was presented on it before the Assembly Retirement Committee. Testimony was presented to the California Senate Committee on Business and Professions on funding, reinsurance and fiduciary responsibility problems. Model legislative provisions on fiduciary responsibility and methods of enforcing pension legislation, as well as case histories of pension plan abuses, were provided at the request of a State Senator. All of the above testimony has been presented at the request of clients and legislators, and in all of these instances NSCLC has been the only voice raised on behalf of its clients, the indigent pension plan participants.

3. *Social Security.*—The Community Legal Assistance Center in Los Angeles is being assisted in representing a Social Security recipient whose Old Age benefits were summarily suspended by the Social Security Administration because of alleged excess earnings beyond those permitted by the retirement test. The case challenges the legality of the Administration's recoupment of these earnings out of benefits for months in which the plaintiff had no income other than Social Security. The case is presently in the Social Security appeals process, but because of the long delays involved in this process, the inadequacy of the notice and statement of reasons given the plaintiff when her benefits were terminated, as well as the failure of the process to afford any kind of prior hearing before the suspension of benefits, NSCLC is considering a challenge to its constitutional adequacy through an action in Federal District Court. Statistics have also been collected on the delays between requests for hearings before Social Security administrative law judges and the actual provision of such hearings.

4. *Mandatory Retirement Policies.*—At the request of the Legal Services Organization of Indianapolis, NSCLC has participated in a pending suit which challenges the constitutionality of mandatory retirement policies which affect public employees and has also assisted in obtaining expert witnesses. Model pleadings and briefs covering the subject have also been provided to the Legal Services Center of Seattle and the San Fernando Valley Neighborhood Legal Services.

B. Health and nutrition

The recently enacted Social Security Act Amendments and the SSI Program have affected both the Medicare and Medicaid programs. NSCLC has provided assistance to Legal Services attorneys from outside the Washington, D.C. area by representing their clients at the Bureau of Hearings and Appeals in Virginia. It has also provided Legal Services attorneys, Medical Services Administration and the Assistance Payments Administration with technical assistance relevant to changes in the law as new policy has been formed.

At the request of the San Fernando Valley Neighborhood Legal Services, NSCLC is investigating the possibility of filing a civil suit for a client denied Medicare coverage. The problem involves getting the court to review new evidence, and not make its determination on the basis of evidence presented in the past to the fiscal intermediary and the Appeals Council.

In Los Angeles County, NSCLC has monitored the enforcement of the order in *Dils* v *Geduldig* (a CRLA/NSCLC case) which upheld the right of recipients of last fall"s 20 percent increase in Social Security benefits to remain eligible for "categorical" Medi-Cal benefits despite the fact that the increase rendered them ineligible for Old Age Security payments. The County's implementation of *Dils* has been slow and uncertain, and NSCLC has received requests for assistance from many dissatisfied Medi-Cal clients.

For example, the *Dils* order required that all affected persons be promptly provided with permanent Medi-Cal cards by the State. Four months after the decision, Los Angeles County members of the *Dils* class were still receiving temporary monthly cards. Through a series of telephone calls to the Department of Public Social Services, NSCLC determined that the County's computer had been incorrectly programmed and was rejecting all efforts by social workers to trigger the issuance of permanent cards. Once this error was brought to the attention of the appropriate County official the computer was reprogrammed, and permanent cards are now being issued.

In the field of nutrition, federal legislation was monitored and technical assistance was provided to the U.S. Senate Committee on Nutrition and Human Needs, to the Administration on Aging, and to the Department of Agriculture, as well as to individual Legal Services attorneys.

C. Housing

In California, a body of housing legislation of special importance to the low-income elderly has been closely monitored and reported in the Sacramento newsletter. This legislation includes public housing, landlord-tenant law, and home ownership problems.

Preliminary research and factual investigation has been undertaken at the request of the Legal Aid Society of Pima County (Tucson, Arizona) on a prospective suit which will challenge a sale by FHA of a low-income elderly housing project, following foreclosure, to a private firm. The sale will result in vastly increased rentals.

D. Consumer

At the request of the Tri-County Legal Services, Lancaster, Pennsylvania, NSCLC drafted a memo of points and authorities regarding the reduction of public utilities rates for senior citizens.

Data were accumulated and recommendations drafted for the California Director of Consumer Affairs regarding the need for the "print out" of generic names for 50 drugs most commonly used by senior citizens, as well as base price information. NSCLC also participated in a conference with the California Assistant Attorney General and the Director of Consumer Affairs regarding revision of statutes relating to blood transfusions.

Negotiations were begun on behalf of two 80-year old women who had complaints arising from the purchase of pre-need funeral plans. In both instances, the clients had paid for plans which were to provide for complete

funeral services but were later approached by a salesman for additional money because of inflation (with Community Legal Assistance Center, Los Angeles).

E. Institutionalization

NSCLC is investigating the citation system employed for board and care homes in California. At present, citations are not published, which appears to violate the California Public Records Act, and neither are they prosecuted. There has also been an effort to call attention to the inadequacy of attendant care services provided to the elderly, which is often a contributing factor to their being placed in custodial care.

F. Guardianship and conservatorship

At the request of the Legal Services Program of Ft. Wayne, Indiana, NSCLC has assisted in the preparation of pleadings on a case still pending in Superior Court which challenges on procedural due process grounds the Indiana statutory scheme for holding incompetency hearings in guardianship proceedings. The Community Legal Assistance Center in Los Angeles was also assisted in investigating a case involving a public ward who was declared incompetent at a hearing where she went unrepresented by appointed counsel although she was financially unable to retain a lawyer.

G. Miscellaneous

The Older American Act Amendments were enacted into law as P.L. 93-29 this spring, and in anticipation of the early appearance of regulations supportive of the law NSCLC is monitoring this area closely. Requests have already been received from Legal Services attorneys for information and assistance in interpreting the effects of the new amendments on their clients.

The new Social Services regulations are also being monitored, and NSCLC is answering technical assistance requests on them from Legal Services attorneys, Congressmen, administrators and interested organizations. The original effective date of July 1, 1973, has been postponed by legislation until November 1, 1973, and the Act still awaits the President's signature.

NSCLC has also provided legal input into the USC Gerontology Center's "Gatekeeper's Study," a project being conducted under a National Science Foundation research grant. The purpose of the study is to examine concepts used by persons controlling access of the elderly to available scarce resources and to make suggestions for social policy and legislation in the field of aging. NSCLC has been able to utilize the study to produce answers to many of its questions on behalf of the elderly poor.

III. ADMINISTRATION

A. NSCLC refunding

NSCLC's 1973-1974 refunding proposal was submitted to the Office of Economic Opportunity on April 17, 1973. In early May, the program was evaluated by a six-man team from OEO, and word of its six-months refunding (July 1-December 31, 1973) was received on July 2. During these months, a substantial amount of staff time was spent in providing OEO and the NSCLC Governing Committee with materials relative to the program's activities, and in consultations with OEO personnel and others concerned with the refunding process.

B. Governing committee meetings

A meeting of the NSCLC Governing Committee was held in Washington, D.C. on March 27; and meetings of the Executive Committee were held in Los Angeles on February 24 and May 31. In these meetings the Governing Committee deliberated concerning the current and future activities of the program, and continued to exercise its close supervision of all projects.

C. Staff meeting

A two-day meeting of the entire professional staff of NSCLC was held in Santa Monica, July 9-10, for the purpose of acquainting staff members with each other's expertise as a means of promoting communication and increasing the effectiveness of the total staff. Members of the CRLA/NSCLC office were also present. It was the consensus of those attending the meeting that it served a valuable purpose and that additional meetings should be held in the future.

IV. SUMMARY

NSCLC has already begun to fulfill its obligation to provide and stimulate the best possible legal representation for the nation's aged poor: by focusing public attention on their plight; by assuring that it has a prominent place among the issues addressed by the nation's courts, legislatures and legal aid attorneys; and by providing technical assistance to attorneys representing individual elderly poor clients. However, much time and effort must still be devoted over the next period of years if, what we may call a successful project which has achieved its goal of providing complete legal representation to the nation's elderly poor.

Mr. KENNEDY. I hope that every Member of this body will express a viewpoint in support of the proposed legislation. I hope that the overwhelming majority of the Members of this body will support the program. I feel that the legislation is urgently needed, and I urge Senators to take this into consideration.

A final point I would mention is that it is interesting that the major companies and corporations of the country can obtain legal advice and use it to protect their corporate interests and, in some cases, even their individual interests as corporate officials. They can take the cost of such advice as a tax deduction under business expenses. In other words, they are being subsidized by the taxpayers because of the tax deduction by which most individual taxes are reduced. Therefore, those taxes have to be made up by someone else. So the major companies of the country, in many instances effectively, wipe out millions of dollars. They are legally advised and those expenses are subsidized by the American taxpayer.

Yet we find individual Senators who refuse to permit a very modest program to be developed and supported, in the amount of some $71 million, to represent the poor of the country. That is a bitter irony, indeed. I hope that those who will speak in opposition to the program will be able to explain this irony to the American people.

Mr. NELSON. Mr. President, the point was made by the distinguished Senator from North Carolina (Mr. HELMS) that no hearings have been held this year on the bill. That is correct. The reason is that we have exhausted all discussions and analyses of viewpoints that have been expressed on the proposed legislation, which has been under consideration since 1969. The bill has passed both Houses of Congress twice. So there is absolutely no point in holding further hearings. If the bill were to be postponed until next year, there would not be any hearings necessary. There is nothing further to be heard on the bill. We are in agreement with the administration on the bill. The administration is supporting the bill in the Senate. The President is asking that it be passed.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum which gives the history of the legal services legislation.

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

HEARING ON LEGAL SERVICES BILL

The bill considered by the Senate Committee involved the same issues as the Legal Services Corporation legislation that was passed in 1971 and then again in 1972 by both Houses of Congress. The language of the legislation is derived from earlier bills, and its framework and essential provisions have been thoroughly considered by the Committee through hearings and oversight activities over the course of the past three years.

During the 91st and 92d Congresses, the Poverty Subcommittee held 8 days of hearings specifically devoted to legal services. In addition, many witnesses have testified concerning legal services at hearings on Economic Opportunity Act programs in general, both in Washington and at field hearings around the nation this year.

The Committee was not requested to hold new hearings this session by the Administration or by any Senator.

On the part of all concerned—the majority and minority on the Committee—there was agreement for moving ahead on the legislation itself. When the President's message came up on May 15, the Subcommittee on Employment, Poverty, and Migratory Labor was in the midst of its consideration of manpower legislation—including manpower revenue sharing along the lines of the Administration's proposals in that area. Consideration in Subcommittee, full Committee and the floor took place throughout June and July. When the Senate returned in September, most of the members of the Labor and Public Welfare Committee were occupied with the Pension legislation. As soon as the consideration of this legislation ended, we scheduled mark-up session of the Subcommittee on October 3 and 10. The bill was ordered reported at that time.

It seems clear to me that all the issues regarding the Legal Services Corporation have been aired. If we are to get legislation enacted into law, the Senate must proceed as expeditiously as we can to resolve the issues in a manner satisfactory to a majority of the Senate, a majority of the House, and the Administration.

Mr. NELSON. Mr. President, the Legal Services Corporation Act we consider today is as important to the poor people of America as any other single piece of legislation we will pass this year. It is therefore imperative that this body move as expeditiously as possible, given the current uncertain situation at the Office of Economic Opportunity, if we are to insure the continued provision of high quality legal assistance to those who have long been unable to afford it.

In May of this year, President Nixon asked Congress to enact legislation establishing a Legal Services Corporation in order to—

Provide a mechanism to overcome economic barriers to adequate legal assistance.

The bill reported by the Labor and Public Welfare Committee is based upon the administration's bill and meets the principles set forth in the President's message last May in all essential respects.

The committee-reported bill, to use the words of that message—

Merits the support of all who believe in a legal services program which gives the poor the help they need, which is free and independent of political pressures and which includes safeguards to ensure that it operates in a responsible manner.

BACKGROUND

In the 9 years since passage of the Economic Opportunity Act of 1964, the issue of legal assistance for the poor has provoked nearly as much hysterical reaction, at each end of the ideological spectrum as any other domestic issue before Congress. Alarmists of all persuasions have bruised and battered one another over real and imagined abuses of, by, or to legal services programs. When those alleged abuses are examined, however, they are usually found to be more illusory than either the critics or the defenders would care to admit. What we have come to realize is that significant legislation simply cannot be written and enacted and executed in an atmosphere of charges and counter charges, especially when hard-won remedies for a few of the immense problems of the poor are at stake.

Too many people, in the heat of this battle, seem even to have forgotten that it is the poor we are supposed to be assisting—the poor, and not the beleaguered bureaucrat, not the State Governor and his agencies, and not even the eager and committed recent law school graduate who is the typical legal services attorney. Reason and sensibility are called for as we consider the institutions we create for dealing with social problems, and I think reason and sensibility are the tools with which the bill to be debated today has been crafted.

The Legal Services Corporation Act that we are now considering is a well-traveled piece of legislation. Since 1971 legislation for a national Legal Services Corporation has appeared on a number of occasions on the agendas of both Houses of Congress, as well as on the President's desk. Similar bills were enacted in 1971 by the House and Senate and a conference report passed by both, only to succumb to a Presidential veto. Legislation to establish a Legal Services Corporation was enacted again in 1972 by both Houses of Congress only to run aground in joint conference for lack of an agreement on the issue of whether the President was to have unfettered discretion to make all appointments to the Corporation's Board. Extensive hearings have been held in the last 2 years in both Houses of Congress, and a considerable body of information adduced, on legislative proposals to establish a National Legal Services Corporation similar to that which the Committee on Labor and Public Welfare has considered in this session. Indeed, I think it is safe to say that the differences between the legislation before us today and the bills of the previous 2 years are only differences in degrees of compromise. The provisions of the legislation before us today have been honed and modified to the point that they are now acceptable to a unanimous Committee on Labor and Public Welfare; they are now acceptable to the administration; and they are now acceptable to the major bar groups and other participants in the struggle to perpetuate a vital legal services program completely independent of political pressures.

Mr. President, at this point, let me read a letter I have received from Melvin R. Laird, Counselor to the President for Domestic Affairs, written on October 4, 1973, which reads as follows:

DEAR GAYLORD: We are pleased that the Subcommittee on Employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

Sincerely,

MELVIN R. LAIRD,
Counselor to the President for Domestic Affairs.

DESCRIPTION OF BILL'S MAJOR PROVISIONS

Mr. President, the National Legal Services Corporation Act would establish a private nonprofit corporation "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." The Corporation would be directed by an 11 member board whose members would be appointed entirely by the President, with the advice and consent of the Senate. The Board will have sole responsibility for issuing the rules, regulations and guidelines by which the Corporation fulfills its mandate, and will appoint a Corporation president with whom it will share responsibility for providing financial assistance to those programs which will actually provide legal assistance to eligible clients.

The corporation is empowered to exercise considerable flexibility in insuring the provision of high quality legal assistance to eligible clients. It may contract, where necessary, with individuals, partnerships, firms and nonprofit organizations and corporations. The Board is authorized to contract with State and local governments, upon special application by a State or local agency or institution where nongovernmental alternatives would not be adequate to carry out a proposed supplemental legal assistance project. In addition, the Corporation has the authority to provide, either directly or by grant or contract, for the research, clearinghouse, and other important back-up functions considered so essential to the program's continued vitality.

In order to provide a more efficient means of monitoring the activities of the legal services staff attorneys, the reported bill provides for the appointment of nine member State Advisory Councils in each State, whose members are to be appointed by the Governor after considering recommendations of the State Bar Association. The State Advisory Councils will be charged with notifying the Corporation of any apparent violation of the provisions of the act. In addition, a National Advisory Council shall be established to consult with the Corporation regarding its activities, including the promulgation of rules, regulations, and guidelines. Its members are to be appointed by the Board and are to be representative of the organized bar, legal education, legal services project attorneys, eligible clients, and the general public.

In order to avoid a number of possible abuses which might occur, the legislation also contains restrictions and safeguards concerned with focusing all the resources of the Corporation squarely on the provision of legal assistance to eligible clients.

Specific restrictions written into the act would prevent legal services attorneys from involving themselves in nonclient oriented activities while they are on the job. The staff attorney may not, while engaged in legal services activities, engage in picketing, boycotts, strikes, or public demonstrations, nor may they encourage others to engage in them. They may not at any time engage in rioting or civil disobedience, or violate a court injunction, or engage in any other illegal activity.

Legal services attorneys may not attempt to influence legislation before Congress or before any State or local legislative body, except as necessary to the provision of legal advice and representation for eligible clients. This provision would prohibit indiscriminate, nonclient-oriented lobbying, and would more beneficially channel the legal efforts of the attorney—whose primary duty is to provide the best possible legal assistance to the eligible poor. It does not prohibit necessary legal advice and representation because to do so would set up an artificial double standard prohibiting a legal services attorney for a poor person from doing what any other private attorney could do. No attorney shall be forced to violate the canons of ethics by providing less than the full range of legal services to eligible clients.

Legal services attorneys would also be prohibited from engaging in political activities by application of Hatch Act provisions generally applicable to employees in Federal assistance programs.

The legislation prohibits funding any training program for the purposes of advocating or encouraging political "causes" or policies, or labor or anti-labor activities, or any illegal boycotts, picketing, strikes and demonstrations. In addition, all legal services personnel are prohibited from organizing groups for any purpose whatsoever. Only in the course of rendering legal advice and representation as an attorney for eligible clients will the legal services attorney be

permitted to provide legal assistance in connection with such activities, and then only with respect to such clients' legal rights and responsibilities.

Additional restrictions and safeguards found in this act include the requirement that at least one-half of the members of the governing board of any legal services program receiving financial assistance be members of the bar of the State in which the assistance is to be provided.

They include provision for advance notification and solicitation of comments and recommendations from the Governor and State bar association regarding any proposed project or contract within a given State.

They include the requirement that the Corporation monitor and evaluate and provide for independent evaluations of legal services programs and grantees sponsored under this act.

And they include a positive mandate to the Corporation to provide for an experimental evaluation, through demonstration projects, of alternative and supplemental methods of delivery of legal services to eligible clients. Such methods would include a close examination of such proposals as judicare, vouchers, prepaid legal insurance, and contracts with law firms. Moreover, the bill sets a deadline of 2 years for the transmission of results and recommendations to the President and Congress.

OPERATION OF LEGAL SERVICES PROGRAM

The federally funded legal services program had its modest inception in 1965 as a $600,000 adjunct to the community action program under title II of the Economic Opportunity Act of 1964. By 1973, it has grown into a $71.5 million program with 256 local programs which have more than 900 neighborhood branch offices. The legal services program currently employs approximately 2,200 full-time lawyers. It is estimated that in 1973 those lawyers will serve 500,000 clients and handle upward of 1,500,000 separate legal problems. By comparison, only $5,375,000 was expended on civil legal aid in the United States in 1965 before the Federal Government entered the picture. It is interesting to note, however, that 40 percent of all current legal services grantees are legal aid organizations that were in existence even in those prefederally funded days.

Local projects in the legal services program are organized around the neighborhood law office, whose attorneys have as their function the provision of legal assistance to eligible clients in the entire range of civil legal problems encountered by the poor. Since the poor have been largely bypassed in the dispensation of civil legal assistance in this country, those problems are often overwhelming in their proportions. This has led the more creative local attorneys, as well as the less individual-oriented attorneys of main project offices and back-up centers, to attempt to discover legal means broader than individual litigation to solve some of the problems. It has unfortunately also led to a certain amount of friction between legal services attorneys and the Federal, State, and local institutions that have found their policies challenged as a result of the efforts at broader reform.

Victories won on behalf of groups of eligible clients against bureaucratic regulations which contravene the constitutional and statutory rights of poor persons have angered critics and inflamed passions against legal services. Needless to say, neither a local housing authority nor Federal agencies like the Department of Agriculture are happy when lawsuits succeed in requiring them to change their regulations, even though the result is to remove obstacles to better low-income housing or to improve nutrition programs for poor children. But those whose passions have been so inflamed should be reminded that the legal process in this country, by which the people govern themselves, is never uncontroversial in the best of circumstances. It was in recognition of the need for this controversy, indeed, that the former Director of OEO Frank Carlucci reminded us, when this legislation was first proposed, that——

> It is an act of great self-confidence for a government to make resources available for testing the legality of government practices. We have written laws and created government agencies that provide food for people who are hungry, homes for people who are homeless, and jobs for people who are unemployed.
>
> Consequently, a lawyer who is going to represent poor people is inevitably going to be an advocate for them against governmental agencies. It is to shield legal services from the repercussions generated by suits of this kind as well as those generated by action against private interests that the President proposes creation of an independent legal services corporation.

Thus, while it is possible to point up a few real and potential abuses in the legal services process, it is far more important that this process continue than that it be shut off as a result of the few minuscule abuses that are perhaps inevitable in a 2,200 member law firm. President Nixon himself reminded us this past summer, in another context, that—

> It would be a tragedy if we allowed the mistakes of a few to obscure the virtues of most.

It is perhaps unfortunate that we are not today a nation possessed of a perfect foresight, and consequently a perfect set of laws and regulations. One of the great benefits of our system of government lies in the continued growth and development of our legal system. It lies in the fact that previously established legal precedents and processes can be changed to meet society's changing needs, subject only to the greater dictates of the Constitution. It was Thomas Jefferson himself who once said—

> Laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times.

A most graphic example of the lack of foresight that must often be corrected in laws that deal with the poor occurred quite recently in my home State of Wisconsin. When the reservation status of the Menominee Indian Tribe was terminated, the enrolled membership of the tribe was, in effect, "paid" for their tribal lands with special Menominee Enterprise Bonds, not redeemable until the year 2000. Since the unredeemable bonds did little to alter the poverty status of most of the Menominee Indians, they proceeded to apply to the State for public assistance—only to discover that their bonds would be subject to seizure before they could become eligible under existing laws. The disadvantaged Menominees were faced with a cruel dilemma: The bonds represented their tribal lands, which had been given up only in hopes that a long-range experiment with private enterprise would alleviate the poverty of the tribe. They would be forced either to forfeit those bonds to the State or forego badly needed public assistance in order to retain this last vestige of their pride, of their tribal heritage. It was only through the intervention of a legal services attorney, making representations to the State legislature on behalf of his eligible clients—the Indians in need of public assistance—that a corrective measure was passed which alleviated the problem.

It would be possible to rest the defense of legal services here, with only the additional demonstration of the widespread support of legal services programs that exists among Members of both parties, all major national and State bar associations, and the vast majority of State and Federal judges. I feel it is helpful to go further, however, because a closer analysis of current legal services priorities would indicate that, despite the successes of the sort of larger scale legal services advocacy represented by the Menominee Indian example, it really only comprises a tiny percentage of the program's overall work. By all estimates, more than 95 percent of staff attorney time and effort is spent, not on class actions, not on broad policy implication "law reform" projects—but on day-to-day problems involving housing, domestic relations, employment, consumer problems, and so forth.

Former OEO Director Frank Carlucci has noted national legal services statistics which show that 18 percent of the overall caseload has been in the consumer area, 9 percent has been concerned with administrative problems, 11 percent with housing problems, 42 percent with family problems, and the remaining 20 percent dealt with miscellaneous problems such as torts, juvenile problems, et cetera. He added—

> We estimate that less than 1% of the cases that actually reach litigation are class action cases. So the idea that legal services lawyers are always engaged in class action is very misleading.

In addition, OEO statistics have demonstrated that fully 83 percent of the matters proceeded by legal services attorneys have been disposed of without any litigation, a fact which is perfectly understandable when you realize that 85 percent of the cases that have actually been taken to a court proceeding have been won.

Why, then, do some people persist in exaggerated criticisms of a program that

has time and time again demonstrated its effectiveness and efficiency in a way matched by few other programs in the entire Federal Government? Perhaps the real reason is not alleged abuses by legal services lawyers. More likely it is the remarkable success of the program itself in our courts of law—before local, State, and Federal judges—in winning 85 percent of their cases that irritates the program's critics. It is time to stop playing games, gentlemen, when so important and so successful a program for peaceful solution of domestic problems is at stake.

Few of us will soon forget the desperation of our Nation's poor during the long hot summers of the sixties. It has been our poverty programs, with a vigorous if overburdened legal services effort as one spearhead, that have made the few small steps in the direction of alleviating that desperation, the terrible panic of being poor and thinking nobody cares. But we all know the end of this particular tunnel is as yet nowhere in sight. It would be sheer folly for us to do anything but strengthen and expand the successful efforts of the last few years in the legislations we are considering today.

President Nixon himself has assured us that—

To preserve the strength of the legal services program it must be insulated from political pressures.

And he has also emphasized that—

Providing legal assistance to those who face an economic barrier . . . serves justice far better and more rationally than leaving them with recourse only to less peaceful means.

I am convinced, Mr. President, that the legislation before us today achieves as much of the goal of equal justice as is feasible at the present time.

I am convinced that this administration is committed to a truly Independent Legal Services Corporation. I am convinced that the President will send up nominees for the Board of Directors who can be confirmed by the Senate and who are unbound by any antipoor, antilegal services ideology. I am convinced that the Corporation will be independent and free of political pressures.

I am convinced that the restrictions we impose on the legal services project attorneys will ultimately benefit the entire program, by permitting them to concentrate all of their efforts on the provision of legal assistance to the eligible poor. At the same time, I am convinced that there is nothing in the pending legislation that will force a legal services attorney to violate the canons of ethics; there is nothing in this bill that will restrict him in his right and duty as an attorney to avail himself of the full range of tools that should be available to any attorney in the representation of his client. For, make no mistake about this: the poor people of this country are entitled to a whole lawyer, not half a lawyer.

Time and time again we state our belief in one of the basic principles on which this Republic was founded: that we are most assuredly a nations of laws, not of men. As such, we have assumed the unique obligation to ensure that all people have access to the full benefit of those laws—even if, in the process, some of the men who administer them are upset or discomfited. Just a few short years ago, this country hit upon a truly innovative concept in the provision of free legal assistance to the poor in civil proceedings. Let us not be forced to tell the rest of the free world that we are emasculating that concept today.

Mr. President, I ask unanimous consent that the section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

The first section of the bill amends the Economic Opportunity Act of 1964 by adding a new title X as follows:

LEGAL SERVICES CORPORATION ACT

Section 1000. Short title

This section provides that the new title X may be cited as the "Legal Services Corporation Act".

Section 1001. Statement of findings and purpose

This section sets forth the Congressional findings and declaration of purpose: to provide equal access to our system of justice, to provide quality legal assistance to those unable to afford adequate legal counsel and continue the present vital legal services program, to preserve the strength of the legal services program by insulating it from political pressures, and that legal services lawyers must have full freedom to protect the best interests of their clients in accord with the Canons of Ethics and the high standards of the legal profession.

Section 1002. Definitions

This section sets forth definitions for these terms: State, Governor, legal assistance and staff attorney.

Section 1003. Establishment of Corporation

This section provides for establishing the Legal Services Corporation as a private nonmembership nonprofit corporation for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance (referred to throughout the title as "eligible clients").

Section 1004. Governing body

Subsection (a) of this section provides that the Corporation shall have a Board of Directors, consisting of eleven voting members appointed by the President, after confirmation by the Senate. No more than six of such members shall be of the same political party, a majority of the Board shall be members of the bar, and none shall be full-time employee of the United States Government.

Subsection (b) provides for three-year terms for members of the Board. No member shall be reappointed after three consecutive terms.

Subsection (c) provides that members of the Board shall not be deemed officers or employees of the United States Government.

Subsection (d) provides that the President shall select from among the initial voting members of the Board an initial chairman to serve for a three-year term. Subsequent chairmen would thereafter be elected annually by the Board from among its voting members.

Subsection (e) provides for removal of a Board member by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

Subsection (f) provides that, within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for the State. The members of the advisory council shall be appointed, after receiving recommendations of the State bar association, from among lawyers admitted to practice in the State. If ninety days have elapsed without an advisory council appointed by the Governor, the Board has the authority to appoint such council, after receiving the State bar association's recommendations, the advisory council shall be charged with notifying the Corporation of any apparent violation of this law and applicable rules and regulations.

Subsection (g) provides for meetings of the Board to be open to the public unless two-thirds of the Board members vote for a specific session to be closed.

Subsection (h) provides for the Board to meet a minimum of four times annually.

Subsection (i) provides for a National Advisory Council to consult, on a continuing basis, with the Board and the president of the Corporation regarding its activities. The Council is to consist of fifteen members appointed by the Board for three-year terms who shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients, and the general public.

Section 1005. Officers and employees

Subsection (a) of this section provides for the Board to appoint the president of the Corporation and other corporate officers required by law.

Subsection (b) vests in the president of the Corporation the authority to appoint and remove employees of the Corporation, subject to general policies established by the Corporation.

Subsection (c) provides that no Board member may participate in any decision on any matter directly benefiting such member or pertaining to any firm or organization with which that member is then associated.

Subsection (d) provides that officers and employees of the Corporation shall be compensated at rates determined by the Board. No such pay rate may exceed level V of the Executive Schedule.

Subsection (e) provides that officers and employees and the Corporation itself are not to be considered part of the Federal Government, except as specifically provided in this title.

Subsection (f) provides specifically that officers and employees of the Corporation are Federal employees for purposes of eligibility for compensation for work injuries, civil service retirement, life insurance, and health insurance under title 5, United States Code, and provides for the Corporation to make appropriate transfers of funds in accordance with the provisions of such ttile.

Section 1006. Powers, duties, and limitations

Subsection (a) of this section provides that the Corporation shall have authority to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and to contract with individuals, partnerships, firms, and nonprofit organizations and corporations, and State and local governments, on such terms and conditions as insure the protection of professional responsibilities of attorneys.

Grants and contracts with State and local governments may be made only upon application by a State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide supplemental assistance which cannot be ade-

quately provided through nongovernmental arrangements and in a manner not inconsistent with attorneys' professional responsibilities.

The Corporation is also authorized to provide, either directly or by grant or contract, for research, recruitment, training, and information clearinghouse activities, and for appropriate technical assistance activities.

The Corporation shall exercise the powers conferred upon nonprofit corporations by the District of Columbia Nonprofit Corporation Act, to the extent consistent with the provisions of the new title.

Subsection (b)(1) provides that the Corporation shall promulgate regulations to insure the compliance of recipients and their employees with the provisions of this title and rules, regulations, and guidelines thereunder, including provisions for termination of financial support in accordance with due process procedures described in section 1011.

Subsection (b)(2) provides that a recipient which finds a violation on the part of any employee shall take appropriate remedial or disciplinary action in accordance with due process procedures described in section 1011.

Subsection (b)(3) provides that the Corporation shall not interfere with attorneys' professional responsibilities.

Subsection (b)(4) provides that no attorney shall be compensated for the provision of legal assistance under this title unless such attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide legal assistance in the jurisdiction where such assistance is initiated.

Subsection (b)(5) provides that the Corporation shall insure that no employee of the Corporation or of any recipient shall (except as permitted by law in connection with such person's own employment situation), while carrying out legal assistance activities under this title, engage in or encourage others to engage in any public demonstration or picketing, boycott, or strike. No such employee shall, at any time, engage in or encourage others to engage in any rioting or civil disturbance, any activity which is in violation of a court injunction, any other illegal activity, or any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007 (a)(6) of this Act.

Subsection (b)(6) provides that, in areas where significant numbers of eligible clients speak as their predominant language a language other than English, or are bilingual, the Corporation shall insure that their predominant language is used in the provision of legal assistance to them.

Subsection (c) provides that the Corporation shall not participate in litigation on behalf of clients other than the Corporation or undertake to influence the passage or defeat of any legislation by Congress or by any State or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication when formally requested by a legislative body, a committee, or a member of such body, or in connection with legislation or appropriations directly affecting the Corporation.

Subsection (d)(1) provides that the Corporation shall have no power to issue stock or declare dividends.

Subsection (d)(2) provides that no part of the income or assets of the Corporation shall insure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

Subsection (d)(3) provides that the Corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment to any political party or the campaign of any candidate for public or party office.

Subsection (d)(4) provides that the Corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing ballot measures, initiatives, or referendums, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

Section 1007. Grants and contracts

Subsection (a)(1) of this section provides that the Corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients.

Subsection (a)(2) provides for the Corporation to establish, in consultation with the Director of the Office of Management and Budget, maximum income levels for eligible clients, and to establish guidelines to insure that eligibility of clients will be determined by recipients on the basis of financial inability to afford legal assistance, which may take into account, among other considerations and to the extent consistent with the provisions of the new title, evidence of a prior final determination that a lack of income results from a refusal, without good cause, to seek or accept an employment situation commensurate with an individual's health, age, education, and ability. (Application of the foregoing criteria would not foreclose legal assistance in connection with securing rights or benefits on behalf of a child.) Priorities are to be established to insure that those least able to afford legal assistance are given preference.

Subsection (a)(3) provides that grants and contracts are to be made so as to provide the most economical, effective, and comprehensive delivery of legal assistance to persons in both urban and rural areas, to assure equitable services to the significant segments of the population of eligible clients (including handicapped individuals, elderly individuals, Indians, migrant or seasonal farmworkers, and others with special needs) and to provide special consideration for utilizing organizations and persons with special experience and expertise in providing legal assistance to eligible clients.

Subsection (a)(4) provides that attorneys employed full time in legal assistance activities supported in major part by the Corporation refrain from any outside practice of law for compensation and, except as deemed appropriate in guidelines promulgated by the Corporation, any uncompensated outside practice of law.

Subsection (a)(5) provides no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by Congress or by State or local legislative bodies, except where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, or where a legislative body, a committee, or a member of such body requests personnel of any recipient to make representations thereto.

Subsection (a)(6) provides for the Corporation to insure that all attorneys engaged in legal assistance supported in whole or in part by the Corporation refrain, while so engaged in such supported activities, from any political activity associated with a political party or association or a candidate for public or party office; voter transportation to the polls, or any voter registration activity; except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The Corporation shall also insure that all staff attorneys refrain, at any time, from political activities prohibited by clauses (1) and (2) of section 1502(a) of title 5, United States Code.

Subsection (a)(7) requires recipients to establish guidelines for a system for review of appeals taken to insure the efficient utilization of resources and to avoid frivolous appeals.

Subsection (a)(8) provides that interim funding shall be provided to maintain legal assistance activities pending final action on a refunding application.

Subsection (b)(1) prohibits legal assistance under this title with respect to a criminal proceeding.

Subsection (b)(2) prohibits use of funds for political activities prohibited by subsection (a)(6) of this section.

Subsection (b)(3) prohibits grants or contracts with any public interest law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public.

Subsection (b)(4) provides that no funds under this title be used for legal assistance for any unemancipated person under eighteen years old, except with parental consent, upon a court request; in child abuse cases, custody proceedings, persons in need of supervision (PINS) proceedings, or cases involving the institution, continuation, or conditions of institutionalization; where necessary for the protection of such person to secure benefits or services to which such person is legally entitled; or in other cases under criteria prescribed by the Board to ensure adequate legal assistance for such persons under eighteen years old.

Subsection (b)(5) prohibits support for training programs for the purpose of advocating, as distinguished from disseminating information about, particular public policies, or encouraging political activities, labor or antilabor activities, or any illegal boycott, picketing, strike, or demonstration.

Subsection (b)(6) provides that no funds under this title may be used to organize, to assist to organize, or to encourage to organize, or to plan for the creation or formation of or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity, except for the rendering of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities.

Subsection (c) provides that recipients carrying out legal assistance activities under this title shall have a governing body consisting of a majority of lawyers (except with respect to certain preexisting programs and subject to waiver in certain other special situations), and including an appropriate number of eligible clients.

Subsection (d) provides for the Corporation to monitor and evaluate and provide for independent evaluations of programs under this title.

Subsection (e) provides that grants and contracts under this title shall be made by the president of the Corporation.

Subsection (f) provides for public announcement at least thirty days prior to making any grant or contract, and notification of the Governor and the State bar association prior to making a legal assistance grant or contract or otherwise initiating such a project.

Subsection (g) provides that the Corporation shall provide for comprehensive, independent study of the existing staff-attorney program and, through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services, including judicare, vouchers, prepaid legal insurance, and contracts with law firms.

Section 1008. Records and reports

This section provides authority for the Corporation to require reports and records,

which shall in no way impair confidential attorney-client relationships. The Corporation shall publish an annual report. Evaluation reports are to be available for public inspection. The Corporation is declared subject to the Freedom of Information Act. Notice and reasonable opportunity for comment shall be afforded to interested persons prior to issuing rules, regulations, and guidelines. All rules, regulations, guidelines, instructions, and application forms (including any final revision thereof) shall be published in the Federal Register at least thirty days prior to their effective date as so published in their final form.

Section 1009. Audits

This section provides for financial auditing of the Corporation by the General Accounting Office, and also requires the Corporation to conduct or require an annual financial audit of each grantee, contractor, or person or entity receiving financial assistance under this title, which shall in no way impair confidential attorney-client relationships.

Section 1010. Financing

This section authorizes appropriations to the Corporation of $71,500,000 for fiscal year 1974, $90,000,000 for fiscal year 1975, and $100,000,000 for fiscal year 1976 and each subsequent fiscal year.

Section 1011. Special limitation

This section provides for reasonable notice and opportunity to reply before any suspension of financial assistance, and opportunity for notice and a full and impartial hearing (on the record in accordance with due process protections and appropriate adversary procedures) before termination, denial of refunding, or suspension of financial assistance beyond thirty days.

Section 1012. Coordination

This section provides authority for the President to direct that particular support functions of the Federal Government or its instrumentalities, such as the General Services Administration and the Federal telecommunications system, be utilized by the Corporation and those receiving financial assistance under this title.

Section 1013. Prohibition of Federal control

This section provides that nothing in this title shall be deemed to authorize any Federal agency or employee to exercise any direction, supervision, or control with respect to the Corporation or legal assistance activities. However, the Office of Management and Budget is authorized to review and submit comments upon the Corporation's annual budget request when it is transmitted to the Congress.

Section 1014. Severability

This section provides that if any provision of this title is held invalid, the remainder shall not be affected thereby.

Section 1015. Right to repeal, alter, or amend

This section expressly reserves the right to repeal, alter, or amend this title at any time.

SECTION 2 OF THE BILL (TRANSITION PROVISIONS)

Subsection (a) of this section provides for the Legal Services Corporation to succeed to all rights of the Federal Government to capital equipment in the possession of legal services programs and activities under the Economic Opportunity Act.

Subsection (b) provides for transfer to the Corporation of all personnel employed directly (except attorneys under schedule A) in legal services activities in the Office of Economic Opportunity, and all assets, liabilities, obligations, property, and records held or used primarily in connection with such activities. The Director of the Office of Management and Budget is to make determinations regarding such transfers in consultation with the Director of the Office of Economic Opportunity. Personnel who are transferred are not to be reduced in compensation for 1 year thereafter, except for cause. The Director of the Office of Economic Opportunity is to offer appropriate assistance in seeking suitable employment for those who do not transfer to the Corporation.

Subsection (c) provides that collective-bargaining agreements in effect on the date of enactment, covering employees transferred to the Corporation, shall continue to be recognized by the Corporation until the termination date of such agreements, or until mutually modified by the parties.

Subsection (d)(1) provides that the Director of the Office of Economic Opportunity and the president of the Legal Services Corporation shall cooperate in arranging for the orderly continuation by the Corporation of financial assistance to legal services programs. OEO obligations extending beyond 6 months after enactment shall include provisions under which the Legal Services Corporation may assume such obligations.

Subsection (d)(2) provides for the repeal of section 222(a)(3) of the Economic Opportunity Act (the specific authority for the existing legal services program), such repeal to be effective 90 days after the first meeting of the Board of Directors of the Corporation.

Subsection (d)(3) provides for this legislation to take effect 60 days after its enactment. It also provides for the Director of the Office of Economic Opportunity to make funds available out of current appropriations as necessary to meet the organizational and administrative expenses of the Corporation and, 90 days after the first meeting of the Board, to transfer to the Corporation unexpended balances of funds allocated to legal services.

Subsection (d)(4) amends title VI of the Economic Opportunity Act by adding a new section 625 making clear that no provision under the Economic Opportunity Act (except the new title X itself) shall be construed to affect the Legal Services Corporation.

Mr. NELSON. Mr. President, I ask unanimous consent that letters from Melvin Laird, Counselor to the President, and Chesterfield Smith, president of the American Bar Association, be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., October 4, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR GAYLORD: We are pleased that the Subcommittee on employment, Poverty and Migratory Labor has completed action on legislation to create an independent National Legal Services Corporation.

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

Sincerely,

MELVIN R. LAIRD,
Counselor to the President for Domestic Affairs.

AMERICAN BAR ASSOCIATION,
Washington, D.C., November 12, 1973.

Re: S. 2686, National Legal Services Corporation

Hon. GAYLORD A. NELSON,
Chairman, Subcommittee on Employment, Poverty and Migratory Labor, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

CHESTERFIELD SMITH.

Mr. NELSON. Mr. President, I ask unanimous consent that editorials from the Washington Post and the Washington Star-News supporting the Legal Services legislation be printed in the RECORD.

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

[From the Washington Star-News, Feb. 8, 1973]

LEGAL-AID COMPROMISE

In the brief time remaining before adjournment, Congress should exert the extra effort required for a final decision on continuation of legal services for the poor. Certainly the delay in determining what to do with this worthy program—which is surviving rather desperately within the decimated Office of Economic Opportunity—has dragged on far too long. But now, thanks to recent action by the Senate Labor and Public Welfare Committee, the stalemate can be broken.

What emerged from the committee was a compromise bill that seems to settle Congress' main differences with the Nixon administration on this long-debated matter. In this legislation, which we hope the Senate will act upon speedily, the administration has won its point. But the point isn't so vital as to justify any additional, lengthy haggling, which can only prove fruitless. This is affirmed by the fate of past legislation that foundered on the presidential veto, because Congress insisted on allowing the President to appoint less than half the board members who would govern the program. President Nixon wanted to name all of them, and that's what the Senate committee's bill would permit, with Senate confirmation of nominees.

But the board would have a bipartisan structure, and on the main aspect of this innovation there is no disagreement between Mr. Nixon and Congress. Both favor creation of a separate and independent legal services corporation, which could serve the needs of poor people without political interference. The Senate measure would achieve this admirably, while prohibiting unseemly lobbying or political activity by legal services lawyers. Such abuses have occurred in the past, but they are isolated exceptions to the multitude of vital services provided to impoverished Americans in routine legal matters. And the poor certainly must be assured of access to the courts, through such a fed-

erally funded endeavor, if the system of justice is to maintain respect.

Nonetheless, much quarreling may lie ahead in a conference committee, because the House has passed a bill loaded with restrictive amendments. This Senate legislation—a sensible compromise between conservative and liberal points of view deserves to prevail.

[From the Washington Post, December 10, 1973]

THE LEGAL SERVICES BILL

After a long and tortured legislative journey from the House floor where it was mangled on June 21, the legal services bill finally comes to the floor of the Senate today. From the standpoint of those who wanted a strong independent legal services corporation, it is not a perfect bill, but it is an acceptable one. Moreover, it represents an honest effort by the White House and the Senate Labor and Public Welfare Committee to work out legislation that will satisfy the legal representation needs of the poor and also assure the President that he retains some control over a program that his administration has found controversial in the past.

The committee bill represents true compromise by both sides. Legal services advocates have receded substantially from hard positions of earlier years. The entire board, for example, will be appointed by the President. Advisory committees will be established in each state to monitor legal services activities. Finally, though the committee bill will permit many activities that would have been prescribed by the House, the tone of the legislation is essentially negative, giving rise to the possibility of narrow interpretations of authority or, at least, too long wrangles over numerous questions of authority.

On the other hand, there are victories for legal services advocates, too. Legal back-up centers—a vital resource system for the program—have been restored. The House-imposed prohibition on representation before legislative bodies has been removed—as long as eligible clients are involved. In addition a provision that would have required legal services to pay legal costs and fees in affirmative action cases which they brought and lost has been eliminated.

Despite the honest and tedious effort of Senate liberals and the White House to bring off an acceptable compromise, opponents of the program continue to hammer away with horror stories about how the program has been abused in the past. The stories don't stand scrutiny. An analysis of over 70 cases of abuse shows that almost half of them are untrue. One such story, for example, attributes a legal services program in Boston the actions of a private law firm in that city. In another 20 per cent of the cases, the stories are true but in no way horrible, for they involve legitimate program activities. Only 3 per cent of the cases represent instances in which the stories are true and no disciplinary action was taken. In all of those instances, the prohibited practices have been discontinued.

So, the Senate is faced with a situation in which the White House has made an honest effort to make good on the President's pledge to establish an independent legal services program and Senate liberals have been accommodating. There is no need for further compromise. The Senate should pass the bill promptly and the White House should continue its firm support through the House-Senate conference. The administration could do no better by the President's standing commitment to legal services—and his new Vice President's "dedication to the rule of law and equal justice for all Americans"—than to see this bill through to enactment.

QUORUM CALL

Mr. NELSON. Mr. President, I call attention to the lack of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT TO 10 A.M. WEDNESDAY, THURSDAY, FRIDAY, AND SATURDAY OF THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow and Wednesday, Thursday, and Friday of this week, it stand in adjournment until the hour of 10 a.m. on Wednesday, Thursday, Friday, and Saturday, respectively.

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

REQUEST FOR LIMITATION OF TIME ON YEA-AND-NAY VOTES THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the hour of 12 noon daily this week, yea and nay votes be limited to 10 minutes each, with the warning bells to be sounded after 2½ minutes.

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

Mr. HELMS subsequently said, Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HELMS. Mr. President, I could not hear the Senator. Did the Senator from West Virginia ask unanimous consent with respect to rollcall votes on the legal services bill?

Mr. ROBERT C. BYRD. No, I did not.

Mr. GRIFFIN. Mr President, I believe the request of the distinguished majority whip had to do with the time for rollcall votes.

Mr. ROBERT C. BYRD. Mr. President, I am sorry. I misunderstood the distinguished Senator. I understood him to ask whether a unanimous-consent request had been made with respect to the legal services bill. I made no request with regard to the legal services bills.

I did ask unanimous consent that any yea and nay votes for the remainder of the week beginning at the hour of 12 noon daily consume only 10 minutes for each rollcall vote.

Mr. HELMS. Mr. President, inasmuch as I did not hear the unanimous-consent request, would the Senator mind making the request again, because I would like to object.

Mr. ROBERT C. BYRD. To the 10 minute rollcall votes?

Mr. HELMS. The Senator is correct.

Mr ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order limiting yea-and-nay votes to 10 minutes be vacated.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS later said: Mr. President, last Friday, I asked the distinguished majority leader that I be notified so that I might be on the floor in connection with any unanimous-consent agreement relative to the legal services legislation.

When a unanimous-consent request was made earlier this afternoon to limit rollcall votes after 12 noon to 10 minutes for the rest of this week, I was on the floor but was not in a position that I could hear the distinguished assistant majority leader.

The RECORD will show that immediately thereafter I apprised the distinguished Senator from West Virginia of this fact. And he very graciously asked for a unanimous consent to vacate the previous unanimous-consent agreement on the 10-minute rollcall votes. However, the distinguished Senator from Masachusetts (Mr. KENNEDY) objected.

Mr. President, a unanimous-consent agreement is supposed to mean that there is unanimous consent. In this case obviously there is no unanimous consent. I therefore feel constrained to serve notice that until the Senator from Massachusetts in his wisdom chooses to remove his objection to vacating the unanimous-consent agreement on 10-minute rollcall votes, there may be a live quorum call for each and every rollcall vote.

ORDER FOR DIVISION OF TIME ON CLOTURE MOTION ON RHODESIAN CHROME BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the cloture motion tomorrow be divided equally between the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

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

ORDER FOR RECOGNITION OF SENATOR MANSFIELD, FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND FOR CONSIDERATION OF THE RAIL SERVICES BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders or their designees have been recognized tomorrow under the standing order, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) be recognized for not to exceed 15 minutes; after which there be a period for the transaction of routine morning business 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 rail services bill.

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

ORDER FOR RECOGNITION OF SENATOR GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that fol-

lowing the order that has been entered for the recognition of the distinguished majority leader on tomorrow, the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN), be recognized for not to exceed 15 minutes.

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

Mr. JAVITS. Mr. President, may I ask what time the Senate is convening tomorrow?

Mr. ROBERT C. BYRD. At 10 a.m.

Mr. JAVITS. The 15 minutes will ensue from 10 on?

Mr. ROBERT C. BYRD. There is one order for 15 minutes for Mr. BAYH, which surely will be taken. There is an order for Mr. MANSFIELD, which may or may not be taken, and an order for Mr. GRIFFIN, which may or may not be used.

ORDER FOR RECOGNITION OF SENATOR BAYH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, prior to the order for the recognition of Senator MANSFIELD, the distinguished junior Senator from Indiana (Mr. BAYH) be recognized for not to exceed 15 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

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

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. JAVITS. Mr. President, I wish to address myself to this bill and to emphasize that this is the third time this important matter has been before the Senate.

I am the ranking Republican member of the committee which handled this bill. I have been in all the conferences in which the Legal Services program has figured as an element of the antipoverty program. Generally speaking, the idea of the Legal Services Corporation has been hailed by the organized bar as well as by agencies concerned with the problems of poverty as a very distinguished element of progress in this field.

Another point which should be emphasized is that of all the programs in the antipoverty field, this one, which in round figures amounts to approximately 7 percent of the aggregate OEO expenditure, has proven itself as making the greatest contribution to the service of dignity of the individual and, therefore, to the hope of redeeming the individual from the syndrome of poverty. Therefore, in my judgment, it is a very signal success.

Give or take the usual problems about what lawyers get into and how they represent their clients, and so forth, I would say that we are dealing here with a highly successful enterprise, which we have, in a sense, happened on, as this program started very small, as being a key element in the redemption of individuals and families from the poverty syndrome, which in many cases goes on for generations.

As I have said, this matter has been before the Senate already on two successive occasions. The Legal Services Corporation was included in the Economic Opportunity Amendments of 1971. In that case, it was part of a bill later vetoed.

Again, in 1972, both Houses included such a provision, but differences between us broke out at the last minute. I was a party to the conference, and we were practically settled, when suddenly a few Members in the other body decided that they wanted to push it further than the provisions which were contained in the Senate bill, and that broke it up, and we did not agree in conference and it was dropped.

Then, we had the introduction of the administration's proposal, which I sponsored, on May 15, 1973, and which is the basis for the bill we are now considering.

In addition, this measure has always been characterized by its bipartisan character; and the bill now before the Senate—this is a critically important point—is based essentially upon what the President requested.

On May 15, 1973, the President sent us a message on his bill to establish a private nonprofit federally funded Legal Services Corporation to which the duties and responsibilities of the parent program in the Office of Economic Opportunity would be transferred.

Before doing anything else I would like to point out that the measure which we have before us now contains the primary criteria which the President set forth in his transmittal message:

> First, that the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice.

I shall outline this in detail at the close of my statement.

Mr. President, what has been presented to the Senate is the "toughest" of various proposals which heretofore have come forth.

Because I think this critically important, I would like to lay the bill side by side with the particulars of the President's message—which is set forth at pages 6 and 7 of the committee report—to show that the bill follows, indeed tracks the President's message.

The corporation which is before us is nonprofit, governed by a board of 11 members appointed by the President, with the advice and consent of the Senate. No more than six members could be of the same political affiliation, and a majority would have to be lawyers. That is exactly what the President asked for.

Second, the corporation would be authorized to make grants or to enter into contracts with individuals, partnerships, firms, organizations, and corporations, as well as with State and local governments for the purpose of providing legal assistance to eligible clients. Again, the provisions of the bill are similar to what the President wanted.

With those provisions, and others in the committee bill, goes what so many of the opponents of the bill like to raise, judicare, and the committee bill gives that a chance by giving them the opportunity to study and demonstrate the ways in which these and other alternative methods of delivery may be employed and to fund State and local governments under certain circumstances.

The next point—which also relates to judicare—is that the corporation can undertake research on the delivery of legal services and to serve as a clearinghouse for information on such services. Embodied in that also is the essential backup centers in respect to "law reform" which has been an important element of legal services rendered so far.

The next point is that legal assistance attorneys would be barred from participating in political activities and from encouraging or participating in strikes, boycotts, picketing, and various forms of civil disturbance. In essence, we provide what the President sought.

The next point provides for a nine-member advisory council which would be established in each State. Again, the committee bill contains authority for such councils, even with the number of members of each advisory council the President requested.

Then, as to the eligibility criteria for the client. Again our provision is very similar to what the President asked for.

Another provision that is important is this. Those who complained about legal services in the antipoverty program have constantly urged it should not render services in criminal proceedings. That is very, very sharply restricted here, so that if there is any such matter it must be essentially civil in nature, as in the case of habeas corpus.

In short, every effort has been made to meet the legitimate views of those who over the years have felt it questionable to render these legal services. This has resulted in fantastic outpourings of support for this bill and the program it contemplates.

The most distinguished statement on the subject naturally comes from the president of the American Bar Association. Indeed, we have had testimony from the American Bar Association on a number of occasions in connection with the proposal to establish a Legal Services Corporation. The president of the American Bar Association has written a letter, and I ask unanimous consent that the letter may be printed in the RECORD.

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

AMERICAN BAR ASSOCIATION,
Washington, D.C., November 12, 1973.

Re S. 2686, National Legal Services Corporation.

Hon. JACOB K. JAVITS,
Subcommittee on Employment, Poverty, and Migratory Labor, New Senate Office Building, Washington, D.C.

DEAR SENATOR JAVITS: On behalf of the American Bar Association I commend you for your leadership in securing favorable committee action on S. 2686 now before the Senate.

The American Bar Association has long been interested in the creation of an independent national legal services corporation and has on three occasions adopted policy positions in support of this concept. I am pleased to inform you that S. 2686, as reported, fully complies with the Association's insistence on assuring the independence of lawyers for the poor to provide professional legal services to clients. I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendments seeking to restrict the independence of lawyers or the access of their clients to our processes of justice be resisted.

Sincerely,

CHESTERFIELD SMITH.

Mr. JAVITS. Mr. President, the concluding sentence of the letter addressed to me and to the members of the minority stated:

I urge that the legislation be speedily and favorably acted upon by the Senate and that any amendment seeking to restrict the independence of lawyers or access of their clients to our justice be resisted.

So potent has been the support we have received in this matter that the administration itself, through former Representative Laird, now counselor to the President, has had a good hard look at the Senate bill and he feels it would be highly constructive if the Senate bill were passed so that we might go to conference, and the indications are they will not stand in the way of expeditious passage.

With respect to the subcommittee bill—essentially that now before us—counselor Laird wrote:

While we differ with some of the specific provisions of the bill as reported, we believe it does include essential principles proposed in the Administration's bill such as independence and accountability of the Corporation, freedom of the attorney to represent his client, and maintenance of a vital program.

Indeed, the administration reserves all its rights in the conference to do everything it can to win whatever point it feels may be in the House bill. But the words are clear as to the Senate. Mr. Laird concludes:

Therefore, we urge that final action be taken on the bill in this general form by the full Committee and by the Senate followed by an expeditious reconciliation of issues with the House passed bill so that the best possible measure may result and a National Legal Services Corporation may be implemented at the earliest opportunity.

That actually occurred through the full committee, which reported the bill unanimously. It is especially significant that in the report by the full committee, Senator TAFT, who entertained very serious reservations about this legislation, now, as well as others on the committee, support it and voted to report it favorably, and insofar as I know, he has no reservations about it now.

Indeed, one of the finest statements in support of the bill is that by Senator TAFT, ranking minority member of the subcommittee, which is included in the report, in which he makes specific comment on the way in which the bill gives safeguards to the various points that have been made in opposition to the measure.

Mr. President, it is rare that a measure so hotly contested, deliberated upon for so long comes to the Senate with a balance of support from Members who formerly disagreed—from those generally described as liberals who felt a much stronger bill was needed, and from the administration in terms of getting this bill underway, and getting the body on record at the conference. But this has been effectuated because of the extraordinary willingness to compromise and listen to reason on the part of Members on both sides of the aisle in the Senate, and the administration itself.

When the President inaugurated a new era in the executive branch of endeavoring to agree with Congress on major measures so that we would not face vetoes—almost in the dark as to what the White House wanted—this bill emerged as a prime example in which that kind of consultation and collaboration could result in a constructive piece of legislation which all agreed was necessary and which nonetheless could be frustrated if this understanding had not developed.

Therefore, I deeply feel that the time has come to act; that exploration, inquiry, the fruits of experience have all been brought to bear upon this measure in an unparalleled degree and with a degree of agreement which has been achieved that is very promising for this very major establishment of a legal services program as an element of the effort to deal constructively with America's great social problem of poverty. From many opposite points of the spectrum there has been shown an ability to agree.

I hope very much, therefore, that here in the Senate, notwithstanding the strong feelings of some of our colleagues—I feel not too many—we may do our part to put this legislation on the road to enactment by expeditiously approving this bill. So I hope very much the committee bill will be passed without substantial amendment and that we will move speedily into conference with the other body, so that the Legal Services Corporation may at last be realized.

I might say there have been more distinguished lawyers who have approached me, as ranking minority member of the committee and a sponsor of this legislation, urging the greatest diligence in bringing this measure into law, now that we have a Senate committee bill and a House bill, than in any other single enterprise that I have ever been engaged in this Chamber, including the great civil rights struggle. I think that is a tribute to the fact that a legal services program has been recognized as the intelligent, constructive, and economic aspect of the struggle against poverty which has, I think, been a brilliant conception on the part of our people, the President, and the Congress within the last decade.

Mr. President, with that general background, I shall now address myself to particular elements of the current program and the committee bill, in terms of the President's own criteria.

THE CURRENT LEGAL SERVICES PROGRAM AND ITS IMPORTANCE

Mr. President, the current legal services program has been one of the "bright lights" in the entire antipoverty effort. Evolving from a pilot program in the early days of the Office of Economic Opportunity, the program now handles 1.5 million separate legal problems a year, serving 500,000 clients, through more than 2,200 full time attorneys, working in 256 local projects out of 900 neighborhood offices and 16 backup centers as well as related efforts throughout the Nation.

It has been a cost-effective effort, recovering each year in benefits to the poor, much beyond its annual appropriations, now at the level of $71.5 million.

It has been a successful program where it has chosen to litigate. A 1969 study shows that 83 percent of its cases were settled and, where it chose to go to court, it won in 85 percent, thus contradicting the view that it indulges itself in litigation for frivolous causes.

It has been a crucial program, in terms of "intangibles" as well, by increasing the faith of the poor in the system, providing a bridge to the "establishment" and thus contributing to the poor's sense of dignity and participation in our society.

As stated so accurately by George W. Moore, appearing on behalf of the National Clients Council before the Subcommittee on Employment, Manpower, and Poverty on October 9, 1970:

We clients did not start out believing blindly that the law was our friend, that the courts would do justice and that lawyers were fighters for equal justice for the poor. In fact, we started by fearing the law as the enemy; fearing lawyers and the courts as a part of a system which repossessed our furniture, evicted us, garnished our salaries, and sent our children to reform school. This program has won our trust—a precarious trust, but a growing trust, among minority groups. We know, at least so far, that the attorney in this program owes his full loyalty to his client and only to his client—not to some politician. If the poor lose faith in this program, in the possibility of equal justice through law, then all of us know the alternative that remains.

These and other values of the program were testified to by very distinguished members of the bar, and officials of the program conducted in New York City, during field hearings of the subcommittee, which I chaired on May 7, 1973.

THE NEED FOR AN INDEPENDENT CORPORATION

Mr. President, as it has sought to provide for equal justice under law, the program has become controversial and embattled.

It has been threatened at times by interference within the executive branch, by Governors' vetoes, and by congressional efforts to make the Governors veto provision "final" or "absolute" or other-

wise to restrict the ability of an attorney to represent his client.

These assaults have been fueled at times because of specific cases where attorneys in the program have exercised questionable judgment, but for the most part, opposition has arisen because, as noted by the President in his message to the Congress of May 5, 1971:

Much of the litigation initiated by legal services has placed it in direct conflict with local and State governments. The program is concerned with social issues and is thus subject to unusually strong political pressures.

Mr. President, in May 1971, President Nixon, following upon recommendations by the American Bar Association, his own Commission on Executive Organization—headed by now OMB Director Ash, and Members of the Congress, proposed legislation to have the program transferred to a new independent nonprofit corporation, patterned after the Corporation for Public Broadcasting and free of the Governors' veto.

In submitting his proposal, the President stated:

Even though surrounded by controversy, this program can provide a most effective mechanism for settling differences and securing justice within the system and not on the streets. For many of our citizens, legal services has reaffirmed faith in our government of laws. However, if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice.

Unfortunately, as I indicated earlier while the Congress agreed with the President on the concept, it differed on terms, particularly on the composition of the Board of Directors; as a result, a legal services measure passed by the Congress as a part of the OEO extension in 1971 was vetoed, and a similar measure was dropped in conference in 1972.

THE COMMITTEE BILL IS DESIGNED TO MEET THE PRESIDENT'S OWN CRITERIA

Mr. President, we stand again—and perhaps for the last time—at the brink of making this program a "permanent part of our system of justice."

The committee bill has been carefully designed from the administration's own measure—including exactly the administration's proposal for the composition of the board—to meet the President's own criteria and specifications with respect to the establishment of the corporation and its new charter.

As stated in President Nixon's message to the Congress of May 5, 1971, and reiterated in his message of May 11, 1973, calling for the establishment of a Legal Services Corporation, the principal elements are:

First, that the corporation itself be structured and financed so that it will be assured of *independence; second*, that the lawyers in the program have *full freedom* to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and *third*, that the Nation be encouraged to continue giving the program the *support* it needs in order to become a permanent and *vital part of the American system of justice*." (Emphasis added.)

Moreover, equally important criteria are, as also emphasized in the President's messages, that the corporation be "accountable" to the public and the poor and that the program be operated in "a responsible manner."

Mr. President, these criteria add up to the central objective of the legislation—to free the program from outside political influence—so that it can operate professionally, and to provide new safeguards to insure that it will operate professionally.

As a sponsor of this proposal and as ranking minority member of the committee, I consider it my duty to state specifically and in detail for Members of the Senate how the provisions of the bill operate to meet these five key criteria and objectives.

THE BOARD OF DIRECTORS AND OTHER ELEMENTS OF BASIC STRUCTURE

Mr. President, the principal foundation for all of these elements is in the structure of the Board, set forth in section 1004(a) of the committee bill.

Under the committee bill, following exactly the administration's proposal, the program would be administered by an 11-member board, appointed by the President and subject to the advice and consent of the Senate.

And key to those provisions and reflective of our major purposes, are the requirements that a majority shall be members of the bar and not more than six shall be of the same party.

This composition—professional, as opposed to political—stands as the best guarantee of independence, freedom of the attorney, and vitality of the program.

Its method of selection, by the Executive and the Congress, provides strong elements of accountability.

And at the same time, it provides assurances of conduct of the program responsibility because, for the first time, it would essentially be the bar itself that would run the program.

To these ends, I note and support the criteria set forth on page 10 of the committee report which committee members intend to apply in considering the President's nominations, to insure members who are representative, committed to independence, and understanding of the purposes of this act.

Other elements of the corporation and board structure following very closely the administration's bill—are designed to maintain independence, consistent with accountability:

Terms of the members of the board are to be staggered—section 1004(b).

Except for the initial chairman, the chairman of the board is to be elected by the board—section 1004(d).

Removal of members of the board is to be by vote of seven board members, and then only for malfeasance in office or for persistent neglect or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause—section 1004(e).

The board appoints the president—the chief executive officer—of the corporation and other corporation officers—section 1005(a).

The President of the corporation is authorized to appoint and remove employees of the corporation—section 1005(b).

PROGRAMMATIC ELEMENTS

Mr. President, these key elements—independence, freedom of the attorney, vitality, accountability, and responsibility—thread their way also through the charter given to the new corporation and related provisions.

First, independence.

Independence is derived not only by the establishment of the corporation itself and the composition of the board and related structures, but by a number of other provisions:

Appropriations may be made for 3-year periods to insure independence, as proposed by the administration—section 1010.

Except as discussed below, the corporation has wide latitude for funding legal services efforts—section 1006(a); importantly, this includes backup centers which have been such an important element of the program.

Except as specifically provided, no director, agency, officer or employee of the corporation is deemed authorized to exercise any direction, supervision, or control with respect to the corporation's activities—section 1013.

The program would no longer be subject to the Governors' veto.

Second, full freedom of the attorney to protect the best interests of his client in keeping with the canons of ethics and the high standards of the legal profession.

Mr. President, in addition to the freedom which will derive generally from the independence of the corporation, the bill contains a number of other elements to that end.

A key to that freedom is the fact that the corporation is to provide legal assistance principally through individuals, partnerships, firms, and nonprofit organizations and corporations, thus preserving the currently applicable "staff attorney" approach.

The committee bill and the committee report make it clear that only in limited cases, where staff attorney means will not be adequate, may the corporation fund State and local governments—section 1006(a).

This is essential to freedom of the attorney to represent his client without interference, since as noted by the President, State and local governments are often the defendants in actions brought on behalf of poor citizens; to permit such governments to conduct the programs in the normal case may create a conflict of interest. It would be counterproductive indeed, after freeing the program from political influence at the Federal level, to surrender it to political influence at the State and local level.

There are a number of specific safeguards in the bill to further insure that an attorney in a legal services program may, like other attorneys, fully represent his client:

The corporation shall not interfere with an attorney's professional responsibilities—section 1006(b)(3).

Personnel of the corporation may testify or make other appropriate com-

ments when formally requested by a legislative body, a committee or member thereof, or in connection with legislation or appropriations directly affecting the corporation—section 1006(c).

An attorney may provide legal advice and representation where necessary as an attorney with respect to ballot measures, initiatives, or referendum—section 1006(d)(4).

The corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney/client relationships, and the protection of the integrity of the adversary process in furnishing legal assistance to eligible clients—section 1007(a)(1).

An attorney may directly or indirectly undertake to influence the passage or defeat of any legislation when the attorney is acting as an attorney for specific eligible clients or requested by a legislative body, a committee or a member thereof—section 1007(a)(5).

An attorney as an attorney may advise and represent a client in regard to political activity—section 1007(a)(6).

An attorney may provide legal assistance in certain cases involving children under 18 years of age—section 1007(b)(4).

An attorney can render legal advice and representation as an attorney for a specific eligible client in connection with the establishment of organizations, et cetera; for example, community economic development corporations—section 1007(b)(6).

Third, support and vitality.

Support and vitality will derive from independence and freedom prudently exercised by the corporation and its grantees under the guidance of the organized bar.

But two other elements are essential and are addressed in this bill: Adequate funding and administrative continuity.

Mr. President, as the sorry experience of the past fiscal year points up tragically—as dismantlement of OEO was unsuccessfully attempted—the vitality of a program in terms of morale and cost-effectiveness is undermined whenever the flow of funds from the Federal level to the local level is interrupted or held back or directives are imposed without sufficient time for administrative adjustment.

The committee bill authorizes $71.5 million for fiscal year 1974, the administration's own level, but authorizes $90.0 million for fiscal year 1975, $100 million for fiscal year 1976 and thereafter; it is anticipated that the situation will be reviewed before fiscal year 1975.

The bill contains the following safeguards to insure that that flow of funds appropriated by the Congress are not wrongfully interrupted at the local level:

Interim funding must be provided to maintain legal assistance activities pending final action on a refunding application—section 1007(a)(8).

Reasonable notice and opportunity to reply must be given before suspension of financial assistance—section 1011.

No rules, regulations, or guidelines may become effective until 30 days after initial publication—section 1008(b).

Mr. President, a key element of the vitality of the existing program, is its administration through the so-called "staff attorney" system, that is, lawyers hired by grantees.

There are a number of persons who believe that other approaches—such as "judicare"—might be more advantageous.

To test these approaches, section 1007(g) requires the corporation to provide for a comprehensive independent study of the existing staff-attorney program, and through the use of appropriate demonstration projects, of alternative and supplemental methods of delivery of legal services, including judicare, vouchers, prepaid legal insurance, and contracts with law firms.

Fourth, accountability.

Mr. President, while the program is to be independent of political control, it is to remain accountable—that is, liable to be called to account—by the legislative and executive branches of the Federal Government, ad the public generally, through the board and appropriations provisions and the following:

Retention of the right to repeal, alter or amend the title at any time—section 1015.

Retention of the authority of the Office of Management and Budget with respect to review of the budget—section 1013(b).

Financial auditing of the corporation and its grantees by the General Accounting Office—section 1009.

Application of the Freedom of Information Act and all regulations are subject to publication and comment—section 1008.

Open meetings of the board in most cases—section 1004(g).

It is to be generally accountable to—although not under the control of—State and local officials.

The Governor of each State is authorized to appoint a nine-member advisory council for the State, which council is charged with notifying the corporation of any apparent violation of the law, applicable rules or regulations—section 1004(f).

There must be public announcement and notification of the Governor at least 30 days prior to making a grant or contract—section 1007(g).

Mr. President, importantly, the corporation and its activities are also to be "accountable" to the poor—for whose benefit this legislation is enacted.

To that end, the bill includes provisions:

Under which the corporation is established under a new title to the Economic Opportunity Act of 1964, the principal statutory source of programs to deal with poverty—section 1.

For the establishment of the board, a National Advisory Committee, and for creation of a governing body for each program, in each case, including clients—section 1004(i); section 1007(c).

For adequate provision of legal assistance to eligible clients who speak a language other than English as their predominant language—section 1006(b)(6).

For establishment of priorities to insure that those least able to afford legal assistance are given preference—section 1007(a)(2).

For equitable services to significant segments of the population of eligible clients—section 1007(a)(3); this may include assistance to groups such as the elderly and the Jewish poor and others, who reside outside of poverty areas.

Mr. President, the program is to be accountable also to the organized bar, which after all, has a clear interest, through its involvement in the corporation and otherwise, to insure it is operated professionally:

Attorneys are to be represented on the National Advisory Committee, as well as the board—section 1004(i).

The State Advisory Council, like the board itself, is to be made up of attorneys, appointed after consultation with the State bar associations—section 1004(f).

The governing body for each project recipient must include a majority of lawyers—section 1007(c).

Fifth, responsible conduct of the program.

The elements of accountability will obviously be of little value without a careful definition of what the program is to be accountable for or responsible for assuring.

Accordingly this bill includes a series of explicit "don'ts" directed at preventing any abuses—particularly in the areas of political activity—that could represent a departure from professional and responsible operation of the program.

Freedom to represent one's clients, like other attorneys, is under no circumstances to be construed under this measure as license to use Federal funds for the advancement of one's own political views.

To that end, the following provisions are designed to limit political activity:

The corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment to any political party or the campaign of any candidate for public or party office—section 1006(d)(3).

No employee of the corporation or any recipient shall, while carrying out legal assistance activities, engage in or encourage others to engage in any public demonstration, or picketing, boycott or strike; no employee may at any time engage in or encourage others to engage in any rioting, civil disturbance, violation of a court injunction, or any other illegal activities. This provides additional safeguards against even the appearance of wrongdoing. No employee may at any time intentionally identify the corporation or any recipient with any political activity—section 1006(b)(5).

The corporation and recipients shall not contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing ballot measure, initiatives, or referendums, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities—section 1006(d)(4).

The corporation shall insure that all attorneys engaged in legal assistance

supported in whole or in part by the corporation refrain, while so engaged, from any political activity associated with a political party or association or a candidate for public or party office, voter transportation to the polls, or any voter registration activity, except as necessary to the provision of legal advice and representation by an attorney as an attorney for any eligible client with respect to such client's legal rights and responsibilities. The corporation shall also insure that any attorney receiving a majority of his annual professional income from legal assistance activities supported in whole or in part by the corporation refrain from political activities prohibited by clause (1) and (3) of section 1502(a) of title 5, United States Code—Hatch Act provisions—section 1007(a)(6).

Prohibition against support for training programs for the purpose of advocating, as distinguished from disseminating information about, particular public policies, or encouraging political activities, labor or antilabor activities, or any illegal boycott, picketing, strikes or demonstrations—section 1007(b)(5).

Another concern relating to political activity has been with the so-called legislative lobby. Again the bill contains a number of provisions to limit lobbying to those areas clearly related to the duty of an attorney with respect to specific clients:

The corporation shall not participate in litigation on behalf of clients other than the corporation or undertake to influence the passage or defeat of any legislation by Congress or by any State or local legislative bodies, except that personnel of the corporation may testify or make other appropriate communication when formally requested by a legislative body, a committee, or a member thereof, or in connection with legislation or appropriations directly affecting the corporation—section 1006(c).

No funds made available to recipients by the corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by Congress or by State or local legislative bodies, except where representation by an attorney as an attorney for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities, or where a legislative body, a committee, or a member thereof requests personnel of any recipient to make representation thereto—section 1007(a)(5).

Other provisions of the bill are designed to insure that the program operates in a professional, responsible and efficient manner and that it maintains its focus on the basic purpose of providing legal services to the poor:

Services are to be provided essentially to civil matters as under current law—section 1003; section 1007(b)(1).

No attorney shall be compensated for the provision of legal assistance under the title unless the attorney is admitted or otherwise authorized by law, rule, or regulation to practice law or provide legal assistance in the jurisdiction where such assistance is initiated—section 1006(b)(4).

Attorneys employed full time shall refrain from any outside practice of law for compensation; guidelines issued by the corporation will cover uncompensated outside practice—section 1007(a)(4).

Recipients are required to establish guidelines for a system for review of appeals to insure the efficient utilization of resources and to avoid frivolous appeals—section 1007(a)(7).

Grants or contracts with public interest law firms litigating in the broad interest of the majority of the public are prohibited—section 1007(b)(3).

Support is prohibited for training programs for the purpose of advocating—as opposed to disseminating information about—public policies—section 1007(b)(5).

Funds may not be used to organize, assist to organize organizations—except for the rendering of legal assistance—section 1007(b)(6).

Mr. President, the corporation subject to due process considerations has been given very strong authority to enforce these and other provisions of the law:

The corporation is directed to promulgate regulations to insure compliance, including provision for termination of financial support—section 1006(b)(1).

Additionally, a recipient which finds a violation must take appropriate remedial or disciplinary action—section 1006(b)(2).

The corporation must insure the maintenance of the highest quality of service and professional standards—section 1007(a)(1).

Mr. President, the current legal services program operates under the authority of one simple paragraph of the Economic Opportunity Act of 1964. That paragraph contained in section 222(a)(3) provides in its essential part as follows:

(3) A "Legal Services" program to further the cause of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions and by providing legal advice, legal representation, legal counseling, education in legal matters, and other appropriate legal services. Projects involving legal advice and representation shall be carried on in a way that assures maintenance of a lawyer-client relationship consistent with the best standards of the legal profession. The Director shall make arrangements under which the State bar association and the principal local bar associations in the community to be served by any proposed project authorized by this paragraph shall be consulted and afforded or funded, and to submit to the Director comments and recommendations on the operations of such project, if approved and funded.

As the program has expanded and carried out its job, we have had very highly emotional debates in this body and elsewhere over the conduct of the program under that paragraph, often watching the program on almost a "case-by-case" basis.

Mr. President, once given an independent and secure structure and a new and more specific charter, then I believe that the program can be given confidently to the professional bar, through their membership on the board and related boards and committees, and that they, subject to the general review of the three branches of the Federal Government, as well as State and local government, will administer a truly professional program.

As stated by the President's Commission on Executive Organization in recommending establishment of a nonprofit corporation:

We must have the necessary confidence in the legal profession and the judiciary to assure that the Corporation and its grantees will be continually monitored and measured by the professional standards applicable to all the components of our justice system.

If this confidence is not well founded, then the Congress, as well as the executive branch, retains all of the right and power to step back in.

The board is like a "trustee" and the charter which I have described is analogous to the "trust document."

If the trustee breaches its trust by departing from his charter or putting funds in irresponsible hands, then the power can be revoked, but in the meantime we will not watch over or interfere with every "investment" he makes in terms of legal services for the poor.

Mr. President, in that spirit and for the reasons I have cited, I hope very much that the committee bill will be passed without substantive amendment and that we will move speedily into conference with the House of Representatives, so that the legal services corporation may at last be secured.

Mr. President, I ask unanimous consent that, appended to my remarks, may appear very recent editorials favoring the bill from the Washington Star-News of December 8 and from the Washington Post of December 10.

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

[From the Washington Star-News, Dec. 8, 1973]

LEGAL-AID COMPROMISE

In the brief time remaining before adjournment, Congress should exert the extra effort required for a final decision on continuation of legal services for the poor. Certainly the delay in determining what to do with this worthy program—which is surviving rather desperately within the decimated Office of Economic Opportunity—has dragged on far too long. But now, thanks to recent action by the Senate Labor and Public Welfare Committee, the stalemate can be broken.

What emerged from the committee was a compromise bill that seems to settle Congress' main differences with the Nixon administration on this long debated matter. In this legislation, which we hope the Senate will act upon speedily, the administration has won its point. But the point isn't so vital as to justify any additional, lengthy haggling, which can only prove fruitless. This is affirmed by the fate of past legislation that foundered on the presidential veto, because Congress insisted on allowing the President to appoint less than half the board members who would govern the program. President Nixon wanted to name all of them, and that's what the Senate committee's bill would permit, with Senate confirmation of nominees.

But the board would have a bipartisan structure, and on the main aspect of this innovation there is no disagreement between

Mr. Nixon and Congress. Both favor creation of a separate and independent legal services corporation, which could serve the needs of poor people without political interference. The Senate measure would achieve this admirably, while prohibiting unseemly lobbying or political activity by legal services lawyers. Such abuses have occurred in the past, but they are isolated exceptions to the multitude of vital services provided to impoverished Americans in routine legal matters. And the poor certainly must be assured of access to the courts, through such a federally funded endeavor, if the system of justice is to maintain respect.

Nonetheless, much quarreling may lie ahead in a conference committee, because the House has passed a bill loaded with restrictive amendments. This Senate legislation—a sensible compromise between conservatives and liberal points of view—deserves to prevail.

[From the Washington Post, Dec. 10, 1973]

THE LEGAL SERVICES BILL

After a long and tortured legislative journey from the House floor where it was mangled on June 21, the legal services bill finally comes to the floor of the Senate today. From the standpoint of those who wanted a strong independent legal services corporation, it is not a perfect bill, but it is an acceptable one. Moreover, it represents an honest effort by the White House and the Senate Labor and Public Welfare Committee to work out legislation that will satisfy the legal representation needs of the poor and also assure the President that he retains some control over a program that his administration has found controversial in the past.

The committee bill represents true compromise by both sides. Legal services advocates have receded substantially from hard positions of earlier years. The entire board, for example, will be appointed by the President. Advisory committees will be established in each state to monitor legal services activities. Finally, though the committee bill will permit many activities that would have been proscribed by the House, the tone of the legislation is essentially negative, giving rise to the possibility of narrow interpretations of authority or, at least, to long wrangles over numerous questions of authority.

On the other hand, there are victories for legal services advocates, too. Legal backup centers—a vital resource system for the program—have been restored. The House-imposed prohibition on representation before legislative bodies has been removed—as long as eligible clients are involved. In addition, a provision that would have required legal services offices to pay legal costs and fees in affirmative action cases which they brought and lost has been eliminated.

Despite the honest and tedious effort of Senate liberals and the White House to bring off an acceptable compromise, opponents of the program continue to hammer away with horror stories about how the program has been abused in the past. The stories don't stand scrutiny. An analysis of over 70 cases of abuse shows that almost half of them are untrue. One such story, for example, attributes to a legal services program in Boston the actions of a private law firm in that city. In another 20 percent of the cases, the stories are true but in no way horrible, for they involve legitimate program activities. Only 3 percent of the cases represent instances in which the stories are true and no disciplinary action was taken. In all of those instances, the prohibited practices have been discontinued.

So, the Senate is faced with a situation in which the White House has made an honest effort to make good on the President's pledge to establish an independent legal services program and Senate liberals have been accommodating. There is no need for further compromise. The Senate should pass the bill promptly and the White House should continue its firm support through the House-Senate conference. The administration could do no better by the President's standing commitment to legal services—and his new Vice President's "dedication to the rule of law and equal justice for all Americans"—than to see this bill through to enactment.

Mr. TAFT. Mr. President, our governmental system is one founded upon law. Equal access to the procedural system that considers an individual's rights and obligations under the law is essential for all citizens. Historically, such access has been provided for principally by private lawyer-client relationships with the financial ability of the client to secure such an arrangement often the determining factor as to the availability and the quality of the relationship. This procedure presents serious obstacles to economically disadvantaged members of our society and is repugnant to the constitutional requirement of equal justice under law. Attempts to correct this imbalance by the legal community have been advanced through the implementation of numerous legal aid and public defender programs since the early 1900's. These programs developed internally within the legal profession and proved not to be numerous enough or broad enough in scope to provide equal opportunity in meeting the legal needs for the economically disadvantaged. Recognizing this fact, an experimental legal services program to provide free legal assistance for low-income persons was initiated by the Federal Government in 1965 in the Office of Economic Opportunity with a budget of $600,000. This concept achieved acceptance in the Congress and the legal community in the following years and is represented by a Federal commitment at the rate of $71.5 million for the current fiscal year.

The committee bill is a refinement of the experience of the legal services program in the Office of Economic Opportunity and is a major step forward in insuring delivery of legal services to all Americans. The work and input leading to the proposal has come from not only many Members of the Congress and their staffs, but also as a result of initiatives and excellent cooperation from the administration, various bar organizations, and individual advocates of strong legal service programs.

I realize that some of my colleagues may have questions about certain aspects of this legislation, especially in light of the rather controversial history that similar proposals have experienced. I am very much aware of the concerns many of my colleagues may have with regard to the areas of lobbying and political activity, or on the other hand, the suggestion that Federal assistance for legal services be incorporated into a revenue-sharing type of plan.

Quite frankly, I initially approached this subject with similar thoughts and concerns. After extensive staff research, consultations with my colleagues on the committee, and discussions with the administration, however, I found my concerns could be resolved by the specific statutory language contained in this proposal.

I believe the safeguards adopted for lobbying and political activity merit positive consideration of the Senate as such safeguards represent a sound and flexible approach without jeopardizing the mandate of the Corporation to provide Legal Services to the economically disadvantaged.

While a revenue-sharing approach is not specifically adopted, States may receive grants for programs under certain circumstances and will have an opportunity through State advisory boards and notice provisions to monitor the legal services provided within their State by the Corporation. Provisions are also included to permit experimentation with alternative types of delivery systems of legal services to the economically disadvantaged.

It is also important to examine the powers and directives that are given to the controlling board of the Corporation all of whom are Presidentially appointed, to issue rules and regulations to insure the corporation is conducting its activities within the statutory guidelines and pursuant to the congressional mandate.

The constructive balance that has been reached on these points and other under the excellent leadership of Senators NELSON and JAVITS should be reviewed by all Members with the understanding that without compromise, opportunity for passage and approval of this legislation would be greatly jeopardized. Further, assuming this legislation is approved by the Senate, a comprehensive consideration of the proposal can be expected in conference committee deliberations with the House which has approved a much more restrictive approach to this area. I, therefore, will support the proposal as reported without offering major substantive amendments and would urge my colleagues to consider a similar approach to this extremely important legislative proposal.

Mr. President, my staff and I have been in contact with many members of the bar from the State of Ohio regarding this legislation and have worked closely with the Ohio State Bar Association. The president of the association, Mr. Walter A. Porter of Dayton, Ohio, has forwarded numerous recommendations to our office regarding this legislation and I ask unanimous consent that Mr. Porter's letter of November 26, 1973, expressing support for S. 2686, be printed in the RECORD.

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

OHIO STATE BAR ASSOCIATION,
Columbus, Ohio, November 26, 1973.

Hon. ROBERT TAFT, Jr.,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TAFT: Following receipt of your letter of November 14, 1973, I forwarded copies of S. 2686 with the Senate Report to members of our staff and officers of the Ohio State Legal Services Association.

As you know, representatives of our Association have been in contact with your office on a regular basis since last May when the legislation was introduced. I therefore feel that you are familiar with our position on this bill.

We are keenly aware of the legislative compromises that must be made to enact

an effective legal services corporation bill. Therefore, while we do have some criticisms of the bill as proposed, we urge that you continue to support the bill as reported out of the Senate Committee and to oppose any amendments which will further restrict the activities of legal services attorneys in providing quality representation to their clients.

It remains our conviction that legal services programs and attorneys must be governed by the Canons of Professional Responsibility and by the local associations and State Supreme Courts who have the duties of policing the conduct of attorneys within their jurisdictions. We oppose any provisions in the legislation which restrict the professional activities of legal services attorneys since such restrictions force legal services attorneys to compromise the Canons in their representation of clients. For example, if Congress prohibits legal services attorneys from representing clients before State Legislatures, those attorneys would be more restricted than attorneys in private practice who deem the Legislature the best forum within which to plead clients' causes. Thus, the poor would be provided with *less effective* counsel in that their attorneys would not be free to represent them zealously within the bounds of the Canons, which encourage attorneys to represent clients before legislative bodies.

We remain firmly committed to the support of a legal services corporation bill which will be totally independent of political influence and afford legal services attorneys the opportunities to provide quality representation to their clients.

Again, I want to express the thanks of our Association for your continued interest in this very important legislation. We are deeply appreciative of your comments printed in connection with the Senate Report. If I can be of any further service to you in any way, please feel free to call upon me.

Sincerely yours,

WALTER A. PORTER.

Mr. ABOUREZK. Mr. President, I want to say a few words in support of one of the finest social programs in the history of this country. I want to rise in support of the legal services program and of the bill which has emerged from the Committee on Labor and Public Welfare.

Some of you may be aware that there was a series of very severe floods in South Dakota last year, particularly in the area around Rapid City. Many families were left homeless. Many were without jobs. The Black Hills Legal Services project was established to try and meet the legal needs of these people. It rose to the occasion in a magnificent fashion.

They immediately began negotiating with HUD officials to secure a substantial reduction for low-income families in the charges for space in temporary trailer parks. They persuaded HUD of the necessity of installing lighting in such parks. They convinced the local police that these parks, filled with families which scarcely knew one another by sight, posed special law enforcement problems, and secured extra police protection for the camp residents.

When Indian clients of the SBA complained that the property which they had lost in the flooding was being undervalued by Government assessors, the project immediately got the local Community Action project to find personnel for an independent audit, on the basis of which greater claims could be substantiated.

Now this was all being done by three young lawyers whose current caseload is approximately 600 to 700 open cases. Many of those cases reflect the routine legal difficulties of the poor. Many others are a reflection of the terrible disadvantages that saddle those without funds. In my State, for example, unemployed fathers are not eligible for support from public welfare. When the floods hit, existing high unemployment was only made worse. And, as always, there were crafty men prepared to exploit that situation. Several fly-by-night companies came into the State, they obtained contracts to do ditching and cleanup work from the public authorities, hired local unemployed men to do the job, collected, and then absconded from the State leaving their unpaid workers behind.

The Legal Services project is representing many of these workers. Where would they have been able to turn for legal help if it were not for the Legal Services program? These men have no money to pay for private counsel. They would have not even the possibility of redress without Legal Services.

Many people in the Rapid City area live in hotels and motels. Alternate housing simply is not available. One such tenant was a young Indian girl, Ms. Juanita Blue Thunder, in town on a Bureau of Indian Affairs scholarship. She had a dispute with her landlord over the rent, and he seized all of her personal belongings. He claimed he could do that under an ancient law that permits innkeepers to take a lien on the baggage of their guests and to seize it without a prior legal hearing on whether the bill presented is fair or not. This law was obviously designed to protect innkeepers against transient guests. It was not designed for the long-term tenant.

Legal Services lawyers agreed to take Ms. Blue Thunder's case. They discovered that other landlords were using the same ancient rule and that no one had challenged their right to do so. When they argued the issue before the South Dakota Circuit Court, the judge said that anyone who spends more than 4 weeks in a hotel is not a guest but is a tenant, and has the right to a fair hearing on his dispute with the landlord.

Now Blue Thunder against Richards is not an earth-shaking case. But it was a class action, and it was precisely what the Legal Services program means when it speaks of law reform. This young Indian woman and her Legal Services lawyers secured not only her rights but the rights of all others who were similarly situated and who were being similarly exploited. If it were not for the Legal Services program, she might never have found a lawyer and the legal issue might never have been raised in court.

But Legal Services cannot handle all the cases that come to them. Many they have to refer out. In this calendar year alone, Legal Services of South Dakota has referred cases to private attorneys in which more than $250,000 in verdicts have been won.

I think all of us are agreed that the provision of legal services to the poorest fifth of our population is an important goal. I want to see that done, and I want to see it done free from partisan control in Washington, and free from the kinds of political disputes at the local level that revenue sharing would inevitably bring. I think partisanship has its place. I think revenue sharing has its place. But, when the partisans of revenue sharing speak of giving control to local government, I have to ask myself whether local government should be involved in controlling certain kinds of professional relationships. I think the strength of the Legal Services program has been that, while it may sometimes be controversial, it has always been professional. It has received the support not only of the American Bar Association but also of the South Dakota Bar Association, because it has tried to stay out of politics, and has tried to offer to its clients precisely the same range of services, and precisely the same quality of service that they could obtain if they had money to hire private professional counsel of the finest sort from firms with expertise in the areas of the law which most affect them and with adequate research departments to back them up in those legal areas where it is necessary.

I want to see that kind of a Legal Services program preserved. I think the pending bill as it emerged from committee will do that, if the corporation's board is wisely selected. I am opposed to the notion that Washington should seek to pick an attorney's forums for him. I am opposed to the notion that Washington should seek to tell him what arguments he can raise or what kinds of cases he can handle for his clients. I am in favor of the bill as it has been reported to the floor.

Mr. HANSEN. Mr. President, so very often the Senate is forced to consider deficient solutions to national dilemmas because of the immediacy of the need for resolution. Repeatedly we evaluate the magnitude of the problem and only minimally the detriments of the proposed machinery.

This situation is amply demonstrated by the Legal Services bill. No one of conscience denies the affliction of poverty on many of our citizens or their need for legal alleviation. Unfortunately, the Legal Services bill has detrimental aspects to everyone, without discrimination as to their pecuniary status.

This Legal Services bill provides once again for the courts to be a body for legislation, and for Federal financing to bypass the deliberative function of the Congress.

Today, people claim rights to what was once regarded as a helping hand to alleviate misery. Complete law courses are now taught on welfare rights.

Mr. President, no one believes more firmly than I that persons minus financial resources should be entitled to counsel to interpret the law and promulgate justice. I deny the premise that these same persons have the right to change the law other than through their properly elected representatives. While funding must be provided for protection under the law, we should not pay for suits against ourselves.

Finding No. 5 of the bill states that—

To preserve the strength of the legal services program it must be insulated from political pressures.

Such a truism does not contradict a conclusion that the machinery of this legislation should not be a political pressure. The obvious intent is to insulate these judicial functions from political and lawmaking processes, but an inadequate insurance has been provided to guarantee that the lawmaking process is isolated from the activity of a few overzealous reformers.

My expectations for this legislation were what the President called—

A legal services program which gives the poor the help they need; which is free and independent of political pressures and which includes safeguards to insure that it operates in a responsible manner.

The safeguards in the Legal Services bill are admirable and meet the problem in concrete terms. However, the exceptions negate the essence of what has been accomplished. The exception dominates the restriction.

If this were a solitary problem, the situation would be sufficiently severe, but the bill is filled with ambiguous language which provides insignificant improvement over the status quo.

Mr. President, I think that a further objective should be an approach that does not create a separate class of attorneys. It would seem a desirable alternative to provide an individual more freedom in choosing his attorney.

Since many legal problems revolve around State legislation, State definitions, and State programs, it would seem that the States might provide a more adequate alternative.

It is my fervent hope that legal problems of the poor can be solved without funding a school for ideological and social change that is our responsibility to consider.

Mr. INOUYE. Mr. President, in Hawaii, the OEO sponsored Hawaii Legal Services projects of the Legal Aid Society of Hawaii gives legal advice and representation to poor persons throughout the State. During the past year, over 5,000 persons who could not otherwise obtain the services of an attorney were assisted by Legal Services project lawyers. Some of these lawyers must reach their clients by air or by driving extended distances. The project's caseload is a varied one, including adoptions, guardianships, divorces, sales contract disputes, landlord-tenant problems, and administrative law matters. Earlier this year, the senate of the State of Hawaii commended the Hawaii Legal Services project for "its excellent efforts in behalf of the poor."

S. 2686 providing for a National Legal Services Corporation is a more restrictive measure than I would like. It is, however, a workable compromise which will provide for the continued existence of a National Legal Services program. In particular, I support S. 2686 because it makes attorneys for the poor as free as are private attorneys to give their clients the best and most complete representation possible.

Mr. MATHIAS. Mr. President, if the concept upon which our Republic was founded—equal justice under the law—is to have any meaning in our adversary system of legal representation, then every individual must be provided the means whereby he can enforce his rights and redress his grievances. The Legal Services Corporation bill is a great step in providing the opportunity to do just this. It creates an independent structure to assure many Americans that they will have the assistance of a competent lawyer to pursue their just objectives, aggressively, but within the framework of our judicial system.

I have seen the potential to accomplish this in my own State of Maryland. The legal aid bureau, through funding received from OEO since 1966, has provided lawyers throughout the Baltimore metropolitan area and in those very areas where low-income populations are most prevalent. This program has provided a law firm for the poor which, in its last year of operation, served over 35,000 low-income citizens. The most common thread in all these cases was a lack of money to pay a lawyer. The legal problems handled by these poverty lawyers covered the myriad day-to-day crises of the poor—evictions from homes, family problems, overreaching by unethical fly-by-night merchants, and countless problems with the bureaucracy of governmental agencies that touch upon the lives of the poor on a daily basis.

Mr. President, I ask unanimous consent that the text from the annual report of the Legal Aid Bureau of Baltimore be included in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. MATHIAS. That report shows, among other things, the great diversity in the types of cases being handled by the bureau. While a few major controversies command the headlines, it is the mundane and routine cases which are the real news as the rights of individual Americans are established and secured.

The bill creating the Legal Service Corporation comes to us after a great deal of debate and study in committee. It represents a thoughtful compromise of the issues which were in controversy. For example, there are checks on any kind of partisan political activity by Legal Services lawyers, assuring that legislative advocacy is solely to pursue the objectives of the low-income client community. The existence of backup centers for legal research activities on behalf of poverty attorneys with crushing caseloads is also provided. Of importance is the composition and selection of board members and the establishment of national and local advisory boards to assure input from every level. But most important, perhaps, is the clearly recognized protection in the bill of the vital attorney-client relationship.

The bill in short provides assurance to the low-income community of a meaningful commitment by our Government to the principle, equal justice under the law. I support the Legal Service bill, and hope that its passage will result in the continued establishment of a legal tradition which assures to all Americans the opportunity to be adequately represented by our legal system.

This occasion should not pass without acknowledgment of another frontier in legal representation, that of providing adequate legal representation for those who do not qualify for poverty representation but who nevertheless need representation and for whom such representation is a financial strain.

Ours is a society that has become increasingly complicated. The purchase of homes, the purchase of automobiles, the use of short-term credit arrangements, the protection of warranties, the role of insurance in personal protection and estate—all of these and many more pressing problems generally yield minor legal fees but can be of major importance to the individual involved. The result is a gap in the delivery of legal services to many Americans who fail to qualify under programs for the poor but who, nevertheless, do not have adequate resources to obtain legal assistance.

A recent Harris poll shows that only 24 percent of the public has a favorable opinion of the legal profession. This should be a source of great concern to lawyers. I believe that this unfavorable opinion is due less to Watergate fallout than to the gap in delivery of legal services.

The problem is a difficult one. Hard-pressed private practitioners are dependent upon a finite resource for their livelihood—time. What may appear to an individual with a legal problem as a callous or mercenary indifference to that problem may in fact be merely a reflection of the economic realities of the time squeeze.

The problem of delivery of legal services to the middle class is one of the problems which I hope will be successfully addressed by the Subcommittee on Representation of Citizens Interests of the Committee on the Judiciary, of which I am a member. That subcommittee has already addressed itself to some of these problems and I am hopeful that its work will yield solutions.

The legal profession occupies a unique position in our society. A free society is a society of laws, not men, and a society of laws depends upon the independence and integrity of the legal profession. Any attempt to deliver improved legal services to the American people must be consistent with the preservation of this important instrument of our liberty.

EXHIBIT 1

LEGAL AID BUREAU OF BALTIMORE, INC.—1972 ANNUAL REPORT

(Respectfully submitted by Roger Garfink)

(NOTE.—The Legal Aid Bureau, Inc. is a private, non-profit law office that has been serving the low-income community in the Metropolitan Baltimore area since 1911. The Bureau's goal is to provide legal advice and representation for any person who cannot afford a private lawyer and to protect the rights of all individuals through a wide-ranging program of law reform and legal education activities.

The Bureau is governed by a 28-member Board of Directors, composed of 14 lawyers, 3 judges and 11 community members. To finance its activities, the Bureau depends upon contributions from individual citizens, civic and bar organizations, the United Fund of Central Maryland and grants from Federal, State and City government agencies. During the current year such grants were received from the Executive Office of The President, Office of Economic Opportunity, through the Community Action Agency of Baltimore City; the Department of Health, Education and

Welfare, through the Maryland State Department of Employment and Social Services; the Department of Housing and Urban Development, through the Model Cities Agency of Baltimore City.)

REPORT OF THE PRESIDENT

The year 1972 was a difficult one for the Legal Aid Bureau. Although progress has been accomplished in a number of respects, conditions which are part and parcel of the search for national purpose and priorities are making the many tasks of our staff exceedingly difficult. By year's end, a threat of a severe budgetary cutback of 60% proportions looked more and more real, as the Department of HEW contemplated more restricted funding guidelines affecting many social programs, including legal services for the poor.

Despite these ominous dangers to the continuation of effective legal services, progress was made in meeting the demands of increasing caseloads through greater staff specialization and co-operation. Law reform and legislative activities growing out of this daily caseload progressed substantially and insured that a larger number of poor persons would benefit from the full dimension of legal services.

The Legal Aid Bureau acknowledges with deep gratitude the ever growing support it has received during this crucial year from the organized bar and the bench, support that has been crucial in its present struggles. The assistance of concerned members of the legislature, city, state and federal, has also been crucial and invaluable. It is to be hoped that in 1973–74 the proper rendering of justice to the poor in this city and state will continue to be a prime concern not only of the judicial branch of government but of the legislative and executive, as well as the general community. If so, greater progress towards the goal of achieving equality before the law will result.

LAW FIRMS FOR THE POOR

Heightened awareness of individual legal rights of the poor, one goal towards which the Bureau has been striving, has meant additional requests for assistance of our staff in all of our city and county neighborhood and central city offices. All of these neighborhood offices for the poor have given assurance to the low-income citizen that some measure of justice exists for him. If the Bureau has come to be accepted by the communities, a major reason must be the impact and success in individual cases handled by attorneys in these offices. The tenant threatened with eviction, the employee faced with loss of his livelihood, the family whose unity is being disintegrated have found the poverty lawyer and the law a tool for coping with otherwise unmanageable problems. The Legal Aid staff attorneys' caseload continued to show substantial increase as noted hereafter in the statistics. In the past year, for example, Bureau attorneys in its Family Law Center obtained half of the divorce decrees handed down in Baltimore City, on behalf of the low-income community. In December, 1972, for example, Legal Aid obtained 157 decrees for its clients.

Group representation, so vital to the low-income community increased in the past year, with Legal Aid attorneys providing assistance to welfare rights organizations, neighborhood improvement groups and local health councils. A neighborhood association was represented on an issue of whether Baltimore City could bill property owners and not tenants for water bills. The Court of Appeals of Maryland ultimately decided this issue favorably to the tenant organization represented by the Bureau.

Community groups also gave of their skill to the Legal Aid programs. Because of the many Bureau cases which relate to family problems, Associated Catholic Charities volunteered to counsel domestic clients at the Bureau offices in an attempt to resolve disputes out of court and to maintain family unity.

BUREAU LAW REFORM

In this year the Bureau carried forth with increased fervor the questions raised by clients about laws, regulations and practices of major institutions affecting their ability to be independent and self-sufficient. Neighborhood attorneys and Law Reform Unit staff coordinated efforts to provide the depth of legal services needed to achieve this client goal.

Perhaps the most significant class action filed was in the area of employment opportunities. *Byrd, et al., v. Local Union No. 24, International Brotherhood of Electrical Workers, et al.,* alleges that major building construction and trade unions and associated contractors have discriminated against black applicants to their apprenticeship programs and membership in unions. The plaintiffs are requesting that the defendants admit blacks into the apprenticeship program and unions on a one-to-one ratio with whites and that the trade unions develop objective, non-discriminatory criteria for selection of apprentices in the future.

An effort to encourage welfare recipients to develop employment opportunities was *Baker* v. *Social Services Administration,* a suit seeking to allow more reasonable work-related expenses in welfare grants calculations. In June, 1972, a Baltimore City Court judge signed an order directing Social Services to allow as deductions from earnings the actual amount of taxes withheld and the cost of lunch while working, instead of a maximum ten dollars for lunch and taxes together.

Too often neglected are the children of poor families, but the Bureau in 1972 was quite active in litigation on behalf of such children. In *Griffin v. Richardson,* the U.S. Supreme Court affirmed a lower federal court decision obtained by Bureau attorneys that held unconstitutional a provision of the Social Security Act which denied survivor's benefits to the illegitimate children of deceased wage earners. Most notably, *Griffin* affected at least 29,000 similar children across the nation. The district court ordered the Social Security Administration to pay approximately $50 million in back benefits to these children.

The Supreme Court also affirmed a three-judge federal court in *Francis v. Davidson* which ruled that needy children cannot be denied public assistance benefits merely because their fathers are out of work due to a strike or alleged misconduct. The *Francis* victory will benefit about 300 children annually in Maryland.

Wolfe v. Hilson, challenged Maryland's laws which allowed the state to confine in training schools children in need of supervision (CINS). These children, who are not accused of being delinquent but who may be beyond their parents' control, are often detained in such schools with juveniles who have been determined delinquent, so that the children in need of supervision are thereby subjected to the same cruel incarceration. *Wolfe* sought the release of the plaintiffs into the custody of their families or into a program of care best suited to the child's well-being. While the decision has not been rendered as of this date, the Maryland legislature, acting as a result of the exhibited need, passed a bill in its last session which would prohibit the placing of children in need of supervision in the same training schools as delinquent children.

The Maryland Court of Appeals decided in June, 1972, in *Dorsey v. State Department of Social Services,* that income of a minor child in excess of his or her public assistance needs could not be considered a resource to others in the child's family who are receiving welfare. In short, a child with other income could be excluded from the welfare unit if it was to his or her advantage.

Unscrupulous merchants and repairmen have persisted for hundreds of years as the ancient Roman cry "caveat emptor" proves, and more often unfortunately against those least able to protect themselves, namely the low-income person with little financial bargaining power. The Bureau initiated several class actions in 1972 to establish basic constitutional rights in consumer matters for the vulnerable low-income consumer. A suit was filed seeking advance notice of repossession and an opportunity for a hearing prior to repossession. Other actions alleged that contracts used by finance companies violated the Truth-in-Lending Act.

A case particularly important to low-consumers was *Clark v. Public Service Commission,* challenging a recent rate increase by the Baltimore Gas & Electric Company, and, specifically, the rate structure, which allegedly discriminates against low-income residential consumers in favor of more affluent residents and commercial users.

The Bureau, on behalf of a neighborhood organization, intervened in *Property Owners Association v. Mayor & City Council,* in which the Maryland Court of Appeals upheld a lower court decision that Baltimore City could bill property owners and not tenants for water service charges.

1972 continued to be an active year for prison related litigation of the Prison Assistance Project, most notably in *Collins v. Schoonfield,* which provided far reaching relief for the inmates of the Baltimore City Jail. At the conclusion of a five week trial and after negotiation between the parties, a federal court judge ordered extensive reforms to be implemented in the Jail by the defendants. Far reaching changes in the nature and extent of medical care of inmates was an important aspect of the Court's decree. In reaching its decision, the Court also recognized that inmates should not be punished for infractions of jail rules without a prior hearing attended by various procedural safeguards. The Court also recognized the rights of inmates to send and receive correspondence, literature and publications without censorship by jail authorities except to the extent that incoming mail and packages can be inspected for the presence of contraband. The tenor of the Court's decision was that inmates of the Baltimore City Jail, as pretrial detainees, are entitled to all the rights and privileges enjoyed by other citizens except to the extent that they must be deprived of those rights in order that the security of the institution can be maintained.

In *Inmates of the Maryland Penitentiary v. McColley,* it was alleged that officials of the Maryland Division of Correction were denying due process to prison inmates by their refusal to allow them to be represented by retained counsel at prison disciplinary hearings charging major infractions. At a three-week trial, it was argued that the presence of retained counsel in serious offenses is necessary to protect the right to a fair hearing to which inmates were entitled as a result of *Bundy v. Cannon,* a previous Legal Aid case.

LEGISLATIVE ADVOCACY

1972 completed the third year of legislative advocacy in Annapolis by Bureau attorneys. A measure of the Bureau's success was demonstrated by the increasing number of legislators who solicited advice from attorneys in matters affecting the poor.

Legislative efforts can bring attention to potentially unjust laws and, more importantly, can create laws potentially helpful to poor people. During the 1972 session, attorneys regularly testified before House and Senate committees.

The Bureau, on behalf of its clients, enthusiastically pursued several specific issues in Annapolis. It supported the establishment of a Family Court, and some form of no-fault divorce law. As the previously mentioned *Wolfe v. Hilson* case waited for its hearing, attorneys successfully lobbied for a bill that would prohibit the detention in training schools of children in need of supervision. The Bureau aggressively supported voting rights for ex-offenders, expanded work-release programs in jails, and allocation of credit to pre-trial detainees for time spent in jail prior to trial. Numerous consumer and housing bills were reviewed by staff and Board and supported or opposed on behalf of the low-income community served by the program. A private right of action bill giving new power to consumers and a rent control bill protecting tenants were both enacted by the legislature.

NEW DEVELOPMENTS

Consumer law center

The Consumer Law Center became reality in September, 1972, from a combination of grants from Model Cities and the Department of HEW. The Consumer Law Center provides services in five primary ways: (1) test case, group and individual representation; (2) legislation; (3) investigative studies; (4) consumer education; and (5) clearinghouse "back-up" center for the various attorneys throughout the Legal Aid Bureau in the handling of consumer cases. The underlying objective of the Consumer Law Center is to pick up patterns of illegal or unfair business practices and to seek innovative and effective legal reforms to counter such practices.

Mental health project

The Mental Health Project, consisting of a supervising attorney and several students from the University of Maryland School of Law, concentrated on the individual problems of some of the 1,100 persons confined to Maryland mental institutions while also being involved in educational and reform activities. In 1972, the Project became involved in litigation which assured persons being committed to a mental institution a due process hearing to test the validity of the commitment. Support by a grant from the Grant Foundation promised continued development of this unit of the Bureau, representing a too often forgotten world of clients.

A young woman who had been placed in a mental institution at the age of 13 and released after seven years as a result of assistance from this project expressed her feelings most poignantly in the following poem:

Without you
there was nothing
the faintest
glimmer of hope—
there was none
to be seen
but I spoke,
you heard—
you listened—
above all
you cared.
to you
I was somebody
a pleading voice
in lonely despair
help me—
two words
then you appeared
and at once
birth of something
into somebody, came about . . .
because of you.

Legal assistants

While the legal assistant program has existed since 1971, the Bureau expanded the program in 1972, so that the increased caseloads could be handled more adequately by neighborhood offices. Project Serve I and II, created by the 1971 legislature to provide meaningful employment to recipients of welfare grants, enabled the Bureau to train and utilize seven welfare recipients as legal assistants, thus not only helping to alleviate interview problems and to free attorneys' time, but also assisting members of the client community to become self-reliant and independent.

Word processing center

A law firm, particularly one the size of the Legal Aid Bureau, generates a mountain of paper work. To meet this enormous client demand with quality and speed, the Legal Aid's Central complex reorganized its secretarial system into a moderized Word Processing Center, providing for remote dictation to centralized transcribers and magnetic tape typewriters. This model, developed in the Bureau, has relieved typing back logs without increase in size of staff, increased typists' skills and in short allowed the staff to ride herd on the paper work. The system has been observed and reviewed by law firms in the City and represents effective use of resources to benefit the client community as well as staff.

THE FUTURE?

The Legal Aid Bureau's cloudy future at the close of 1972 mirrored the priorities of the times. Threats of massive budgetary cuts appeared more and more likely, endangering the continued representation of poor persons. Staff and Board committees had to be formed to examine the present Bureau structure and delivery of services, the nature of the caseload, and some possible restructuring of staff to efficiently provide legal services in case funding cuts became a reality.

In the face of these challenges the Bureau has continued seeking alternative sources of funding. The directors of the program have constantly sounded out private foundations and other government agencies. There has been effective co-operation between the Bureau, the Bar Associations and Federal, State and City legislators toward the creation of an independent Legal Services Corporation to provide adequate funding nationwide and inspired administration.

In order to continue with programs and growing service to the poor provided in this year, the Bureau will need the continued support of the Bar and the community. It was the dedication of lawyers to equal justice for all that led to the creation of a movement to provide legal services to poor people, and ultimately to the foundation of the Legal Aid Bureau. To continue to meet this commitment we need a continual rededication of the Bar, not only to obtaining adequate funding for this program, but also to support the effective development of our laws and legal system. Only this reform can assure a society under the law in which meaningful change and development can be achieved on behalf of the poor through the legal processes. Until the concept of equal justice for all is made more of a reality through such change and development, the present threats to our system of government will not diminish.

My thanks go out to all members of the Legal Aid staff, and Board, and to the many supporters of this program from the Bench and Legislature and Bar for their excellent efforts and commitment during a period of great stress and complication in the Bureau's life.

Condensed statement of income and expenses, year ended December 31, 1973

Income:	
Community Action Agency	$654,580*
Department of Social Services	780,000
Model Cities	100,235*
Community Chest	147,577
Reginald Heber Smith Fellowship	54,952
Income from investments	658
Bar Association of Baltimore City	750
Direct contributions	98
	1,738,850
Expenses:	
Salary and other personnel costs	1,366,738
Operating expenses	386,759
Deficit—General Fund	(14,647)
	1,738,850

*Excludes contract income not expended during the year.

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Investigator

Roland A. Walker.

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Legal Aid Central, 341 N. Calvert Street, Baltimore, Maryland 21202.

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Legal Aid West, 1333 W. North Avenue, Baltimore, Maryland 21217, Tel.: 669–5695.

Legal Aid Southwest, 1435 W. Baltimore Street, Baltimore, Maryland 21223, Tel.: 945–6040.

Legal Aid Cherry Hill, 710 Cherry Hill Road, Baltimore, Maryland 21225, Tel.: 685–1120.

Law Reform Unit, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 685–1112.

Family Law Center, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 539–5340.

Prisoner Assistance Project, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 539–5340.

Consumer Law Center, 341 N. Calvert Street, Baltimore, Maryland 21202, Tel.: 539–5340.

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Legal Aid, Harford County, 115 West Bel air Avenue, Aberdeen, Maryland 21001, Tel.: 575–6810.

Legal Aid, Carroll County, Suite 12, Carroll Plaza, Westminster, Maryland 21135, Tel.: 876–2670.

Legal Aid, Howard County, 8316 Main Street, Ellicott City, Maryland 21043, Tel.: 465–2839.

THE JUVENILE REPRESENTATION PROVISIONS OF S. 2686

Mr. BAYH. Mr. President, I would like to address my remarks today to subsection 1007(b)(4) of the Legal Services Corporation bill, regarding representation of juveniles.

During my tenure as chairman of the Subcommittee on Juvenile Delinquency, I have come to realize the need to provide adequate legal representation for indigent children. All too often, these children have faced a dual barrier to adequate legal assistance. First, their poverty has been a bar to representation. Second, as children, they have often been denied essential rights which were guaranteed to adults long ago. The concerns I had with the juvenile representation provisions of the House-passed bill—concerns which prompted me to request revision when this legislation was considered by the Employment, Manpower, and Poverty Subcommittee—have been vitiated by subsection 1007(b)(4).

Subsection 1007(b)(4) places certain limitation on the representation of children, but it does not depart from our long-time commitment to provide appropriate and essential legal services to indigent children. It limits representation only in those situations where representation would unnecessarily exacerbate the reasonable and proper relations between parent and child. The subsection assures that legal services will not be provided in instances where such representation would create conflicts between parent and child to the detriment of necessary parental control, but it does so only as long as the child's important procedural and substantive rights are not endangered by the lack of legal representation. Hence, in what are largely private disputes between parents and children, the Labor and Public Welfare Committee determined that providing legal services for the unemancipated child would not be appropriate without parental consent.

On the other hand, in the case of emancipated minors—those not legally subject to parental control—there is no problem of potential parent-child conflict, and hence no restriction has been placed on the availability of legal services. Furthermore, the subsection sets forth several other areas where requiring parental consent would be clearly inappropriate, either because of a constitutional right to be represented by counsel—for instance, where the child may be deprived of his liberty or a previous deprivation has become unlawful—or because of a high probability of conflict of interest between parent and child—for instance, child abuse, custody, and Pins proceedings. In such cases, the child must be accorded the same opportunities for legal services as an adult.

Although it is not possible to draft a provision that anticipates every situation in which fundamental fairness—the constitutional standard for the rights of children in court—dictates that a child have an independent right to obtain the services of a lawyer, the subsection sets forth the primary areas in which such situations are considered likely to occur. Furthermore, the subsection permits a court to authorize such legal representation in additional cases should an appropriate situation arise, and the subsection authorizes the Board of the Legal Services Corporation to set forth additional situations which may not presently be foreseen.

Striking a balance, then, between the rights of parents or guardians and the interests of society in assuring the protection of children, the subsection envisions the following manner of providing legal services to eligible children: in most cases, presumably, consent of a parent or guardian will be forthcoming because the parent or guardian will first come to the legal services attorney seeking legal assistance for the child. However, when the child first seeks such assistance without a parent or guardian being present, the attorney, after interviewing the child and identifying the legal problem, would then seek the appropriate consent, respecting the child's attorney-client privilege. Consent could then be given by the parent or guardian, or, in appropriate cases, representation could be requested by a court of competent jurisdicion over the subject matter of the legal problem.

Only in those exceptions set forth in the subsection or in additional situations established by the Board of the Corporation would consent not be required. Those situations are ones in which the interests of the parent or guardian may militate against giving consent, but the value of fundamental fairness and the interests of society in protecting the rights of the child must predominate.

Most importantly, where governmental agencies are involved and the child's liberty, placement, or general welfare are at stake, we simply cannot make legal representation for indigent children contingent on parental consent. Subsection 1007(b)(4)(C) authorizes representation in such instances. It authorizes, for instance, the provision of legal services to children in "child abuse cases," which covers the whole range of situations where a child is suffering from actual physical beatings, profound neglect, or is otherwise being denied the minimal parental care which is the right of all children. The subsection also provides for full coverage in custody cases, where the child's own independent interests often require representation. Further, it covers "Pins proceedings:" those proceedings which, by whatever official name authorize a State to act when the child has not committed a crime but may be in need of the supervision of the court because of predelinquent activities. Here, because of the substantial powers of the state to impose limitations on the child's activities, and because the labeling of a child as a ward of the court may have profound effects on the life of the child, legal representation is essential for the child to be protected from arbitrary treatment.

Finally, subsection 1007(b)(4)(C) recognizes that whenever a child has been institutionalized or when institutionalization is threatened, it is essential that legal services representation be available. Institutionalization can take a variety of forms, including placements in such institutions as training schools, mental hospitals, group homes, special schools, foster homes, and the like—in short, any agency authorized by the State to accept and care for children. The subsection

necessarily authorizes representation whenever institutionalization is involved—when a child is threatened with its imposition, when he seeks release or when he challenges any of the conditions of the institution, physical or procedural.

Subsection 1007(b)(4)(D) is the other provision setting forth an area in which the protection of the rights of children are considered predominant. Unfortunately, it cannot be denied that many children are denied services, rights or benefits, either from the State or private persons, to which they are legally entitled. Indeed, as we have become increasingly aware of the essential rights of children as persons, as well as their special rights as children, the denial of benefits and rights has become clearer. An indigent child without the ability to obtain representation by legal services attorneys will normally have no means to obtain benefits which are being illegally or wrongfully denied. His right to obtain such benefits should not be dependent on the consent of his parents. Thus clause (D) authorizes representation whenever it is necessary to secure or maintain for a child the range of services and benefits to which he may be legally entitled.

I regard clause (E) as a mandate to the Corporation to ensure that the legal representation needs of children will be met as those needs become apparent; indeed, I would have difficulty in supporting this bill were no such mandate included. Ten years ago, few persons recognized that children in juvenile courts had a constitutional right to assistance of counsel when their liberty was threatened by the Government, and almost no one anticipated that 18-year olds would need to go to court to establish their rights to vote in the cities and counties where they live. Twenty years ago, we did not realize that children by the thousands would need the assistance of courts—and therefore of lawyers—to establish their right to equal educational opportunity. I am confident that the Corporation Board, while recognizing the authority of parents to exert reasonable and proper control over their children, and the obligation of parents who can afford it to provide their children with legal counsel, will diligently meet its own obligation under this bill to ensure that the needs of children for independent legal services are met.

Mr. JAVITS. Mr. President, if I may have the attention of the distinguished Senator from North Carolina, I may say that it has been our intention tonight—those of us who are managing the bill—to go on until whatever hour suited Senators. We were perfectly happy to stay here for several hours more. There is no effort on our part to seek any tactical advantage.

I have inquired, and I understand that the Senator from North Carolina and other Senators who may be in opposition to the bill would just as soon that we did go over until tomorrow. So I shall not stand in the way of that.

But in fairness to us, if the question should arise as an issue—I hope it will not—but if it should, I think that in fairness we ought, at least, to take the position that we are ready to stay here and have further debate on the bill with any Senator who saw fit to make such statement, not to seek a tactical advantage, but just so as to make the record clear that we shall be happy to stay around and debate.

If there does not seem to be any disposition to do that, there is no use making Senators do something they have no disposition to do right now.

Mr. HELMS. Mr. President, I appreciate the remarks of the distinguished Senator from New York. Like him—and the Chamber being virtually empty—I think that further debate this evening would be merely tiresome and virtually nonproductive. I would certainly agree with the Senator from New York that we ought to quit for the evening. Of course, we are ready to debate, but I think that to do so this evening would be a needless exercise.

Mr. ROBERT C. BYRD. Does the Senator from North Carolina yield the floor?

Mr. HELMS. Yes; I certainly do.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

RHODESIAN CHROME LEGISLATION

Mr. HARRY F. BYRD, JR. Mr. President, I send to the desk two amendments to S. 1868 and ask that they each be stated.

The VICE PRESIDENT. The Chair believes that that bill is not before the Senate at the present time.

Mr. HARRY F. BYRD, JR. The Chair is correct. However, if the Chair will return the amendments to me, I will read the amendments into the RECORD and will then send the amendments to the desk.

The VICE PRESIDENT. Is the Senator submitting them for printing only?

Mr. HARRY F. BYRD, JR. I am submitting the amendments for printing only, except that I would like to have them stated for the RECORD.

The VICE PRESIDENT. The Senator can ask that they be printed in the RECORD. Is that the wish of the Senator from Virginia?

Mr. HARRY F. BYRD, JR. Mr. President, it is the wish of the Senator from Virginia to take whatever step is necessary so that such amendments to S. 1868 will be in order with no unanimous consent required in the event—which I hope will not occur—that cloture is invoked.

The VICE PRESIDENT. The amendments will be stated by the clerk.

The legislative clerk proceeded to state the amendment.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. Does the Senator from Virginia yield for that purpose?

Mr. HARRY F. BYRD, JR. Mr. President, I yield for that purpose.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. ABOUREZK. Mr. President, I am afraid that I did not understand the request about cloture. I would like to inquire of the Senator from Virginia what the statement was.

Mr. HARRY F. BYRD, JR. Mr. President, under the rules of the Senate, as the Senator from South Dakota knows, there will be a vote tomorrow on cloture on S. 1868. Under the rules of the Senate, if cloture is invoked, the only amendments which can be considered once cloture is invoked are those amendments which happen to be at the clerk's desk at the time cloture has been invoked.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. Mr. President, the Senator from Virginia is submitting these amendments so that they can be considered even if cloture is invoked?

Mr. HARRY F. BYRD, JR. The Senator is correct. I am submitting them so that I will have an opportunity to call up the amendments if I so desire in the event—which I hope will not occur—that cloture is invoked.

The VICE PRESIDENT. It might be pertinent if the Chair were to read the pertinent part of the cloture rule. That part reads as follows:

> Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time.

Mr. HARRY F. BYRD, JR. Mr. President, that is precisely what I am seeking to do at this point.

Mr. ABOUREZK. A further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. Mr. President, is there a time limitation on the two amendments in the event cloture is invoked?

The VICE PRESIDENT. Unless cloture is invoked, there will be no time limitation.

Mr. ABOUREZK. And is the Senator from Virginia asking unanimous consent that these amendments be considered after cloture at this time?

Mr. HARRY F. BYRD, JR. No. The only thing I am asking is that the amendments be stated and be printed in the RECORD and lie at the desk.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. ROBERT C. BYRD. Mr. President, the only thing the able senior Senator from Virginia is seeking to do is to qualify his amendments under the rule, because under the rule they must have been read previously in order to be qualified if cloture is invoked. That is all he is trying to do.

Mr. ABOUREZK. Mr. President, what I am trying to find out is, in the event cloture is invoked, will the consideration of these two amendments that he is submitting have unlimited debate?

Mr. ROBERT C. BYRD. No.

Mr. HARRY F. BYRD, JR. No.

The VICE PRESIDENT. It is the understanding of the Chair that once cloture has been invoked, all Senators are limited to 1 hour.

Mr. ABOUREZK. Including even the consideration of amendments such as these?

The VICE PRESIDENT. Including the consideration of amendments such as those submitted by the Senator from Virginia.

Mr. ABOUREZK. I thank the Chair, and I thank the Senator from Virginia for yielding.

The VICE PRESIDENT. The clerk will read the amendments.

The legislative clerk read as follows:

AMENDMENT No. 852

At the end of the bill add the following new section:

SEC. 2. Section 5(a) of the United Nations Participation Act of 1945 (22 USC 287c(a)) is further amended by striking out "Notwithstanding the provisions of any other law," and inserting in lieu thereof the following: "subject to the approval of the Congress by appropriate Act or joint resolution,".

AMENDMENT No. 853

At the end of this bill add the following new section:

SEC. 2. The amendment made by the first section of this Act is repealed as of December 31, 1974.

Mr. HARRY F. BYRD, JR. Mr. President, as the able Senator from West Virginia has just pointed out, the only purpose of my presenting these amendments this evening is to qualify the amendments for consideration in the event that cloture should be invoked tomorrow. I hope that cloture will not be invoked on S. 1868.

I had hoped that the distinguished Senator from Minnesota (Mr. HUMPHREY) would be present this evening, as there are questions I need to put to him in regard to this legislation. I want to read into the RECORD at this point a statement which appears on page 40262 of the CONGRESSIONAL RECORD of December 7, 1973. It is a part of the debate which took place last Friday between the distinguished Senator from Minnesota (Mr. HUMPHREY) and the Senator from Virginia. I want to read into the RECORD at this point one assertion by the distinguished Senator from Minnesota. He said:

The fact of the matter is that the United Nations Charter, as adopted by the Congress of the United States and ratified by the Senate, has the same standing as a provision of our Constitution. It is the supreme law of the land.

Mr. President, if the situation is as the Senator from Minnesota states it to be, it would be very undesirable, I think, that cloture be invoked tomorrow, because this proposal, the legislation introduced by the able Senator from Minnesota, would, if enacted into law by Congress, support his contention that any action taken by the Security Council and then implemented unilaterally without congressional approval by the President of the United States then becomes, to use his words, a part of the Constitution of the United States.

That is a very far-reaching interpretation, but the clear implication of S. 1868 is precisely as the Senator from Minnesota stated in the remark that I have just read into the RECORD.

Mr. President, one of the amendments which I have presented and in due course, if necessary, will call up, would provide that, before any future sanctions could be taken against any other nation, approval of Congress would be required. I think that there should be a change in the United Nations Participation Act to require the approval of Congress before economic sanctions can be taken against another nation.

The other amendment which I have introduced would conform, to an extent, to the U.S. position with that of Great Britain. The British Parliament each year, annually, renews its sanctions against Rhodesia. The way that our country has been operating, the sanctions remain in effect continuously unless Congress acts otherwise. The action taken by the United States was taken at the behest of Great Britain, and yet Great Britain herself reserves the right each year to decide whether sanctions should continue; and if S. 1868 is to be considered, then I think this would be a very desirable amendment for the Senate to give consideration to putting on S. 1868.

I hope, as I have mentioned before, that cloture will not be invoked tomorrow, because the implication of the pending legislation (S. 1868) is that the United States is in violation of international law, and the wording on the legislation says that in very clear language. The reason it is claimed that the United States is in violation of international law is because of legislation which was enacted by the Senate and by the House of Representatives, signed by the President, and upheld by the courts.

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1964 to provide for the transfer of the Legal Services program from the Office of Economic Opportunity to a Legal Services Corporation, and for other purposes.

Mr. CRANSTON. Mr. President, I would like to speak very briefly, at this point, about the committee measure.

This measure has been before the Senate, in terms of the fundamental issue, for some 3 years. There have been extended hearings at great length, and considerable debate upon this floor, over the key issues.

All of us involved in this measure who want some form of legal services legislation enacted and the valuable program carried on, have worked long and hard to accommodate reasonable concern. In fact, the members of the Committee on Labor and Public Welfare have gone to great lengths to develop an acceptable compromise. Great efforts have been made to work with the administration to find a measure that is acceptable to them. We have now developed that measure.

We have very broad bipartisan support for the bill. It is obvious that it is vital, at this time of serious doubts about the equality of justice in our land, to make it very plain and to reaffirm our commitment to equal access to the system of justice in our society for those unable to afford their own private counsel. The existence of the legal services program has been a very strong argument against resorting to violence for those who seek change in our society, because it has been made plain that they have an opportunity, through the legal process of the country and its system of order and justice under law, to achieve change by working through the system rather than against it.

I think that the existence of this program has had a great deal to do with persuading many Americans not to turn to violence at a time when some Americans have turned to it.

This program has had a great record of success across the country, especially in my State but also especially in many other States. That very success has perhaps been the reason for opposition to it by a few members of our society and I think relatively few members of this body, simply because it has shaken the establishment where that was in order and has brought about change which has been uncomfortable to some individuals otherwise comfortable in our society on behalf of those who needed change and whose desires were change and whose effort to achieve change were found through our system of justice to be appropriate and under the law, where the law was on their side.

It has been made plain that there are those in this Chamber who propose to delay, in one way or another, action on this bill. It seems to me that it is in order for them to speak at this time to present their case against this measure, which has not been presented.

I want to make it plain that I and the manager of the bill are prepared to spend whatever hours are necessary in this Chamber tonight to hear from those individuals. I note that none of them are on the floor at this time.

I would like to ask the distinguished chairman of the committee handling the bill what we might do to bring the matter to a head since there is no one here to speak against the measure. There is no one presently in this Chamber to speak against the measure.

I do not want to make any end run here, but this certainly indicates that we should find some way to make our speeches and to have a decision on the bill.

Mr. NELSON. I understand that the distinguished Senator from North Carolina does not intend to speak this evening. I believe he had a brief colloquy with the Senator from New York (Mr. JAVITS). It is certainly our purpose to stay here as long as anyone wishes to talk, so that those who are opposed to this bill and who wish to delay its being

considered or voted on until next year will not be able to complain that they were not afforded ample opportunity to discuss the bill. As a matter of fact, the bill has had more discussion, more analysis, more evaluation, more negotiation than any other bill I have been involved with in the many years I have served here.

We started on this legislation in 1969. We passed it. We not only created the Legal Services Division within the OEO, but we subsequently passed two independent Legal Services Corporation bills in both houses on two different occasions. The President vetoed one. He stated the grounds for the veto and we have met every major concern of his veto message. There are only some minor differences left, which the administration is prepared to leave up to negotiations in conference between the House and Senate.

So we are on all fours with the administration on all major parts of the legislation, and we should be prepared to vote at any time. The bill passed this body on two occasions with a substantial majority each time. I will put the rollcall votes in the RECORD tomorrow. I do not believe there have been more than a handful of votes against the Legal Services Corporation bill the two times the legislation has been before us for final passage. But in any event, I will put the rollcall votes in the RECORD and let them speak for themselves.

There is no desire, I believe, on the other side, to take any time on this bill. As the Senator has indicated, not one of the opponents of the bill is in the Chamber now. In fact, there are only four Senators here at this time. So, I am prepared to move to adjourn after a brief quorum call, in the event the distinguished majority whip may desire to make some requests.

Mr. CRANSTON. I should like to state that I altered my plans for this evening because I had understood there would be considerable debate, and I wanted to hear the opposition's points, to consider them, and to refute them if I could. Also I planned to be here into the evening if necessary to protect the rights of those interested in this legislation. I think it is very interesting that those opposed to the bill do not bother to show up for its consideration at this point, after being advised by those who made plans that they wanted to speak on the bill.

Mr. NELSON. I think all the discussion about the issues involved in this bill has already been carried out on the floor of the Senate. I doubt whether anyone could add anything more that has not already been said.

Mr. CRANSTON. Mr. President, I yield the floor.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

On tomorrow the Senate will meet at the hour of 10 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Indiana (Mr. BAYH) will be recognized for not to exceed 15 minutes; then the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) is to be recognized for not to exceed 15 minutes, to be followed by the distinguished minority whip, the Senator from Michigan (Mr. GRIFFIN); for not to exceed 15 minutes, after which there will 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 will proceed to the consideration of S. 2767, the rail services bill. There may be amendments thereto with yea-and-nay votes occurring thereon.

At the hour of 1 p.m. the Senate will debate the motion to invoke cloture on the Rhodesian chrome bill, which debate will end at 2 p.m., at which time there will be an automatic quorum call, under the rule, before the vote on the motion to invoke cloture. Upon the ascertainment of a quorum, the Senate will vote on the motion to invoke cloture.

If cloture is not invoked, the Senate will probably resume the consideration of the rail services bill. Of course, if cloture is invoked, unless by unanimous consent it does otherwise, the Senate will proceed until it completes action on the Rhodesian chrome bill to the exclusion of all other business.

At any rate, there will be other yea-and-nay votes tomorrow, either on the Rhodesian chrome bill, if cloture is invoked, or on the rail services bill if cloture is not invoked.

Senators are alerted to the fact that tomorrow will be a relatively long day with yea-and-nay votes throughout the day.

ADJOURNMENT TO 10 A.M.

Mr. NELSON. 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 10 a.m. tomorrow.

The motion was agreed to; and, at 6:08 p.m., the Senate adjourned until tomorrow, Tuesday, December 11, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10, 1973:

DEPARTMENT OF JUSTICE

William B. Saxbe, of Ohio, to be Attorney General.

DEPARTMENT OF STATE

Robert J. McCloskey, of Maryland, a Foreign Service officer of class 1, to be an Ambassador at Large.

DEPARTMENT OF JUSTICE

Thosmas F. Turley, Jr., of Tennessee, to be U.S. Attorney for the western district of Tennessee for the term of 4 years, reappointment.

HOUSE OF REPRESENTATIVES—*Monday, December 10, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Our soul waiteth for the Lord; He is our help and our shield.—Psalms 33: 20.

O Thou who art from everlasting to everlasting, in whose will is our peace and by whose grace we are made good, at the beginning of another week we bow in Thy presence with humble minds and reverent hearts. We pray that Thou wilt lead us to a higher plane of faith, hope, and love that the decisions we make, the influence we exert, and the example we set may be for the good of our country.

Renew in us a deeper devotion to Thee, a loftier love for our fellow man, and a stronger faith that right is right and that we will do the right, right now.

During this Advent season, may we grow in spirit; may our people increase in faith, and may our Nation enter into a new era of peace on earth and good will among men.

In the spirit of the Saviour, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5089. An act to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 9256) entitled "An act to increase the contribution of the Government to the costs of health benefits for Federal employees, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 11459) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes."

The messages also announced that the Senate agreed to House amendments to Senate amendments Nos. 1 and 2 to the foregoing bill.

The message also announced that the Senate had passed, with amendments in