the Cutters Bridge, from Headquarters to the Green Hills of Petaluma, he has met and mastered every challenge.

I cannot toast you, Captain Kirkley, and the members of your command, for in accordance with protocol, such is not my privilege.

But, I can, sir, salute you, on behalf of a Nation, and on behalf of your Congressman, and for myself, for what you are, a Command Officer of the United States Coast Guard.

And, in saluting you, Sir, and your command, I salute that wonderful, vital organization, that distinctive and distinguished service so akin in its vitality to our Constitution, the United States Coast Guard.

I salute you, sir, and each of your officers, men of commitment all, and your loyal ladies who serve with you; you are the Coast Guard and I salute you all.

ENDANGERING THE SPECIAL PROSECUTOR

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1973

Mr. RAILSBACK. Mr. Speaker, once again, my colleague from Maine, WILLIAM COHEN, has put his finger right at the heart of the issue in his article on the Special Prosecutor legislation, entitled "Endangering the Special Prosecutor," which appeared in the Washington Post on December 11, 1973.

I commend the attention of my colleagues to that excellently written article which follows in the RECORD immediately after my remarks:

ENDANGERING THE SPECIAL PROSECUTOR

(By WILLIAM S. COHEN)

Justice Holmes once wrote that a "catchword can hold analysis in fetters for 50 years." It is a noteworthy observation, for as Congress prepares to debate and deliberate on the subject of a special prosecutor, it is in danger of being mesmerized by the popular call for an "independent" prosecutor. The need for a special prosecutor whose independence cannot be summarily intruded upon by the body that is the subject of investigation can no longer be a matter of legitimate debate. The question is, how can the objective of establishing the office of special prosecutor be achieved most expeditiously and in a manner that will survive constitutional attack?

The House Judiciary Committee has reported favorably on a bill that would require a panel of U.S. District Court judges to appoint the special prosecutor. Though the bill has several commendable features designed to strengthen it against challenges that are certain to follow, most proponents of the bill, including Archibald Cox, have conceded that it is not free from Constitutional doubt.

It is argued, however, with a familiar ring of pain reliever commercials, that three out of four experts agree that the bill is Constitutional. When further delay in taking action on Watergate-related criminal activities can only contribute to the disintegration of public confidence in our institutions, one must ask what public interest is being served in adopting a bill that has a quarter-moon chance of being invalidated?

In addition, the U.S. District Court in Washington, in a unique, unsolicited "advisory" opinion, stated that the proposal would be unwise, unwelcomed and (impliedly) unconstitutional. Proponents of the bill dismiss the admonition as not rising to the dignity of judicial *dicta*. It is interesting to speculate what reception the Court's opinion would have received had it endorsed the Judiciary Committee's proposal.

But all of this misses the mark. The question really is not one of independence. Mr. Cox was independent and Leon Jaworski, to the great despair of some, is demonstrating daily that he too is independent. Congress can draw statutory prohibitions against arbitrary orders emanating from the White House concerning the prosecutor's tenure. The problem has been and is the lack of access to presidential documents, memoranda and recordings. Congress, through a confirmation process by the Senate, could insist upon a commitment that is tantamount to a waiver of that vague and seemingly all-purpose doctrine of executive privilege as a condition precedent to its approval of a special prosecutor nominated by the President. Mr. Nixon has said in private that the "special prosecutor should have everything and when he asks for it, he shall get it." Vice President Ford has testified that in his opinion executive privilege should not be invoked in any claims involving alleged criminal conduct. This proposal would simply commit broad promises into the semi-permanence of statutory ink.

Congress, however, dazzled by the glitter of obtaining a special prosecutor who could never be fired by the President for any reason—legitimate or not—appears unwilling to adopt any alternative course of action. Moreover, many proponents of the court-appointed prosecutor privately suggest that whether or not the committee bill proves to be constitutional is of little consequence, since the question soon will be moot.

These members envision the following sequence of events: The bill for a court-appointed special prosecutor will pass the House and Senate. The President will veto the bill and the veto will be sustained. Mr. Jaworski, in the meantime, will continue his efforts in securing indictments against all wrongdoers. If he succeeds, he will be praised by all; should he fail, the proponents of the bill can maintain that they stood tall in the pursuit of justice while the President and his votaries (anyone who opposed their bill) achieved their goal of frustrating and defeating the search for truth.

But assume a different scenario. Assume that certain White House advisers, unhappy with Mr. Jaworski's independence, were to suggest to the President that while they believed the bill to be unconstitutional, the President should not veto it and allow the courts to make the determination. The immediate result would be weeks and perhaps months of delay, confusion and confrontation. Mr. Jaworski would not be able to continue his efforts because congressional action would have superseded his appointment. The President would be under no obligation to "fully cooperate" with a court-appointed prosecutor whose office would almost certainly be challenged, if not by the White House, then surely by prospective defendants. Thus the quest for truth would be delayed and perhaps even derailed.

While it is not the most desirable arrangement, what is best for the country "at this point in time" is to allow Mr. Jaworski to continue in office, with his integrity and demonstrated independence buttressed by strong statutory protection. The greatest safeguard against his dismissal by the President is public opinion. President Nixon crossed that Rubicon on October 20, 1973. He is not in a position to cross it a second time.

SENATE—*Wednesday, December 12, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

The Reverend Dr. C. Leslie Glenn, canon and subdean, the Washington Cathedral, Mount St. Alban, Washington, D.C., offered the following prayer:

Almighty God, who hast created man in Thine own image: grant us grace fearlessly to contend against evil, and to make no peace with oppression; and, that we may reverently use our American freedom, help us to employ it in the maintenance of justice among men and nations, to the glory of Thy holy name.

Guide, we beseech Thee, the nations of the world into the way of justice and truth, and establish among them that peace which is the fruit of righteousness, that they may become the Kingdom of our Lord and Saviour Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 12, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HUGHES thereupon took the Chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills in which it requests the concurrence of the Senate:

H.R. 10710. An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for other purposes;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia; and

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

HOUSE BILLS REFERRED

The following House bills were severally read twice by their titles and referred as indicated:

H.R. 10710. An act to promote the development of an open, nondiscriminatory, and fair world economic system, to stimulate the economic growth of the United States, and for

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other purposes; to the Committee on Finance;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia; to the Committee on Foreign Relations; and

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes; to the Committee on Appropriations.

MESSAGE FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUGHES) 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 Tuesday, December 11, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

Mr. MANSFIELD. Mr. President, I withhold that unanimous-consent request.

The ACTING PRESIDENT pro tempore. Does the Senator from Montana ask that the agreement be vitiated.

Mr. MANSFIELD. No.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, I yield to the Senator from West Virginia.

ORDER FOR UNFINISHED BUSINESS TO BE LAID ASIDE FOR THE CONSIDERATION OF THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time today as the supplemental appropriations bill is made the pending business before the Senate, the unfinished business be laid aside and remain in a temporarily laid aside status until the end of the day or until the supplemental appropriations bill is disposed of.

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

Mr. BEALL. Mr. President, reserving the right to object, I assume that the minority leader was made aware of that?

Mr. ROBERT C. BYRD. Mr. President, I do not think that the minority leader would object to it.

Mr. BEALL. Senators PERCY and BAKER might.

Mr. MANSFIELD. Mr. President, this will be finished at the end of 2 hours. It would not affect them at all.

The ACTING PRESIDENT pro tempore. The Chair has already ruled on the question.

Mr. MANSFIELD. Mr. President, may I say also for the record that the Senate has granted unanimous consent that the supplemental appropriations bill could be taken up at an appropriate time today.

EXECUTIVE SESSION

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

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

CIVIL AERONAUTICS BOARD

The second assistant legislative clerk read the nomination of G. Joseph Minetti, of New York, to be a member of the Civil Aeronautics Board.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Coast Guard.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 344 (S. 2188) be indefinitely postponed.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader wish to be recognized?

Mr. BEALL. Under the previous order, I reserve my time.

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

(The remarks Senator MCGOVERN made at this point on the introduction of S. 2799, dealing with excess profits and investment credits in the oil industry, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma (Mr. BELLMON) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, how much time did the distinguished Senator from South Dakota have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the unused time of the Senator from South Dakota be applied to the time of the Senator from Oklahoma.

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

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

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

ORDER OF BUSINESS

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

CONDITIONS IN THE CATTLE FEEDING, PROCESSING, AND RETAILING BUSINESS

Mr. BELLMON. Mr. President, as one who has long believed in and supported the supply and demand pricing system, I am greatly appalled at the conditions which presently exist in the cattle feeding, processing, and retailing business. At the present time, cattle feeders are losing from $100 to $200 on each animal brought to market, while retailers are making profits of more than $125 per carcass processed and sold.

The reason for this high retail profit is that prices of beef at the meat counter have not been reduced so rapidly as the costs of live animals have declined. As a result, consumers are being denied the opportunity to benefit from the increased supplies of beef which are now available.

As a result of these catastrophic losses to cattle feeders, placements of cattle on feed in the seven principal States of this country were down 20 percent last October as compared with a year earlier. What this means is that the country may be heading into another shortage of fed cattle similar to that which brought the high prices, the boycotts, and the shortages of last summer.

Mr. President, it is remarkable how rapidly these changes have come. Per-

haps some short review will be helpful to Members of the Senate in understanding how we have come to the present situation.

Members will remember that earlier this year demand for beef rose rapidly as a result of the higher incomes and increased prosperity of American citizens. Many consumers, who had not been able to afford as much beef as they wanted, now found it possible to use beef more frequently and in larger quantities.

With the increasing demand, prices naturally rose and as prices went up, beef producers held back breeding animals in order to increase the size of their herds and to provide a greater long-range supply to meet the anticipated increased demand.

As prices rose, consumers became frustrated and took direct action to express their displeasure. Boycotts were frequent and great pressure was brought on Government officials to enact price controls. Over the objections of the Secretary of Agriculture, price controls were finally put into effect on beef and from that point the situation became increasingly chaotic. The supply of beef began to decrease at normal retail levels, consumers purchased animals directly from producers, had them slaughtered and stored the beef in home freezers for future family use. Canadian processors came to the United States, bought beef animals in large numbers, hauled them to Canada where they were processed, and the meat was then "exported" back to the United States from which it came.

Fat cattle prices reached the level of $53.61 per hundredweight during the month of August at the Omaha markets. This was far in excess of the amount which processors could pay and still sell the beef at the controlled prices. As a result, many meat processing plants were closed and many meat counters were empty of beef.

In August, President Nixon announced that the beef ceilings would be lifted on September 12. From this point on, cattle feeders generally held back their animals on feed in anticipation of even higher prices when the ceilings were finally removed. These cattle gained from 2½ to 3 pounds per day every day they were kept off the market. When the ceilings were lifted and cattle started to move to market in a more normal manner, the animals were excessively heavy, the numbers were up, and the prices of live animals went down rapidly.

The drop has amounted to more than $15 per hundredweight—cwt. Live animals yesterday in Omaha were selling for $38.50 a hundred with heavier animals being heavily discounted. It is not at all unusual for a cattlefeeder to suffer from $100–$150 per head loss on animals he is now bringing to market.

Mr. President, unfortunately, even though prices of live animals have gone down rapidly, the price of beef in the meat markets has not reflected this reduction. I have before me a table which has been prepared to show 1973 cattle and beef price relationships. This table shows that in March of this year, when slaughter steer prices were $45.55 per cwt, retail beef was selling at an average of $1.35 per pound. When slaughter steer prices reached the level of $53.61 per cwt during the month of August, retail beef prices went up to $1.48 per pound. During the month of November, slaughter steer prices averaged $39.88 per pound, which is the lowest figure for any month of the year, but retail beef prices have been reduced only slightly to $1.34 per pound.

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

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

1973 CATTLE AND BEEF PRICE RELATIONSHIPS

1973	U.S. retail beef prices [1] (price per pound)	Dressed steer beef prices [2] (price per hundredweight)	Slaughter steer prices [3] (price per hundredweight)
January	$1.22	$61.92	$40.62
February	1.30	65.46	43.35
March	1.35	68.48	45.55
April	1.39	69.36	44.92
May	1.36	68.66	45.44
June	1.36	70.17	46.69
July	1.36	70.19	48.05
August	1.48	(4)	53.61
September	1.45	71.09	45.45
October	1.36	63.94	41.79
November	[5] 1.34	62.15	39.88

[1] Based on USDA figures as reported by the Economic Research Service and Bureau of Labor Statistics.
[2] Based on average monthly midwest choice dressed beef prices for a 600–700 weight yield grade 2–4 carcasses.
[3] Based on average monthly Omaha choice slaughter steer prices.
[4] Not available.
[5] Represents preliminary estimates for the first 3 weeks in November.

Mr. BELLMON. Mr. President, retail beef prices in November were $1.34 per hundredweight, only 14 cents or 9 percent less than the peak consumer beef prices of $1.48 per hundredweight in August, 1973. In this same 90-day period, average slaughter steer prices declined $13.73 per hundredweight or 26 percent. This is roughly twice as much of a decline as had been reflected at the retail level.

While the retail price of beef was about the same in March and November, 1973; dressed beef and slaughter cattle prices in November, 1973, and thus far in December, are a minimum of $5 to $6 hundredweight lower than March, 1973 levels. Obviously, current retail margins are much wider than normal. The live cattle and dressed beef market can increase about $5 to $7 per hundredweight without any or very little change in retail beef prices. The American public has not yet fully benefitted from the very sharp decline in live cattle prices this fall.

What this means is that cattle feeders are becoming discouraged. They are not filling up their lots, and we are heading again into a period when beef supplies could go down sharply. This is reflected by the fact that cattle being placed on feed have been down sharply April through November of this year, ranging between the decline of 10 to 20 percent compared to a year ago levels. This means a total decline of approximately 1.5 million head of cattle that should be now in process of being fattened for next year's demands. These reduced placements will clearly result in sharply reduced beef supplies during the first half of 1974. Until live cattle prices improve significantly, the decline in feedlot placements witnessed for the past 8 months in a row will likely continue.

Mr. President, one of the saddest elements in the current situation, which sees many cattle feeders suffering serious economic losses that will lead to bankruptcies in at least a few cases, is that producers have never asked for price supports or controls on production. This vast group of intensely independent, free enterprising farmers and ranchers now feels victimized by Government price control programs which badly distorted the normal demand-supply characteristics of their industry.

For the country, the question is simple: Do consumers want an abundant, reliable supply of high-quality beef? If so, steps must be taken immediately to provide incentives for continued cattle feeding. This means that retail outlets must assist in effectively merchandising the abundant supplies of beef now available. This means that future U.S. Government needs for beef should now be filled. This also means that accelerated efforts to export U.S.-produced beef may need to be made.

Mr. President, I have tried to make these points in a letter I have sent today to Secretary Butz, pointing out the serious problems that cattle feeders are now having and urging certain steps be taken to improve the situation and to assure that the economics of the cattle feeding industry will be attractive enough so that the reasonable demands of consumers can be met in the months ahead, and so that we will not again be faced with runaway prices, with boycotts, with shortages, and with pressures for price controls that have brought us to our present unsettled and—unfortunately, for many—disastrous conditions.

I ask unanimous consent that the letter to Secretary Butz be printed in the RECORD.

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

DEAR MR. SECRETARY: Undoubtedly, you are fully aware of the disastrous break in live cattle prices which are presently causing cattle feeders to suffer losses ranging from $100 to $200 per head on each animal currently being brought to market. The potentially damaging effect of these conditions upon future beef supplies is greatly in the October 1973 cattle on feed report which shows that October placement of cattle and calves on feed in the 7 principal feeding states were down 20% from October, 1972. This plainly indicates sharp reductions in beef supplies available to consumers five or six months from now.

The present situation is a result of many factors chief among which is the uncertainty brought about by the wage-price controls which were in effect for the first part of this year. The purpose of this letter is to ask for:

1. A study of the effects of the beef price control program on both consumers and producers;

2. A projection of future feed cattle supplies and the likely effect upon the retail prices of beef;

3. Projections as to next year's supply and

demand of feeder cattle as related to domestic feed lot demands;

4. Recommendations as to whether or not an accelerated beef or live animal export program is in order;

5. A review of needs of government agencies and programs for beef with the possibility that these needs might be met by accelerated purchases in the immediate future;

6. A review of margins of beef processors and retailers with recommendations as to how reductions in live prices may be more directly and promptly passed on to consumers; and

7. Any suggestions you may have as to means for avoiding the disastrous fluctuations in cattle prices in the future.

Sincerely,

HENRY BELLMON.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. 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. HANSEN. Mr. President, I ask unanimous consent that the order to recognize the Senator from Ohio (Mr. SAXBE) and the order to recognize me may be reversed, so that I may proceed at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONDITIONS IN THE CATTLE FEEDING, PROCESSING, AND RETAILING BUSINESS

Mr. HANSEN. Mr. President, no one in this Chamber is more aware of facts about cattle production or more informed on the things that happen to the animal and to prices between the ranch and the consumer's table than my colleague from Oklahoma. When he speaks about cattle production and meat prices, I listen with respect for his knowledge and expertise.

I share his concern about the disparity between the price the producer receives and the price the consumer pays, believing as I do that it is important for the consumer to understand how much of his or her dollar actually goes to the person who raises the meat on the table.

Retail meat prices have not gone down, even though there has been a significant decrease in the price producers receive. The buying public should know this. I was interested to hear recently that the House Agriculture Committee may hold hearings next year to look at the reasons for this disparity, and I would suspect that by the time these hearings are convened, the energy crisis will be a factor in their examination.

We are going to hear a lot of grumbling and expressions of unhappiness next year from consumers because of the effects of the energy crisis on our economy, and in turn on prices of consumer goods. Every effort must be made to minimize the effect of the shortage on the economy, but under the best of circumstances, there will be a significant impact. It is important to remember that the energy crisis will affect agriculture every bit as seriously as any other segment of our economy, in view of the fact that farmers and ranchers use more gallons of fuel than they do hours of labor to feed this country.

And it should be pointed out that the cost of getting the meat to the supermarket accounts for a significant part of the dollar the consumer spends.

I commend the Senator from Oklahoma for his efforts to clarify the present situation as it relates to retail versus producer prices of beef. I share his concern.

Mr. President, as one who has great faith and confidence in a free economy ultimately to achieve the best answers to supply problems that arise in society, I have spoken from time to time on this floor in defense of the system that lets the laws of supply and demand work unfettered. I have spoken a number of times about my belief that the only real solution to, for example, the energy crisis will come when America decides to let the laws of supply and demand bring about their appropriate answers and responses in the marketplace.

I have pointed out that the extreme shortage of natural gas in this country arises in no small degree from the fact that the Federal Power Commission, for a number of years, has held the price of natural gas down at an inordinately low level. Because of that, we have witnessed increasing use of natural gas out of all proportion to what would have occurred had the true demand for gas been reflected in the price of that product. Because the Federal Power Commission kept the price down, we saw use increase, we saw other forms of energy pushed out of the marketplace, and we saw little interest in coal research for gasification or liquefaction, simply because it was economically impossible for the coal industry to come up with the technology and to implement the processes whereby coal could be turned into synthetic gas. Because of that, we are now experiencing the crisis that many people, many knowledgeable experts, predicted long ago would inevitably result.

I think we should take note of the fact that the same forces could affect—and indeed will—any other segment of our economy.

There is no question at all that last August when the Cost of Living Council put a ceiling on beef prices which failed to reflect the increased cost of production, they threw the whole supply-demand picture out of kilter. We saw the supply of beef practically dry up in the supermarkets and we saw a sharp escalation of price when the ceiling was lifted.

Now, we are witnessing an entirely different situation where the price in the supermarkets remains where it was despite a severe drop in the price of live, fat cattle, and if this continues it is inevitable that the farmers and ranchers, who have experienced the losses that presently are taking place, will be discouraged from purchasing cattle for feeding this winter, and next spring and summer when we desperately need the beef that now could be in production, we will not have it. That is the way the market works. I just say to my colleagues it is too bad when we decide by legislation to try to set aside the workings of the marketplace.

My concern is that unless this price situation can soon be corrected we will find fewer cattle in the feed lots of America than otherwise would be the case, and that means that next spring and summer there will be fewer servings of meat on the tables of Americans than could be the case if we were to witness the response that I think is entirely merited in the way of higher prices for feeder animals, or lower prices in the marketplace, so far as the retail level goes. That in itself would greatly expand the consumption of beef.

We have seen this demonstrated many times: As the price drops the demand increases because the price of the product is affected by supply elasticity. If the price increases, normally there will be an increasing supply and there will be a decrease in demand.

I would hope that Members of this body would give serious consideration to the concerns that have been expressed by the Senator from Oklahoma, recognizing that he has raised a warning flag for America now to consider, having in mind that his expression of concern I think involves all of us.

I think there has been no system devised that works as well as the economic system under which this country has been operating. The trouble we are in today, I think, is a consequence of the messing around and the interference we injected into the marketplace this summer; and we are paying now for the mistake of interfering at that time in the supply-demand picture.

I thank the distinguished Senator from Oklahoma very much.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. MANSFIELD. Mr. President, how much time is remaining to the distinguished Senators from South Dakota, Oklahoma, and Wyoming?

The PRESIDING OFFICER. The Senator from South Dakota has only 1 minute remaining; the Senator from Oklahoma used all of his time; and the Senator from Wyoming has 5 minutes remaining.

Mr. HANSEN. Mr. President, I am happy to yield my time to the majority leader.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of the time remaining under the orders.

The PRESIDING OFFICER. Without objection, it is so ordered. The absence of a quorum has been suggested, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

RESCISSION OF ORDERS RECOGNIZING CERTAIN SENATORS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the special orders granted to Senators SAXBE, GRIFFIN, and MANSFIELD be vacated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

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

What is the pleasure of the Senate?

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

Mr. PERCY. Mr. President, will the Senator withhold that?

Mr. MANSFIELD. I withhold it.

The PRESIDING OFFICER. The Senator from Montana withholds that request, and the Chair recognizes the Senator from Illinois for 3 minutes.

PRIVILEGE OF FLOOR ON SPECIAL PROSECUTOR BILL

Mr. PERCY. Mr. President, on behalf of the Senator from Nebraska (Mr. HRUSKA), I ask unanimous consent that Mr. Kenneth Lazarus, from the staff of the Committee on the Judiciary, be allowed the privileges of the floor during the debate and any votes which may occur on the Special Prosecutor legislation.

On my own behalf, I ask the same permission for Mr. William Lytton, of the staff of the Committee on Government Operations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I make the same request for Senators BAKER, JAVITS, BAYH, HART, and KENNEDY, if they so desire.

The PRESIDING OFFICER. As to floor privileges for staff members?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following letters, which were referred as indicated:

RECLASSIFICATION OF EXISTING LOAN FUNDS

A letter from the Administrator of the Rural Electrification Administration furnishing information, pursuant to law, in connection with the reclassification of existing loan funds to Western Farmers Electric Cooperative of Anadarko, Oklahoma. Referred to the Committee on Appropriations.

REPORT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

A letter from the Vice President of the Export-Import Bank of the United States transmitting, pursuant to law, the report of the Bank during the quarter ended June 30, 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, copies of international agreements other than treaties entered into during the past 60 days (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON (for Mr. ERVIN), from the Committee on Government Operations:

S. Res. 215. An original resolution authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations by the Permanent Subcommittee on Investigations (Rept. No. 93–616). Referred to the Committee on Rules and Administration.

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

H.R. 6186. An act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions (Rept. No. 93–618).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 11575. An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93–617).

By Mr. McGOVERN, from the Committee on Agriculture and Forestry, with amendments:

S. 2150. A bill to amend Public Law 92–181 (85 Stat. 383) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products (Rept. No. 93–619).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Alan G. Kirk, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. McGOVERN:

S. 2799. A bill to impose an excess profits tax on energy companies, create an incentive for certain energy investments, and for other purposes. Referred to the Committee on Finance.

By Mr. JAVITS:

S. 2800. A bill to amend the Federal Aid Highway Act of 1973 (P.L. 93–87), section 230(a) to require the use of not less than 5 percent of the funds to be appropriated for the Federal aid safer roads demonstration program for elimination of hazards at railroad-highway grade crossings. Referred to the Committee on Public Works.

By Mr. PROXMIRE (for himself, Mr. EASTLAND, Mr. HUMPHREY, Mr. GOLDWATER, Mr. CHURCH, Mr. THURMOND, Mr. MOSS, Mr. TOWER, Mr. McGOVERN, Mr. SCHWEIKER, and Mr. HELMS):

S. 2801. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL:

S. 2802. A bill to repeal Public Law 87–733, known as the "Cuban Resolution." Referred to the Committee on Foreign Relations.

By Mr. ERVIN:

S. 2803. A bill to insure the separation of constitutional powers by establishing the Department of Justice as an independent establishment of the United States. Referred to the Committee on the Judiciary.

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

S. 2804. A bill to improve agricultural yields in the production of soybeans through the establishment of a Soybean Research Institute jointly supported by the United States and the People's Republic of China. Referred to the Committee on Foreign Relations.

By Mr. HUDDLESTON:

S. 2805. A bill for the relief of Migual Angel Cuadra. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S.J. Res. 179. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week". Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McGOVERN:

S. 2799. A bill to impose an excess profits tax on energy companies, create an incentive for certain energy investments, and for other purposes. Referred to the Committee on Finance.

BIG OIL: USE OR LOSE EXCESS PROFITS

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill to insure that excessive profits fuel companies will have made as a result of the energy crisis are either used to ease that crisis or revert to the Public Treasury to help finance a public effort to meet our energy needs.

Representative ASPIN is introducing a like measure in the House today.

The mechanism we use to achieve this end is an excess profits tax combined with an investment credit. Under the terms of the bill, corporate profits in excess of the level received over the prior 4 years would be taxed at the rate of 85 percent unless the energy companies used their increased profits to increase their net investment for: Greater refining capacity, domestic exploration, development of alternative energy sources, or the development of synthetic fuels.

In other words, this excessive profits tax would apply only to dividends, retained earnings or nonproductive kinds of investments such as a new string of gas stations, resort hotels, or new mergers.

The bill is essentially modeled on the excess profits tax which functioned effectively during the Korean war except for the addition of the section entitled "Special Deduction." That section would enable energy companies to avoid paying the excess profits tax by increasing their net outlay for designated types of investment. The concept of "net" is important for it requires actual increased investment above the level which would have otherwise been made.

In my judgment, the need for this kind of legislation represents an unnecessary failure of government policy. President Nixon and his new energy czar have opted for a so-called free market solution to the energy crisis. Following the doctrine of "what is good for the oil companies is good for America," they have determined to raise the price of gasoline to perhaps as much as 80 cents a gallon in an effort to reduce demand by 30 percent.

Their strategy to achieve this high price is said to combine both increased taxes at the pump and higher profits for the oil companies. But because Congress is unlikely to raise the gasoline tax, their plans are more likely to evolve into total reliance on higher oil prices and profits to achieve their objective.

Unfortunately, Congress does not appear to have the votes or the will to impose a better policy.

Apart from the basic question of fairness, the Nixon policy is analytically unsound and unworkable for three fundamental reasons. First, it assumes a free competitive oil industry which does not in fact exist. Second, it assumes that the private interests of big oil coincide with the public interest. And third, it ignores the tremendous economic dislocations which oil price inflation will produce.

The 31 largest oil companies had sales of just under $82 billion in the first 9 months of 1973, up 22 percent from the same period last year. Nearly three-quarters of those sales, or $59 billion, were made by the eight largest companies.

According to a recent FTC study, those same eight companies have a virtual monopoly on the oil industry at every stage. They control: 64 percent of domestic crude reserves, 51 percent of net crude production, 58 percent of refining capacity, and 55 percent of the gasoline market.

Each of these companies is self-sufficient in oil. As "vertically integrated companies," they in general explore for oil on land they own or lease, ship crude oil in their own tankers, trucks, and pipelines, refine the oil in their own refineries and sell the oil and gas in their own stations.

Because the market is so highly concentrated, they are in a position to affect supply and manipulate the price.

In these circumstances, it is absurd to believe that free market measures can have any real effect.

A good example of this absurdity is President Nixon's decision last week to lower the price of gasoline by 1 cent at the refinery while increasing the price of heating oil by 2 cents. The theory behind this change was that a more comparable price for the two products would result in greater production of heating oil. But, as a practical matter, the gasoline price change is nothing more than a bookkeeping entry for a vertically integrated company. Because the wholesale price of gas was not decreased, the 1-cent decrease for the refinery division will show up as a 1-cent increase in another division of the same company.

Second, the major oil companies are not in business to help the consumer or solve the energy crisis. They understandably seek the greatest possible profit for their shareholders. And where their private interest conflicts with the public good, one should not be surprised at the choices they make. In the case of the present energy crisis, big oil's best interest lies in preserving a seller's market and maintaining shortages.

As the appendix table shows, the energy shortages this year have been very profitable for the oil industry.

For the industry as a whole, profits reached $6.4 billion during the first 9 months of the year, up 47 percent over the comparable period last year. And third-quarter profits were $2.4 billion, up 63 percent.

Mr. President, I ask unanimous consent that the table be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. McGOVERN. Mr. President, for the eight largest companies, which make over 70 percent of the sales and 80 percent of the profits, the figures were even better. Exxon's third-quarter profits were up 81 percent; Gulf's, 91 percent.

The administration clearly shares the Wall Street Journal's hope that these record profits will be invested in the public interest. Indeed, these billions of dollars could, and in my view should, be used to build refineries, develop new sources of fuel, and increase domestic exploration.

But if the past is any guide to the future, this will not happen. Just as the oil companies fought to retain the oil import quota when foreign oil was cheap and plentiful, they will fight the development of alternative fuels. And just as they stopped building refineries in the mid-1960's, they will curtail or abandon the investment plans they announced only months ago. In fact, at a meeting of the American Petroleum Institute just 3 weeks ago, several companies announced "indefinite" postponement of refinery construction plans allegedly because of the Arab oil embargo.

As the administration implements its plan to increase energy costs and oil company profits, we will see profit increases which will be even larger than those so far this year. As long as supplies contract and costs increase only at the rate of inflation, the profit portion of each new revenue dollar will increase.

And since the natural interest of the oil companies is not in using those profits for productive purposes, we will see higher retained earnings, dividends, and perhaps new mergers and investments outside the energy field. That is why we need the measure I suggest today which would require the fuel companies to make productive kinds of investments—or see their inflated profits taxed at a high rate.

The last point I want to make, Mr. President, concerns the fundamental unfairness of the inflationary impact of the administration energy policy. Already, working Americans have seen their paychecks eaten away by 10-percent inflation and the highest interest rates since the Civil War.

And just last month we saw a 34.7-percent increase in petroleum prices pace the wholesale price index to a seasonally adjusted annual growth rate of 21.6 percent. These higher fuel costs mean more than an increase in what we have to pay to drive to work or heat our homes. They affect each and every industry in America and presage a new round of inflation above the projected 6 to 8 percent for next year. Yesterday, Herbert Stein, Chairman of the President's Council of Economic Advisers, predicted that increased fuel costs will add 3 percent to the cost of living.

The risk of recession, already great because of misguided administration policy, is now even more real because of the energy crisis.

In the face of these bleak facts, the last thing we need is still higher fuel costs and greater inflation.

And while these reasons would in themselves be sufficiently compelling in normal times, there is a further reason for us to act promptly. For we have learned in recent weeks that at least three major oil companies made illegal contributions to the Nixon campaign and that oil executives were the President's second largest group of contributors—exceeded only by large bankers.

So while simple justice demands that no company or individual profits unconscionably from a national crisis, already badly battered public confidence dictates that such profits do not even appear to be the return on a campaign investment.

The proposed legislation provides an affirmative response to each of these issues. It would insure that the record profits which the Nixon energy policy has and will continue to produce are used productively to meet our energy needs at home—either by private companies or the Government.

I hope that Congress will have the opportunity to consider it early next year, either as an original bill or in the form of an amendment.

EXHIBIT 1

OIL COMPANY PROFITS AND SALES, 31 LARGEST COMPANIES, 1973

[Dollar amounts in billions]

	9 mo.	Increase over 1972 (percent)	3d quarter	Increase over 1972 (percent)
Sales	$81.5	22	$29.2	36
Profits	6.4	47	2.4	63

OIL COMPANY PROFITS AND SALES, 8 LARGEST COMPANIES

[Dollar amounts in billions]

	Sales 9 mo.	Profits 9 mo.	3d quarter profit increase (percent)
Exxon	$18.10	$1.65	81
Mobil	8.96	.57	64
Texaco	8.25	.84	48
Gulf	7.00	.57	91
Standard (California)	5.45	.56	51
Shell	4.15	.25	21
Standard (Indiana)	3.90	.39	37
ARCO	3.15	.18	16
Total	58.96	5.01	

Source: Business Week, Nov. 10, 1973.

By Mr. JAVITS:

S. 2800. A bill to amend the Federal Aid Highway Act of 1973 (P.L. 93-87), section 230(a) to require the use of not less than 5 percent of the funds to be appropriated for the Federal aid safer roads demonstration program for elimination of hazards at railroad-highway grade crossings. Referred to the Committee on Public Works.

ELIMINATION OF HAZARDS AT RAILROAD-HIGHWAY GRADE CROSSINGS FOR SCHOOL BUS SAFETY

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to set in motion a program to eliminate hazards at railroad-highway grade crossings which are located on established school bus routes. This would fulfill Recommendation No. 1 of the National Transportation Safety Board on the tragic school bus-train accident which occurred at Congers, N.Y., last year which cost the lives of five students and resulted in injury to 40 other youngsters.

The bill is directed to establishment of safeguards at railroad-highway grade crossings on public roads and highways which are not on the Federal-aid system. It directs that not less than 5 percent of the funds appropriated for the Federal-aid safer roads demonstration program be directed to elimination of hazards at such grade crossings with special consideration to be given to the protection of those crossings over which school buses regularly pass. The proposal amends the section of the Federal Aid Highway Act of 1973 which provides funds for the Federal-aid safer roads demonstration program in which allocations are to be made for improved highway marking and signs, elimination of roadside obstacles, elimination of hazards at railroad-highway grade crossings, and to correct high-hazard locations.

The need for action on those railroad-highway grade crossings which are not on the Federal-aid system is illustrated by the fact that nearly 60 percent of all motor vehicle train grade crossing accidents occur at crossings located off the Federal-aid system.

By directing this effort with specific emphasis on those crossings utilized by school bus routes, we move, in my opinion, to the most critical area of need.

It is here that if we prevent an accident we undoubtedly will save lives, for we still are too far behind in the development of much safer schoolbuses than those now in use and similar to the one involved in the tragic accident in Congers, N.Y., last year.

Action to make schoolbuses safer are, of course, required and recommended in other legislation I have introduced. This measure is the most recent in a series of bills I have introduced on the subject of schoolbus safety, beginning some years ago when the Congress in 1968 enacted my proposal for an HEW-transportation special study of the subject. But regardless of how safe we construct a bus, the best answer for the safety is to prevent the accident in the first place.

And this is what will be accomplished through this bill—establishment of a definite program to make railroad-highway grade crossings safer.

Under the present act, correction of railroad-highway crossing hazards stands relatively little chance of receiving funding of any consequence. The past experience of allocations of this type is that little if any funding goes for this purpose; most funding is utilized for hazards along highways or which are part of highways, such as, for example, dangerous curve correction, widening narrow bridges, and eliminating dangerous conditions at intersections.

This measure is a modest, but nevertheless direct and significant approach to start eliminating dangerous rail crossings which pose a threat to schoolchildren who must daily travel across these hazardous areas as passengers on schoolbuses.

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

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

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 230(a) chapter 4 of title 23, United States Code, is amended by adding at the end of Section 405.(b) the following:

"*Provided,* That not less than 5 per centum of the funds appropriated for this purpose shall be employed for elimination of hazards at railroad-highway grade crossings. In establishing such projects, special consideration shall be given by the States to the protection of grade crossings over which schoolbuses pass and which have been regularly used for that purpose during at least one year prior to enactment of this legislation."

By Mr. PROXMIRE (for himself, Mr. EASTLAND, Mr. HUMPHREY, Mr. GOLDWATER, Mr. CHURCH, Mr. THURMOND, Mr. MOSS, Mr. TOWER, Mr. MCGOVERN, Mr. SCHWEIKER, and Mr. HELMS):

S. 2801. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FOOD SUPPLEMENT AMENDMENT OF 1973

Mr. PROXMIRE. Mr. President, on behalf of myself and Mr. EASTLAND, Mr. HUMPHREY, Mr. GOLDWATER, Mr. CHURCH, Mr. THURMOND, Mr. MOSS, Mr. TOWER, Mr. MCGOVERN, Mr. SCHWEIKER, and Mr. HELMS I send to the desk a bill to amend the Food, Drug, and Cosmetic Act to include a definition of food supplements and for other purposes. The basic intent of this bill is to prevent the Food and Drug Administration from carrying out its determination to classify safe vitamin and mineral supplements as dangerous drugs and to regulate them under the drug provisions of the law rather than as foods or food supplements.

WHAT FDA IS PROPOSING

The Food and Drug Administration—in a very complex and lengthy addition to the Federal rules and regulations—is essentially proposing the following action. I may add that the proposed rules and regulations take up 30 pages in the Federal Register.

First, they propose that vitamins and minerals in quantities 50 percent or below what is called the recommended daily allowance—RDA—can and should be sold as a food.

Second, vitamins and minerals in quantities between 50 percent and 150 percent of the recommended daily allowance can be sold as a food supplement or as a food for special dietary uses.

Third, they propose that vitamins and minerals in quantities in excess of 150 percent of the RDA be classified as drugs and be regulated accordingly.

These first three actions were originally scheduled to go into effect next January 1 but a series of court cases has postponed that action.

Fourth, in the special case of vitamins A and D the FDA provided by regulation last August 1 that vitamin A could be manufactured in tablets larger than 10,000 international units and vitamin D in tablets larger than 400 international units for prescription use only.

WHAT IS WRONG WITH THIS?

One might ask, what is wrong with that? Why should not vitamins and minerals be labeled as drugs and sold either as over the counter drugs—OTC—like aspirin, or by prescription in certain cases? Aspirin is sold in large volume over the counter even though it is called a drug. Why should not this be done for vitamins and minerals now sold as foods or food supplements?

FDA PREJUDICE AND ACTIVE HOSTILITY

The answer is very simple. The Food and Drug Administration and much, but not all, of the orthodox medical profession are actively hostile against the

manufacture, sale, and distribution of vitamins and minerals as food or food supplements.

They are out to get the health food industry and to drive the health food stores out of business. And they are trying to do this out of active hostility and prejudice.

That may seem to be a harsh charge against the FDA, but it is no more harsh than the attack on the FDA by a key figure in the National Academy of Science—National Research Council, and by the distinguished syndicated columnist Mr. James J. Kilpatrick. I ask unanimous consent that an article from the July 20, 1973, Washington Post detailing the former and a February 5, 1973, syndicated column by Mr. Kilpatrick be printed at this point in the RECORD.

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

IS DR. EDWARDS DIVINE?

(By James J. Kilpatrick)

Of all the Federal regulations that I yet have read, and I have read thousands, the regulations issued on January 19 by the Commissioner of Food and Drugs must be accorded a certain awesome supremacy.

These are the most autocratic, most arrogant, most infuriating orders ever decreed by a Federal agency. Dr. Charles C. Edwards, the Commissioner, here undertakes to establish by bureaucratic decree that absolute condition which has eluded mortal man since time began: In matters of dispute, conjecture, and opinion, Dr. Edwards now establishes what is "false."

He not only establishes the false. He also would require the entire food processing industry, under pain of criminal sanctions, to abide by his version of truth. He finds as a fact, for example, that "mineral nutrients in foods are not significantly affected by storage, transportation, cooking, and other processing." Neither is vitamin content affected by the soil foods are grown in. After Dec. 31, 1974, any processor who implies any such thing may be sent to prison for false labeling.

Dr. Edwards' regulations occupy 12 finely printed pages of the Federal Register. The new rules would require, in general, that all foods that are fortified or enriched must hereafter bear elaborate labels, printed in type not less than one-sixteenth of an inch high, specifying their precise percentages of what would become, by law, the "U.S. Recommended Daily Allowances" of vitamins and nutrients. Other regulations deal with dietary supplements.

My copy of the Register falls open at page 2147. These, if you would believe it, are findings of fact:

There is no rationale for allowing the promotion of dietary supplements of vitamins and/or minerals to the general American population for the purpose of treating diseases or symptoms . . . Lay persons are incapable of determining, by themselves, whether they have vitamin or mineral deficiencies . . . Vitamin or mineral deficiencies are unrelated to the great majority of symptoms like tiredness, nervousness, and rundown condition . . ."

These are facts? Since when are they facts? To be sure, certain experts advance these assertions. Other experts deny them. If two and a half years of hearings established one point, it was this: Nutrition is not an exact science. Dr. Edwards has no such humility. Thus he declares it flatly "false" that certain bioflavonoids have nutritional value. Any such representation is "inherently misleading," and "in no instance" will it be permitted.

The new regulations would forbid any processor to suggest or imply "that a diet of ordinary foods cannot supply adequate amounts of nutrients." The language echoes an earlier proposal that would have declared that "vitamins and minerals are supplied in abundant amounts by commonly available foods." Dr. Jean Mayer, the noted nutritionist, called the proposal "meaningless, childish, fallacious, and silly." But here it is once more, in only slightly amended form, and now it becomes "misbranding" to disagree with Dr. Edwards.

These sweeping edicts, you must understand, are for our own good. They are intended to "improve the nutritional well-being of Americans." They are for the people's "own health and welfare." They stem from Dr. Edwards' "conclusion of law" that "the development of general nutrition labeling . . . has become of primary concern to all consumers."

Primary concerns? All consumers? The language accurately reflects the unmitigated arrogance of the regulations as a whole. Here the whole might and majesty of the Federal government are thrown behind an edict establishing "the proper use" of a fortified cake mix. The criminal law must be mobilized because "there are persons in the United States who are receptive to suggestions that human ailments, to a great degree, can be treated by using vitamins and minerals . . ."

In my own view, the FDA has a responsibility, at law, to protect the public from fraud and contamination. But when the FDA recklessly converts mere opinions to "findings of fact" and to "conclusions of law," and peers into the minds of "all consumers" to determine their "primary concern," the FDA confuses bureaucratic power with divine power. We know how Dr. Edwards came to be Commissioner. It is not so clear who appointed him God.

KEY SCIENCE ACADEMY FIGURE ATTACKS PROPOSED FDA RULES FOR DIET FOODS

(By Morton Mintz)

A sharp attack on some of the regulations proposed by the Food and Drug Administration for special diet foods and diet supplements has come from an unexpected source—a key figure in the prestigious National Academy of Science-National Research Council.

He is W. H. Sebrell Jr., chairman of the Committee on Recommended Dietary Allowances of the NAS–NRC, the private group that advises the Federal Government on scientific and technological matters.

FDA based its proposed Recommended Dietary Allowances on a report of the NAS-NRC Food and Nutrition Board, of which Dr. Sebrell's Committee is a part.

When FDA Commissioner James L. Goddard announced the proposed regulations on June 17, the general impression was that the new rules had been devised with the full knowledge and approval of the NAS–NRC.

The Sebrell statement, along with an attack by the Agriculture Department was the first salvo of public criticism aimed at the highly publicized Dr. Goddard since he took office six months ago.

The proposed fact-about-foods rules concern the content and labeling of special foods for weight control, vitamin and mineral dietary supplements and other special dietary foods and substances.

Thirty days was given in which formal objections and requests for a hearing could be filed with the hearing clerk of the Department of Health, Education, and Welfare.

Predictably, a torrent of objections came in from industries and others with a stake in preserving the status quo for products on which tens of millions of consumers spend an estimated $375 million to $500 million annually.

But some aspects of the regulations were bitterly denounced, too, by leading pediatricians and nutritional experts at universities across the Nation.

A prime target was FDA's proposal to require the following statement on the label of multivitamin and mineral products:

"Vitamins and minerals are supplied in abundant amounts by the foods we eat. The Food and Nutrition Board of the National Research Council recommends that dietary needs be satisfied by foods. Except for persons with special medical needs, there is no scientific basis for recommending routine use of dietary supplements."

Sebrell, a professor of public health nutrition at Columbia University, termed the statement "objectionable and misleading." Objecting as chairman of a Board committee, he said the statement also misuses the authority of the Board to back up a contention "which taken out of context creates a false impression."

He said there is "no relevance" to the claim of sufficient vitamins and minerals in food for many individuals.

A FDA spokesman said he was surprised by the "tone" of Sebrell's objections. He said the agency had had amicable dealings with NAS-NRC, which had known since March that FDA was relying on its own scientists and others for data, as well as on NAS-NRC. The spokesman predicted that in their final form the regulations will be acceptable to NAS-NRC.

Assistant Secretary of Agriculture George L. Mehren called the proposed label statement "inaccurate and misleading" and said it would give "a false sense of security" to a consumer regardless of his eating habits and called for its deletion.

Mehren agreed that our foods provide good nutrition "if equitable distribution is obtained." But he cited a survey indicating "that 48 per cent of households do not fully meet" approved intake of one or more nutrients."

Sebrell also protested a list of recommended dietary allowances published by FDA without the knowledge or consent of the NAS-NRC.

He said the list gives "a false sense of value or validity" by blending into a single category two groups of nutrients, one for which his Committee has not established dietary allowances, but to which FDA assigned "arbitrary figures," and a second for which such allowances are fully established.

Frederick Seitz, president of the National Academy, recently suggested a meeting between staff members of FDA and the Academy. The agency agreed to the suggestion.

Aug. 17 is the deadline for filing documentation of objections. Then a hearing is expected to be held. Some version of the FDA proposals is scheduled to be ordered into effect next December, but court challenges seem certain. The effective day of the regulations may be years away. Meanwhile, the old rules, which FDA first proposed to change four years ago, remain in effect.

Mr. PROXMIRE. Mr. President, now let me develop the point concerning FDA's hostility and prejudice.

DRUGS MUST MEET TEST OF SAFETY AND EFFECTIVENESS

If vitamins and minerals are defined as drugs then they must pass muster through the FDA bureaucracy and meet the requirements of the law and the FDA that they are both safe and efficacious. In addition, they would have to contain on their label the specific diseases or symptoms which the recommended dosage would prevent, cure, mitigate, or treat.

There are several reasons why this requirement is not only onerous and impossible but why it represents an absolutely prejudiced and hostile act on the part of the FDA.

First, the FDA in its rules and regulations already published in the Federal Register lists six prohibited statements in the labelling or branding of foods. It states that a food shall be "misbranded" if its labelling represents, suggests, or implies six items including item 1 which states:

(1) That the food because of the presence or absence of certain dietary properties, is adequate or effective in the prevention, cure, mitigation, or treatment of any disease or symptom.

It is therefore illegal now to claim that the vitamin or mineral is effective in the prevention, cure, mitigation, or treatment of any disease. And obviously, the vitamin and mineral firms do not do this.

But, and here is the kicker, if vitamins and minerals are treated as drugs, then under the law they must prove that they are effective or "efficacious" in the prevention, cure, mitigation, or treatment of specific diseases.

ILLEGAL ACT REQUIRED

The FDA would require them to commit what is now an illegal act.

Here is an agency which states that vitamins and minerals are "illegal" and "misbranded" if they claim they are effective against any disease, but they now want to require that the manufacturers and distributors of these same vitamins and minerals prove that they are effective in the prevention, cure, mitigation, or treatment of a disease if they are to be sold as drugs in quantities in excess of 150 percent of the so-called recommended daily requirement.

Obviously, the FDA will use this provision as a means of banning many vitamins and minerals in quantities in excess of 150 percent of the RDA.

They have already pronounced on this issue. They have already made up their minds. They are requiring the vitamin and mineral industry to meet a requirement which the FDA has already said cannot be met. It is a contemporary version of that line from "Alice In Wonderland," "Sentence first. Verdict afterwards."

In fact, applying the FDA's own language, they want to require vitamins and minerals to meet a test under the drug regulations which FDA says would be illegal and misbranding if done under the food regulations.

That is asking the industry to meet an impossible regulation.

Its only purpose—and in fact its purpose is—to essentially ban altogether the purveyance of vitamins and minerals—either as foods, food supplements, or drugs, in quantities in excess of 150 percent of the so-called recommended daily allowance.

That is why I have said, without peradventure of contradiction, that the FDA is both prejudiced and actively hostile against the manufacture and sale of vitamins and minerals. They want to "do in" the health food industry.

FURTHER FDA PREJUDICE

But there is more to it than this. The FDA in numerous statements, publications, and arguments—and specifically in a FDA staff paper relating to the proposed dietary food regulations—has labeled as "false" certain claims they say have been made by the health food industry.

They refer to them as "subtle frauds" and as "nutritional quackery." But the overwhelming prejudice and bias of the FDA can be seen by an analysis of their own statements.

Here is what the FDA has said, and I quote it in full.

It has not been easy to stop the more subtle frauds practiced by those who exploit the four myths of nutritional quackery: (1) that all diseases are caused by, or related to, nutritional deficiency; (2) that major segments of the population of this country are now suffering from, or are in imminent danger of suffering from, nutritional deficiency; (3) that a diet of ordinary foods cannot supply adequate amounts of vitamins and minerals; and (4) that our soil is depleted in vitamins and minerals, and that modern methods of harvesting, processing, packing, transportation, storage, and cooking eliminate what few nutrients are in the food to begin with.

The FDA goes on to say that—

These claims are false, but all are believed by many consumers because they have been used repeatedly in promoting nutritional quackery.

What about this?

First of all, I know of no competent or responsible authority either within or without the vitamin and mineral industry who has ever claimed that "all," and I repeat "all diseases are caused by, or related to nutritional deficiency."

That is an FDA strawman. The myth is the FDA myth that it has been claimed by responsible parties. The FDA has set up a series of strawmen and then proceeds to knock them down.

Second, it is no myth that major segments of the population of this country are now suffering from nutritional deficiency. That "myth" has, in fact, considerable truth to it.

One major segment of the population in which numerous studies and reports indicate that vast numbers suffer from nutritional deficiency is the aged. I ask unanimous consent that an article by Richard Pothier of the Knight News Service reporting on a conference on Nutrition and Human Survival held in Washington, D.C. on September 1, be printed at this point in the RECORD.

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

RX FOR SENILITY: FOOD, VITAMINS

(By Richard Pothier)

At least 20 million American are over 65. Vast numbers of them are suffering from mental and physical sickness that simple nutritional solutions might cure, scientists report.

Millions of the nation's elderly are poor, sick, confused and virtually mentally ill, and simply feeding them better, with food supplements if necessary, could help restore their lives.

One study, carried out at Duke University's Center for the Study of Aging, showed that half of all psychiatric patients over 65 had "borderline" or worse nutritional status in at least one major food needed for the body and brain to function.

A National Institutes of Health survey found "abnormally low levels" of vitamins and minerals among a random group of elderly men, rich and poor.

"The findings show that nutritional problems exit in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies," says a report from the NIH.

Some of the nation's leading nutrition experts met Monday here for a symposium on "Nutrition and Human survival." Some of the results of studies on America's old people startled non-professionals.

Dr. Alan D. Whanger of Duke University's Medical Center, a practicing psychiatrist, said he "Almost routinely" treats his psychiatric patients with vitamin mineral supplements.

It doesn't often cure the problems entirely, he said. But he said he's found evidence that "vague mental complaints" in elderly patients sometimes respond to nutritional therapy.

Up to 40 percent of his aged patients show some nutritional deficiency, he said.

Half of a group of severely ill, hospitalized psychiatric patients over 65 had only "borderline levels" of some important nutrients.

"I can't prove it, but I would presume that many of our aged need vitamin supplements. And what worries me is that because of new Food and Drug Administration regulations, vitamins are going to get more and more expensive and less and less available to our aged poor who need them the most," he said.

Vitamin mineral supplements "often would" make our aged heal their physically and mentally, he said.

The entire life-style of many of the nation's old people leads to poor nutrition, specialists say.

They often live alone and lack the money and knowledge to prepare balanced meals. As millions of Americans age, Dr. Whanger said, their diets often degenerate into "tea and toast."

The aging process itself leads to poor nutritional health. Dr. Leonard Luhby of New York Medical College pointed out that a simple fact like loss of teeth could have great bearing on nutrition.

"They're not as likely to be eating meat as they were in their earlier years." And they may abandon the traditional meat pattern.

He said this gradual degeneration in vitamin-mineral intake could lead to "a mild degree of confusion" or worse mental problems usually associated with senility.

"In many cases," he said, simply giving the elderly a proper diet "can correct the psychiatric condition."

At Duke University, Dr. Whanger said, multiple studies of vitamin deficiency have borne out this theory.

"There are surprisingly few adequate studies of the effects of vitamin supplementation," Dr. Whanger said. "By far the best is a controlled two-year study of 80 chronically ill, hospitalized elderly patients.

"Of these, 95 percent showed some sign of nutritional deficiency and 90 percent had low levels of thiamin (a B vitamin) or ascorbic acid (vitamin C.)

"Those subjects receiving supplemental vitamin B complex and vitamin C showed highly significant improvement in physical and mental condition, although this improvement took up to one year.

Mr. PROXMIRE. Mr. President, there are studies which show that among the poor—who compose about 15 percent of the population, which must be called a major segment—there are serious nutritional deficiencies.

There is also an NIH funded study which indicates that there are abnormally low levels of vitamins and minerals among elderly men, both rich and poor. According to the NIH news release: "The findings show that nutritional problems exist in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies." I ask unanimous consent that the August 25, 1973, release from NIH be printed at this point in the RECORD.

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

MEDICAL NEWS TIPS

Vitamin deficiencies in the elderly—Investigators in the Gerontology Research Center of the National Institute of Child Health and Human Development are conducting a long-term nutrition survey on a group of more than 600 men. Early results of this study show that with advancing age, there is a reduction in blood levels of thiamine (B1), riboflavin (B2), and pyridoxine (B6)—three vitamins essential to maintaining normal body chemistry.

Two hundred men, volunteers in the Baltimore Longitudinal Study, have been studied to date. Of this group, 30 percent reported taking vitamin supplements. One-fifth of the subjects who were not taking vitamin supplements showed evidence of abnormally low levels of thiamine and riboflavin. Evidence also showed an abnormality in levels of certain enzymes known to change with vitamin deficiency in the plasma and red blood cells.

These results are surprising because the group being studied is comprised of highly educated, community-living subjects who have access to adequate diets. The findings show that nutritional problems exist in advantaged as well as disadvantaged elderly and that vitamin supplementation may be a reasonable means of overcoming deficiencies.

The data is now being examined to determine whether poor nutritional status increases development of age-related diseases, such as arteriosclerosis, diabetes, or hypertension.

For additional information about aging research, contact: Information Office, Gerontology Research Center, Baltimore City Hospitals, Baltimore, MD 21224, Phone (301) 342–5400, Ext. 1401.

Mr. PROXMIRE. Mr. President, what an ironic situation we have here. On the one hand the FDA states that it is a subtle fraud and a form of nutritional quackery for anyone to claim: That major segments of the population of this country are now suffering from, or are in imminent danger of suffering from nutritional deficiency. On the other hand, the NIH, also an agency of the Department of Health, Education, and Welfare has released a study showing that nutritional problems of the elderly exist in the advantaged as well as the disadvantaged elderly. In this case one hand does not seem to know what the other is doing. And clearly the FDA has not read the latest scientific evidence from its sister agency.

JUNK FOOD

And we all know the dangers to children, who drink vast quantities of carbonated soft drinks and eat candy and junk foods, from excessive amounts of sugar and an absence of highly nutritious foods unless their families are especially careful to see that they eat balanced, nutritional meals after they have filled themselves up with junk.

There are classes and segments of the population who do, in fact, suffer from nutritional deficiency. That is no myth.

The FDA also claims that a diet of ordinary foods can supply adequate vitamins and minerals. We have heard the FDA say again and again over the years that vitamins and minerals are supplied in abundant amounts by commonly available foods.

But again, in the words of the old song, "it ain't necessarily so."

What is a so-called "balanced diet," and who gets it?

VITAMIN C—THE NEW EVIDENCE

Take, for example, vitamin C. The recommended daily allowance is 60 milligrams. It is probably true that a diet which included fresh fruits daily would supply 60 milligrams a day.

But there is now very strong evidence to indicate that the RDA is far too low except perhaps as a minimum amount to prevent rickets, and that vitamin C in much larger amounts—as much as 1,000 milligrams a day or more—can have very favorable health effects.

Dr. Linus Pauling, the Nobel Laureate, created something of a sensation when in 1970 he published a book entitled "Vitamin C and the Common Cold" in which he advocated that individuals routinely use 1,000 or more milligrams of vitamin C a day and that these amounts be increased three- or fourfold with the first symptoms of a cold.

CANADIAN STUDY

Orthodox medical circles, the FDA, and others pooh-poohed Dr. Pauling's findings. But it now appears that his findings, or rather findings that vitamin C in relatively large daily amounts do have highly beneficial effects, have been confirmed in a highly scientific study done in Canada at the University of Toronto by Professors Anderson, Reid, and Beaton.

A double-blind test—neither the doctors nor the patients knew which group was getting vitamin C and which group was getting a placebo—was run with 1,000 individuals, 818 of whom completed the study. Half of them got 1,000 milligrams of vitamin C a day and the other half a placebo. When they felt a cold coming on, dosage of the vitamin C or the placebo was raised to 4,000 milligrams a day. The test was continued over 90 to 120 days.

There were some startling results.

First. Twenty-six percent of the vitamin C group remained free of any illness. For the placebo group, it was 18 percent. The study states that this was statistically significant.

Second. The duration of illnesses for the vitamin C group was 5 percent lower than for the placebo group.

Third. The mean length of disability—namely, days confined to the house—per illness was 21 percent lower for the vitamin C group as compared with the placebo group.

Fourth. Because both the number of illnesses were fewer and the number of days confined were fewer for the vitamin C group, the number of days per subject was 30 percent lower for the vitamin C group than for the placebo group.

Fifth. The mean number of days off work was 67 percent lower for the vitamin C group than for the placebo group.

Sixth. During the period of the study, 40 of the vitamin C subjects saw a doctor on a total of 60 occasions. But 56 of the placebo subjects saw a doctor on a total of 97 occasions. I ask unanimous consent that an article from the October 7, 1972, National Observer entitled "New Research Bolsters Pauling's Theory About Colds and Vitamin C" and the original scientific study, "Vitamin C and the Common Cold, a Double-Blind Trial" by Professors Anderson, Reid, and Beaton, from the Canadian Medical Association Journal for September 23, 1972, both be printed at this point in the RECORD.

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

TESTED IN CANADA—NEW RESEARCH BOLSTERS PAULING'S THEORY ABOUT COLDS AND VITAMIN C

(By Patrick Young)

When Nobel Laureate Linus Pauling proposed two years ago that heavy, daily doses of Vitamin C could prevent and even cure common colds, he sparked a lively and continuing medical controversy. Doctors largely rejected the noted chemist's contentions as scientifically unfounded.

Now three researchers from the University of Toronto's school of hygiene report in the Canadian Medical Association Journal that patients taking Vitamin C in a test last winter had fewer and less-severe colds than a group taking placebos.

Doctors T. W. Anderson, D. B. Reid, and G. H. Beaton set out to test Pauling's idea that 1,000 milligrams (one gram) daily of Vitamin C would cut the number of colds by 45 per cent.

They selected 1,000 patients, each of whom said they normally experienced at least one winter cold. Half were given Vitamin C and half placebos. The Vitamin C group got 1,000 milligrams a day and increased this dosage to 4,000 milligrams when they felt a cold coming on. Each patient was watched for three to four months.

The researchers found the Vitamin C group had 561 colds to 609 for the placebo group, but the difference was far less than Pauling predicted. The Vitamin C group, however, had 30 per cent fewer days of disability, defined as "confinement to house or absence from work," a finding Anderson calls "highly significant."

"Our finding that disability was substantially less in the vitamin group was entirely unexpected and may have important theoretical and practical implications," the researchers said.

They consider it unlikely that the reduced disability resulted because the patients' diets were deficient in Vitamin C. Nor is there evidence that it resulted from some antiviral or antibacterial action of Vitamin C.

The team is readying a second experiment involving 4,000 persons for this winter. "We feel there is some definite effect of these big doses of Vitamin C," says Anderson.

VITAMIN C AND THE COMMON COLD: A DOUBLE-BLIND TRIAL

(By T. W. Anderson, B.M., Ph. D., D. B. W. Reid, M.S.C., and G. H. Beaton, Ph. D.)

Summary: A large scale double-blind trial was conducted to test the claim that the intake of one gram of vitamin C per day substantially reduces the frequency and duration of "colds". It was found that in terms

of the average number of colds and days of sickness per subject the vitamin group experienced less illness than the placebo group, but the differences were smaller than have been claimed and were statistically not significant. However, there was a statistically significant difference ($P<0.05$) between the two groups in the number of subjects who remained free of illness throughout the study period. Furthermore the subjects receiving the vitamin experienced approximately 30% fewer total days of disability (confined to the house or off work) than those receiving the placebo, and this difference was statistically highly significant ($P<0.001$). The reduction in disability appeared to be due to a lower incidence of constitutional symptoms such as chills and severe malaise, and was seen in all types of acute illness, including those which did not involve the upper respiratory tract.

This investigation was prompted by an article by Beaton and Whalen that appeared in this journal in August 1972 [1] in which the authors reviewed the much-publicized book *Vitamin C and the Common Cold* by Linus Pauling.[2] While they were critical of the limited evidence upon which Pauling based his claims, Beaton and Whalen felt that properly controlled trials of the proposed therapy were justified in view of the scientific eminence of Linus Pauling (a Nobel prize-winner in biochemistry) and the large amount of public interest in the matter.

In the subsequent issue of the Journal a letter from Linus Pauling was published in which he specified that "the regular ingestion of 1000 mg. (of vitamin C) leads to the decreased incidence of colds by about 45% . . . (and) . . . to a decrease in total illness by about 60%." [3] Pauling based these estimates on the results of a double-blind study involving 279 students at a ski-school in Switzerland,[4] and although the differences observed in this study were statistically significant, the period of observation was only one week for each individual. We therefore decided to set up a double-blind study in which this quantity (1000 mg./day) would be given to a large group of subjects for a period of three or four months.

Since most of us involved in the study design were skeptical of Pauling's claims, we aimed to enroll a large number of subjects (1000) in the hope of avoiding an indecisive negative results. Furthermore, subjects were instructed to increase their intake to 4000 mg./day at the onset of a cold, in order that a negative result would not be open to the criticism that we had not followed all of Pauling's recommendations (which include raising the dosage at the first sign of a cold).[5] We recognized that this extra dosage feature might complicate the interpretation of the results, since we were adding a therapeutic feature to an essentially prophylactic trial, but we believed that the most important thing was to establish whether or not there was any effect from large doses of vitamin C. In the event that we obtained a positive result a subsequent trial could be carried out in which the two features were studied separately. At the same time, to avoid any possibility of our negative bias affecting the results, subjects were allocated to vitamin and placebo in a strictly double-blind randomized manner and the code was not broken until after all the data had been transferred to punch cards and initial tabulations carried out.

METHOD AND MATERIAL

Subjects: Volunteers were sought from a variety of occpations and age groups in order to obtain a reasonable cross-section of the general populaton. However, since we asked persons not to enroll unless they normally experienced at least one cold in the period January to March, the study group was not representative of the general population in terms of susceptibility to colds. Major sources of volunteers were the School of Hygiene (183), Ontario Hydro (120), Ryerson Polytechnical Institute (76) and the Toronto East General Hospital (72). Each volunteer was encouraged to recruit other family members and friends, and thanks to the enthusiastic cooperation of many individuals and the officials of several organizations, over 200 subjects were enrolled by December 5, 1971 and the full complement of 1000 by January 2, 1972. The study period ended on March 31, 1972, and the analysis which follows is based upon the 818 individuals who were in the study for at least two months, and for whom complete personal and sickness records were available for analysis. Almost all of the 182 subjects who dropped out of the study were subsequently contacted by telephone or letter, and it was established that most had dropped out because of loss of interest or because they found it impossible to remember to take their tablets regularly. The few who dropped out because of suspected side effects are discussed later.

Each potential volunteer received a description of the purpose and method of the study, including the fact that half of the subjects would be receiving an inert placebo preparation. In addition, each received a detailed set of instructions concerning the dosage schedule and the method of recording symptoms during an episode of illness. In the event that a subject needed to see a doctor, the doctor was to be asked to make a brief note of his physical findings and diagnosis on the patient's record-sheet. Physicians were informed of this through an announcement in the *Ontario Medical Review*, and were advised that the code could be broken for an individual patient if it was felt necessary to determine whether the patient was on the vitamin or placebo. (This contingency did not in fact arise, but if it had the patient would have been dropped from the study.)

Subjects who were in the habit of taking a daily multi-vitamin supplement during the winter months were asked to identify the product involved, and were accepted into the study only if the daily dose of vitamin C was 50 mg. or less.

Tablets: Each subject was given a bottle containing 500 tablets. Half of the bottles contained vitamin C in a strength of 250 mg./tablet; the rest of the bottles contained placebo tablets. Subjects were instructed to take a regular dose of four tablets each day in divided doses, increasing to 16 tablets (4g.) each day for the first three days of any illness. Because of the increased consumption of tablets at times of illness, a number of the subjects who entered the trial in early December ran out of tablets before the end of March. This accounts in part for the variation in the total number of days that individuals spent in the study.

Particular care was taken to ensure that the vitamin and placebo tablets were indistinguishable in appearance and taste. Pure ascorbic acid has a very strong and characteristic flavour which is difficult to imitate, and we therefore used a formulation containing 200 mg. of sodium ascorbate, 75 mg. of ascorbic acid and an artificial orange flavouring. The taste of this formulation was well matched by a placebo preparation containing 30 mg. of citric acid and the same orange flavouring and fillers. The effectiveness of the matching was established by asking 30 individuals to taste both tablets, and using pure ascorbic acid as reference, to judge which tablet contained the vitamin. Sixteen persons selected the placebo tablet and 14 the vitamin tablet. The effectiveness of the matching was verified at the end of the main study by the answers to the question "Do you think you have been on the vitamin or placebo tablet?". Approximately half of the 818 subjects answered "Don't know", and the remainder were divided almost equally between those who guessed correctly and those who did not.

Each bottle of tablets was assigned a code number derived from a computer-generated list of consecutive numbers, randomized in pairs. After the bottles had been labelled the list of numbers was given for safe-keeping to a colleague who was not involved in the study. The bottles were subsequently given out in numerical order to the subjects as they registered, so that when a group of individuals registered at the same time (e.g. a class of students) approximately half received the vitamin and half the placebo. This helped to ensure that the vitamin and placebo groups were well matched for age, sex and other characteristics (Table I).

TABLE I.—THE NUMBER OF SUBJECTS POSSESSING CERTAIN CHARACTERISTICS IN EACH GROUP

	Vitamin	Placebo
Total subjects	407	411
Age:		
Less than 25	218	213
Over 25	189	198
Sex:		
Male	180	177
Female	227	234
Occupation:		
Student	177	180
Other	230	231
Smokers	117	132
Usually 2 or more colds	211	192
Contact with young children	140	148
Frequently in crowds	309	323
4 or more ounces of juice daily	284	277
Other vitamin supplement	61	57

Record-sheets: A calendar type record-sheet was provided for each month. Subjects were instructed to record each day whether they were sick or well, and the total number of tablets taken during that day. On the reverse side of the sheet appeared a list of sites (nose, throat, etc.) against which, on each day of illness, was to be recorded 0 (not affected), + (mildly affected) or ++ (severely affected). The same coding was to be used to record the presence of malaise or chills, and in addition subjects were asked to record whether they had stayed indoors, stayed off work, seen a doctor, taken any prescription or non-prescription drug (and its nature) and, if possible, their highest oral temperature on that day. In addition to the monthly record-sheet, each subject completed an initial questionnaire and a final evaluation sheet.

At the end of each month the record-sheets were returned and the information coded and transferred to punch cards. On those occasions when two episodes of sickness were separated by only a few symptom-free days, the following rules were applied: if the symptom-free interval was two days or less, only a single episode was recorded; if the interval was three to six days, the episodes were counted separately unless the symptom patterns were essentially the same on the two occasions; if the interval was seven days or more, the episodes were counted separately, however similar the symptoms.

Subjects who were already sick on the day they entered the study were not considered to have started until their first symptom-free day.

A number of statistical analyses were carried out on the data. Where tests of significance were performed these were standard two-tailed tests.

RESULTS

When the table code was broken it was found that of the 818 subjects whose experience was available for analysis 411 had been on the placebo and 407 on the vitamin. The

Footnotes at end of article.

randomization appeared to have been successful in producing two reasonably well-matched groups. The average age of the vitamin group was 28.8 years (range 10 to 64), and that of the placebo group 28.9 years (range 10 to 65). The total number of days in the study was 41,904 for the vitamin subjects (mean 103.2) and 41,864 for the placebo subjects (mean 101.9). There were no statistically significant differences in the frequency of any of the other recorded characteristics of the two groups (Table I). The relative distribution of recorded characteristics in the 182 subjects who dropped out of the study was essentially the same as that seen in the main group.

The 818 subjects recorded a total of 1170 episodes of illness. In the vitamin group 105 subjects (26%) remained free of illness throughout the study, while the corresponding figure for the placebo group was 76 (18%). This difference was statistically significant at the 0.05 level of probability ($X^2=5.92$).

TABLE II.—OVERALL SICKNESS EXPERIENCE OF THE SUBJECTS IN THE VITAMIN AND PLACEBO GROUPS

	Episodes of illness		Days: Symptoms present		Days: Confined to house	
	Vitamin	Placebo	Vitamin	Placebo	Vitamin	Placebo
Total number	561	609	2,138	2,474	531	769
Number per subject:						
Mean ± S.E.	1.38±0.061	1.48±0.056	5.25±0.297	6.02±0.284	1.30±0.101	1.87±0.138
t—value	1.21		1.87		[1] 3.33	
Vitamin/Placebo (percent)	93		87		70	
Mean number per episode:						
Mean ± S.E.[2]	—		3.96±0.162	4.18±0.139	1.04±0.074	1.32±0.087
t—value	—		1.03		[3] 2.45	
Vitamin/Placebo (percent)	—		95		79	

[1] Approximate statistical probabilities less than 0.001.
[2] These figures are based on the average values for each subject. The corresponding mean values calculated directly from the overall number of days and episodes were: (symptoms) 3.81 and 4.06, (house) 0.95 and 1.26.
[3] Approximate statistical probabilities less than 0.05.

TABLE III.—THE MEAN NUMBER OF EPISODES OF ILLNESS, DAYS ON WHICH SYMPTOMS WERE PRESENT, AND DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP, CLASSIFIED ACCORDING TO SITE OF PREDOMINANT SYMPTOMS ON DAY OF ONSET

Site of predominant symptoms	Episodes per subject			Days per subject: Symptoms present			Days per subject: Confined to house		
	Vitamin	Placebo	Vitamin/Placebo (percent)	Vitamin	Placebo	Vitamin/Placebo (percent)	Vitamin	Placebo	Vitamin/Placebo (percent)
Nose	0.79	0.84	94	2.92	3.07	95	0.64	0.78	82
Throat	.36	.43	84	1.67	2.02	83	.47	.73	64
Other[1]:									
(a) Respiratory	.10	.10	100	.39	.45	87	.13	.21	62
(b) Nonrespiratory	.12	.11	109	.32	.31	103	.10	.15	67

[1] Episodes beginning mainly at sites other than nose or throat have been divided into those in which symptoms affecting either the nose, throat or chest appeared at some stage of the episode ("respiratory") and those in which there were no respiratory symptoms at any stage ("nonrespiratory").

The overall sickness experience of the two groups is summarized in Table II in terms of frequency of episodes, duration of symptoms and duration of "disability" (as measured by days confined to the house). Although the mean number of episodes per subject was 7% lower in the vitamin group, this difference was not statistically significant. (In Title II the t-value is the ratio of the difference between means to its standard error; because of the very asymmetrical form of the distributions involved, the probability values are only approximate.) Statistical evaluation of the average duration of the episodes was complicated by the fact that some individuals experienced more than one episode of illness and these episodes often varied considerably in length. The mean number of days per episode in each group has therefore been calculated from the average number of days per episode for each person. On this basis the mean duration (days of symptoms per episode) for the vitamin group was 5% lower than that for the placebo group, and the mean length of disability (days confined to the house) per episode was 21% lower for the vitamin compared to the placebo group. The latter difference was statistically significant ($P<0.05$). (It should be noted that the percentage reductions in days per episode are underestimates, since an episode could not be less than one day in length.)

Owing to the combination of fewer episodes and fewer days per episode, the difference between the groups was marked in terms of days per subject, particularly days confined to the house, in which the mean figure for the vitamin group was 30% lower than that for the placebo group, a difference which was statistically significant ($P<0.001$). There were 232 subjects in the vitamin group who did not report any days confined to the house, compared to 195 in the placebo group ($P<0.01$).

Other measures of severity or disability showed a similar pattern. The mean number of days off work was 0.88 per subject in the vitamin group, compared to 1.31 in the placebo group ($V/P=67\%$, $P<0.01$). (The number of days off work was lower than the number of days confined to the house because some of the latter occurred on weekends and holidays.) The number of subjects who did not report any days off work was 275 in the vitamin group and 243 in the placebo group ($P<0.05$). Similarly, while 40 of the vitamin subjects saw a doctor on a total of 60 occasions, 56 of the placebo subjects saw a doctor on a total of 97 occasions. The intake of antibiotics and other prescriptions drugs showed a similar distribution.

In Table III episodes of illness have been classified according to the site of the predominant symptoms on the first day of the episode. It is interesting, in view of the hypothesis being tested, that those episodes beginning with predominantly nasal symptoms showed the least difference between the two groups in the days of sickness and disability per subject. Indeed, the most striking feature of the figures shown in Table III is the similarity of the vitamin/placebo differences regardless of the type of onset. The only exception is in the episode-per-subject rate in those episodes with predominantly throat onset, in which there was a lower—but statistically not significantly different—rate in the vitamin group. Of particular interest, in spite of the small numbers involved, was the similarity of the pattern in the "Other: nonrespiratory" group, made up of those episodes which at no time involved the nose, throat or chest. (About half of these appeared to be typical attacks of gastroenteritis, while others were characterized by malaise or chills without any localizing symptoms.)

A large number of cross-tabulations were prepared to see if the difference in the disability experience between the vitamin and placebo groups could be explained on the basis of mismatching of the two groups, or different disease patterns at different times during the trial. This line of enquiry was essentially negative, since although there were differences in the size of the "vitamin effect", the vitamin subjects always showed less disability, whatever their other characteristics. These cross-tabulations are summarized in Tables IV and V. For brevity, only the figures for days confined to the house per subject are given, since these show some of the largest differences between the groups, and are based on reasonably large numbers. They are also likely to be of more medical and economic importance than the actual number of episodes or the number of days on which symptoms were present.

In Table IV it can be seen that there was a greater reduction in disability experience for the subjects who reported that they usually had two or more colds, who were in contact with young children, or who were frequently in crowds. Since each of these characteristics might be associated with an increased vulnerability to infection, the subjects were reclassified according to the number of episodes they experienced, to see if the higher average duration of disability in the placebo group was due to the experience of a few particularly vulnerable individuals. This was found not to be the case, although there was evidence of a trend in the size of the reduction of average disability per episode, from 17% in persons with one episode to 27% in those with three or more (Table VI).

TABLE IV.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP, SUBDIVIDED ACCORDING TO CERTAIN OTHER CHARACTERISTICS OF THE SUBJECTS

	Days confined to house per subject		
	Vitamin	Placebo	Vitamin/placebo (percent)
Age:			
Less than 25	1.40	2.00	70
More than 25	1.20	1.74	69
Sex:			
Male	1.15	1.79	64
Female	1.43	1.94	74
Occupation:			
Student	1.46	1.78	82
Other	1.18	1.94	61
Usual colds:			
Less than 2	1.30	1.50	87
More than 2	1.31	2.29	57
Contact with young children:			
Yes	1.31	2.43	54
No	1.30	1.56	83
Frequently in crowds:			
Yes	1.27	1.92	66
No	1.41	1.69	83
Daily juice (ounces):			
0 to 3	.98	1.87	52
4 or more	1.45	1.87	78
Vitamin supplements:			
Yes	1.36	2.39	57
No	1.29	1.79	72
Smoker:			
Yes	1.27	1.82	70
No	1.32	1.90	69

Two other characteristics that showed substantial differences in the size of the "vitamin effect" were the daily intake of fruit or vegetable juice and the use of vitamin supplements. (Table IV). The possible significance of these differences will be considered in the Discussion.

The data were also analyzed to see if there was any particular type of symptom that appeared less frequently in the vitamin group. A summary of the findings is given in Table VII, and it will be noted that the difference between the two groups was most marked in the generalized, constitutional symptoms—severe malaise, chills (mild or severe) and fever (oral temperature 100° F. or higher). The local symptoms (referable to nose, throat and chest) showed less striking differences. With the exception of severe malaise and fever, the reduction was mainly in the number of days per episode, rather than in the number of episodes per subject. In the case of fever the reduction was almost entirely in the frequency of episodes (with the majority of episodes containing only one day of fever), while in the case of severe malaise there was an almost equal reduction in both the mean number of episodes per subject and in the mean number of days per episode.

The apparent similarity between the effectiveness of the vtiamin on the limitation of constitutional symptoms and on the reduction of days confined to the house is explained by the fact that it was the constitutional rather than the local symptoms which were most frequently associated with disability.

Other findings: It has been claimed that in addition to a specific effect on "colds", the intake of large doses of vitamin C produces an increased sense of well-being.[2] When questioned at the end of the study only 77 (19%) of the vitamin group said that they had felt an increased sense of well-being during the study, and 78 (19%) of the placebo group answered in the same way. This claim therefore seems to have little justification.

Of the 182 subjects who dropped out of the study 28 did so because of suspected side effects, distributed almost equally between the vitamin (15) and placebo groups (13). Gastrointestinal symptoms such as nausea, abdominal cramp or diarrhea were the symptoms in nine (vitamin: five, placebo: four), skin rash in five (vitamin: two, placebo: three) and genito-urinary in three (vitamin: none, placebo: three). The occurrence of less severe side effects was not monitored in any detail, but at the end of the study, in answer to the question "Did you have any unusual symptoms while you were taking the tablets?", the proportion answering yes was almost identical in the two groups (vitamin 12%, placebo 11%).

TABLE V.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE PER SUBJECT IN EACH GROUP DURING EACH MONTH OF THE STUDY, ACCORDING TO THE SUBJECTS' STARTING DATE AND TOTAL DAYS IN THE STUDY

	Number of subjects		Days confined to house per subject		
	Vitamin	Placebo	Vitamin	Placebo	Vitamin/Placebo (percent)
Month:					
December	212	213	0.29	0.61	48
January	403	404	.52	.66	79
February	407	408	.42	.59	71
March	391	385	.23	.34	68
Starting date:					
Dec. 5	160	160	1.34	1.91	70
Jan. 2	133	123	1.43	1.78	80
Other	128	114	1.11	1.91	58
Total days:					
118 (Dec. 5–Mar. 31)	122	111	.95	1.72	55
90 (Jan. 2–Mar. 31)	133	120	1.43	1.80	79
Other	152	180	1.48	2.01	74

TABLE VI.—THE MEAN NUMBER OF DAYS CONFINED TO THE HOUSE (PER EPISODE) FOR SUBJECTS IN EACH GROUP, ACCORDING TO THE TOTAL NUMBER OF EPISODES OF ILLNESS EXPERIENCED DURING THE STUDY

	Number of subjects		Mean days confined to house (per episode)		
Number of episodes	Vitamin	Placebo	Vitamin	Placebo	Vitamin/placebo (percent)
0	105	76			
1	138	155	1.18	1.43	83
2	104	114	1.00	1.31	76
3 plus	60	66	.81	1.11	73

TABLE VII.—THE MEAN NUMBER OF DAYS PER SUBJECT IN EACH GROUP ON WHICH CERTAIN SYMPTOMS WERE RECORDED

	Days symptom recorded		
	Vitamin	Placebo	Vitamin/placebo (percent)
Nose:			
Severe	1.59	1.67	95
Mild	2.28	2.53	90
Throat:			
Severe	.88	1.03	85
Mild	1.97	2.18	90
Chest:			
Severe	.40	.45	89
Mild	1.08	1.20	90
Malaise:			
Severe	.65	.95	68
Mild	1.96	2.13	92
Chills:			
Severe	.17	.22	77
Mild	.78	.99	79
Temperature greater than 100° F	.09	.20	45

TABLE VIII.—THE MEAN NUMBER OF EPISODES AND DAYS SICK PER SUBJECT IN EACH GROUP, FOR EPISODES DURING WHICH THERE WERE SYMPTOMS AFFECTING THE NOSE OR THROAT

	Episodes per subject			Days of symptoms		
Symptoms	Vitamin	Placebo	Vitamin/Placebo (percent)	Vitamin	Placebo	Vitamin/Placebo (percent)
Predominant on day of onset:						
Nose	0.79	0.84	94	2.92	3.07	95
Nose or throat	1.16	1.27	91	4.49	5.20	86
Present at any time:						
Nose	1.08	1.19	91	4.40	5.05	87
Nose or throat	1.14	1.24	92	4.61	5.36	86

DISCUSSION

The primary objective of this investigation was to test the claim that persons taking 1 g. of vitamin C per day would experience a substantial reduction in both the frequency and the total duration of "colds".[3]

We found it difficult to arrive at a single, generally acceptable definition of a "cold", other than that the episode of illness should at some time be marked by symptoms in either nose or throat. The average frequency and total duration of "colds" per subject were therefore calculated according to four different definitions of a "cold" (Table VIII). The difference between the vitamin and the placebo groups was essentially the same according to each of these definitions, the largest differences being a 9% reduction in frequency and a 14% reduction in days sick (using the definition of nose or throat symptoms predominating on day of onset). Neither these differences nor any of the others shown in Table VIII achieved statistical significance but there was a statistically significant difference in the number of subjects who did not experience any nose or throat symptoms at any time (V: 131, P: 101, $P<0.05$).

Our estimates are therefore considerably lower than the 45% reduction in frequency of "colds" and the 60% reduction in total days of illness that were observed in Ritzel's study of ski students,[4] on which Pauling based his claims.[3] However, both Ritzel's study and the present one involved limited numbers of subjects and therefore provide estimates that are subject to error. While it is difficult to determine exact limits for the percentage reductions observed by Ritzel, the approximate 95% confidence interval for the

Footnotes at end of article.

45% reduction in frequency is 34% to 91%. The estimates from the two studies are therefore not necessarily in conflict.

Our finding that disability was substantially less in the vitamin group was entirely unexpected, and may have important theoretical and practical implications. Further studies will, of course, be required to confirm this finding and to establish its magnitude more precisely, but the high level of statistical significance associated with it encourages us to believe that it is likely to be a real effect rather than a statistical artifact. (The theoretical possibility that the placebo tablets were causing a prolongation of disability was considered but rejected. Citric acid is not known to be harmful at these dosages, and even at the maximum intake of 16 tablets per day, the amount of citric acid ingested was barely one tenth the quantity contained in an average-sized grapefruit.) We have therefore examined our data to see if they provide any clues as to the way in which these large doses of ascorbic acid might be exerting their effect.

One of the possibilities considered was that the reduction in days of disability in the vitamin group was due to some of our subjects being on diets that were, by conventional standards, deficient in vitamin C. (If this were the case the massive doses would be merely ensuring that the basic requirement of approximately 30 mg. a day was being received, and a much lower dose would have achieved the same effect.) While this possibility could not be ruled out, since we made no attempt to measure dietary intake or body stores of vitamin C, it would seem to be an unlikely explanation, since not only are foods containing vitamin C readily available in Canada, but over two-thirds of our subjects reported an intake of at least four ounces of fruit or vegetable juice each day.

Another question that was examined was whether the reduction in disability in the vitamin group was due to a lower incidence of complications. The data provided little support for this belief, since in both groups approximately 60% of the spells of disability began on the first day of the episode—too early to be ascribed to secondary complications. Furthermore, the number of episodes beginning with nose or throat symptoms in which chest symptoms first appeared on the second day or later was approximately the same in both groups (67 in the vitamin group, compared to 69 in the placebo group).

A third question that is of considerable theoretical interest is whether the large intake of ascorbic acid was exerting a specific anti-viral (or anti-bacterial) effect, or whether the mechanism involved was a non-specific one responding to any type of acute illness, or indeed to any acute stress. Our data cannot provide a clear answer to this question, but the fact that general rather than local symptoms were the most strongly influenced, and that different types of illness appeared to be more or less equally affected, would seem to favour a relatively non-specific mechanism. The high concentration of ascorbic acid normally found in the adrenal cortex (and its depletion at times of stress) may be relevant to this question.

Whatever the final answers may be to these and other questions, it would seem that further research in this area is well justified. In economic terms alone the rewards might be substantial, since the disability from acute (mainly respiratory) illness in Canada amounts to approximately 1.5 days per person each year.[5] In terms of total personal income (approximately 66 billion dollars in 1970 [6]) this is equivalent to a loss of approximately 270 million dollars annually; even a small reduction in total disability would represent a very large saving to the national economy. However, before these potential economic benefits can be realized, further studies are required to establish the most appropriate dosage levels, the relative importance of the prophylactic and therapeutic features, and the safety of prolonged ingestion of large doses of ascorbic acid or its salts. Until more information is available on these questions we do not feel that any firm recommendations can be made concerning the place of large doses of ascorbic acid in the prevention and treatment of "colds" or other acute infections.

Many individuals assistted in the planning and execution of this investigation, and while it is impossible to name them all, we would particularly like to thank E. Van Sickle, R.N., for her valuable contribution, and S. Whalen, H. Moghadam, K. L. Weldon, A. Csima, J. Hatcher and M. Fears for their help in the design of the trial and the analysis of the results. We would also like to thank A. Harris and C. Retchford of Empire Laboratories for their assistance in preparing a convincing placebo tablet at very short notice, and, last but not least, we thank the large number of subjects who participated in the study.

FOOTNOTES

[1] BEATON GH, WHALEN S: Vitamin C and the common cold. *Can Med Assoc J* 105: 355, 1971

[2] PAULING L: *Vitamin C and the Common Cold*. San Francisco, WH Freeman, 1970

[3] Idem: Letter to the Editor. *Can Med Assoc J* 105: 448, 1971

[4] RITZEL G: Ascorbic acid and infections of the respiratory tract. *Helv Med Acta* 28: 63, 1961

[5] *Canadian Sickness Survey 1950–1951*. Ottawa, The Queen's Printer, 1960

[6] Statistics Canada: *Preliminary Report on the Geographical Distribution of Personal Income*, 1970

RDA FOR VITAMIN C FAR TOO LOW

Mr. PROXMIRE. The point is that the so-called recommended daily allowance—RDA—of vitamin C of 60 milligrams a day certainly appears to be an inadequate amount when the Pauling study and the Anderson, Reid, Beaton studies are read.

In these circumstances, for the FDA to assert that it is "nutritional quackery" for anyone to say that a diet of ordinary foods cannot supply adequate amounts of vitamins and minerals when those so-called adequate amounts are defined as the recommended daily allowance—RDA—is ridiculous.

One might properly ask that the FDA be more scientific and less religious in their opinions.

And to go further than that and to require by law that quantities in excess of 150 percent of the RDA must be manufactured, distributed, and sold as a "drug," is merely an attempt by the FDA, based on wholly inadequate knowledge and on a deep and pervasive hostility, to drive the present vitamin and mineral food and food supplement industry out of business.

FDA MYTHS

Let me turn now to the fourth so-called myth of nutritional quackery as defined by the FDA. The FDA claims that it is a myth that "modern methods of harvesting, processing, packing, transportation, storage, and cooking eliminate what few nutrients are in the food to begin with."

Of course, modern methods do not always eliminate nutrients. The FDA, once again, has phrased its criticism in false terms. But it is often the case.

Let me just mention two items which contradict the FDA on that claim. The first is flour. Until modern times flour was stone ground. The wheat germ in the flour was retained. That happens to be the highly nutritional part of wheat.

When the modern machine milling arrived on the scene, it was found that it crushed the wheat germ which in turn made the flour go rancid quickly and difficult to keep for long periods of time. As a consequence, the wheat germ or the most nutritious part of the flour was removed while the carbohydrates remained. In fact for years millers sold the most nutritious part of the flour, namely, the wheat germ, to farmers to feed to their pigs as swill while people got the least nutritious food.

As a result the American people probably eat the poorest, least nutritious white bread of any modern industrialized, civilized nation. It is a perfect example of how modern methods of processing have removed the basic nutrient of the food. That is no myth. That is the truth.

LOSS THROUGH STORAGE

The second example has to do with vitamin C. Nobel Laureate Linus Pauling makes the point succinctly on page 107 of his book on vitamin C:

> Why should our government forbid anyone to learn or to tell the truth about foods? Why should it be illegal to quote such information as the statement in the handbook *Metabolism* (Altman and Dittmer, 1968) that after storage for three months potatoes contain only half as much ascorbic acid as when fresh?
>
> What crime does one commit in quoting the paper of Glazebrook and Thomson (1942) who found that a ration of potatoes (12 ounces) containing 50 mg of ascorbic acid when raw contained only 4 mg, less than one-tenth as much, when cooked and reheated for serving?
>
> It is well known that the vitamins in foods are in part destroyed by the storage, transportation, processing, and cooking of the foods. Why should it be forbidden to tell the truth about the dangers of malnutrition and the possibilities of vitamin or mineral deficiences in foods?

In their zeal and hostility the FDA has thrown up a group of straw men, distorted statements, and outright misstatements of facts and scientific evidence.

They are the myth makers.

HARMFUL TO CONSUMERS

I believe this legislation is necessary to prevent the FDA from banning or unduly restricting vitamins and minerals in quantities greater than the 150-percent RDA. That, I believe, is their purpose.

But there will also be a very tragic effect on consumers if the sale of vitamins and minerals except as drugs is limited to units that are 150 percent or less than the recommended daily allowance. Let me be specific.

In July of 1973, 100 capsules of vitamin A in 25,000 international units cost $1.60 if ordered from William T. Thompson Co., Carson, Calif., one of the major distributors of vitamins.

Starting August 1, FDA banned the sale of capsules in excess of 10,000 units except as prescription drugs. Obviously, to sell vitamin A on the commercial mar-

ket without a prescription, capsules were reduced to 10,000 units.

On October 31, 1973, the price for 100 capsules of vitamin A in 10,000 international unit capsules was $1.95.

Not only did the price of 100 capsules go up from $1.60 to $1.95, but 100 tablets at $1.60 contained 2.5 million units while $1.95 bought only 1 million units.

The consumer paid 35 cents more for 1.5 million fewer units of vitamin A.

Put another way, on July 31, 1973, 1 million international units of vitamin A cost 64 cents, but on October 31, 1973, a million units of vitamin A cost $1.95 or more than three times as much.

The FDA calls that "consumer protection."

TOXICITY

The Food and Drug Administration is proposing to limit the sale of vitamins A and D without prescription to very small amounts.

As I have said in the case of vitamin A they propose to limit nonprescription supplements to 10,000 international units or only twice the recommended daily allowance—RDA—for vitamin A.

In the case of vitamin D they propose to limit nonprescription supplements to 400 international units or an amount which is the same as the RDA.

They are doing this in part in the name of "safety" on grounds that these vitamins taken in large amounts can be toxic.

No one objects to limiting the quantities of food on grounds of safety. But the problem here is that these are excuses for limitations rather than substantive objections. Just consider a few facts.

NO KNOWN VITAMIN A DEATHS

So far as anyone knows, there has never been a death from taking too much vitamin A.

Yet for "aspirin," which is a so-called safe drug, the estimate is that about 200 deaths a year are caused by excessive use. But aspirin is not on prescription and should not be on prescription. And neither should vitamin A.

The fact is that through 1971, only some 17 cases of vitamin A toxicity were even known, and no deaths were attributed to an excessive use of vitamin A.

The next thing we know the FDA will want to put water on prescription. Excessive use of water and water-torture methods have been known to cause death as has the excessive use of hundreds of foods, minerals, beverages, and drugs. Sugar to a diabetic can be fatal. But with no known deaths and only exceedingly rare examples of toxicity, to place vitamin A on prescription when sold in units larger than twice the RDA is another example of the perverse and prejudiced attitude of the FDA.

In the case of vitamin D, the FDA wants to limit nonprescription sales of vitamin D to 400 units. But they are also proposing that whole milk, skim milk, and evaporated milk be fortified with vitamin D. That is fine. That should happen. I am for it.

But this is an ironic position for the FDA to take. Vitamin D taken in milk is somewhere from 3 to 10 times as potent as vitamin D taken in an oil base. If you add 400 IU's of vitamin D to milk, you are in fact probably providing the equivalent of 1,200 to 4,000 international units.

The FDA cannot have it both ways. They cannot and should not limit the sale of vitamin D without prescription to 400 international units on the one hand, and require that a quart of milk contain the equivalent of 1,200 to 4,000 international units on the other. But that is, in fact, what they are proposing.

If they were to be logical, they would also put vitamin D fortified milk under prescription.

But the FDA is not logical, and the FDA is using this false issue of toxicity to require vitamin A and vitamin D to be sold in relatively small amounts except under prescription.

Like the flowers that bloom in the spring, it has almost nothing to do with the case.

The answer is very simple. So long as the vitamins or minerals are nontoxic in the quantities recommended, and provided there is accurate labeling or the absence of false labeling, the FDA should not interfere except to carry out its existing legal responsibilities to see that food is manufactured in clean circumstances, and so forth.

EXPLANATION OF BILL

The bill, first of all, defines "food supplements" and the term "special dietary uses." These definitions are the same definitions that the FDA has used for 32 years, or since 1941.

Second, the bill prohibits the Secretary of Health, Education, and Welfare from limiting "the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional substance, or ingredient of any food for special dietary uses if the amount recommended to be consumed does not ordinarily render it injurious to health." This is the standard now in the law which the FDA uses to regulate food. It is a proper standard.

What this means is that the FDA cannot require vitamins to be sold over the counter—OTC—or under prescription if the units exceed the so-called recommended daily allowance unless the amounts recommended would "ordinarily render it injurious to health."

If the FDA can show that some vitamin or mineral in the capsule or international unit size recommended is ordinarily injurious to health then they can limit its potency or amount, et cetera.

But if the recommended quantities do not ordinarily injure health, the FDA cannot limit these items. I want to make it clear that the bill changes no other provisions of the Food, Drug, and Cosmetic Act nor does it affect any consumer protection provision.

The bill is just that simple. It is needed. I urge its adoption by the Senate. Meanwhile the FDA should stop its stupid and idiotic attempt to play God.

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

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

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Supplement Amendment of 1973".

SEC. 2. (a) Paragraph (f) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) is amended by (1) redesignating clauses (1) and (2) as clauses "A" and "(B)", respectively, (2) inserting "(1)" immediately after "(f)", and (3) adding at the end thereof the following:

"(2) The term 'food supplement' means food for special dietary uses.

"(3) The term 'special dietary uses', as applied to food for man, means particular (as distinguished from general) uses of food, as follows:

"(A) Uses of supplying particular dietary needs which exist by reason of a physical, physiological, pathological, or other condition, including but not limited to the conditions of diseases, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

"(B) Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy and childhood;

"(C) Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property.

Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

"(c) No provision of any regulation under section 403(j) of the Act shall be construed as exempting any food from any other provision of the Act or regulations thereunder, including section 403 (a) and (g) and, when applicable, the provisions of chapter V of the Act."

SEC. 3. Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341–348) is amended by adding at the end thereof the following new section:

"SEC. 410. In administering this Act the Secretary shall not limit the potency, number, combination, amount, or variety of any synthetic or natural vitamin, mineral, or other nutritional substance, or ingredient of any food for special dietary uses if the amount recommended to be consumed does not ordinarily render it injurious to health.".

By Mr. PELL:

S. 2802. A bill to repeal Public Law 87–733, known as the "Cuban Resolution." Referred to the Committee on Foreign Relations.

Mr. PELL. Mr. President, in December 1960, I visited Cuba. Consequently, I believe that I was the last Member of Congress to have been there before the break in our relations. It is perhaps appropriate for me, therefore, to be the first to introduce this short and simple bill. It repeals Public Law 87–733 of October 3, 1962, the so-called Cuban resolution.

That resolution expressed the determination of the United States governing our policy toward Cuba just prior to the severe Soviet missile crisis, and when Cuban activities aimed at subversion and disruption in Latin America were at their height. Fortunately today, 11 years later, a far less fervid and dangerous situation prevails. How relevant, therefore, is the resolution to the improved situation of today? It has little relevance, when we reexamine the resolution itself in detail. In this connection, I found the hearings Senator McGee conducted on March 26

and April 18, 1973, enlightening, penetrating, and helpful.

First, let me quote from the resolution the three points constituting U.S. determination with respect to Cuba:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

How does the situation look today with reference to these points?

Failure has crowned Cuban attempts to export Marxist-Leninist revolution to other parts of the Western Hemisphere.

No longer is there a threat of an externally supported military capability in Cuba endangering the security of the United States.

Members of the Organization of American States are open to new approaches to support the aspirations of the Cuban people for self-determination other than isolating them from the rest of the Hemisphere.

In addition, Cuban vindictiveness toward the United States is comparatively muted.

Under these circumstances, the Cuban resolution no longer responds to today's happier realities. No longer does it, I believe, express the sense of this 93d Congress. Moreover, embodying as it does moribund U.S. policy, it exerts a deadening influence on a more realistic course of action for dealing with Cuba. Therefore, both to remove from the books an outmoded piece of legislation and to indicate a new determination by the Congress looking toward the eventual reestablishment of normal United States-Cuba relations, I strongly urge the prompt repeal of Public Law 87–733.

To Cuba, this congressional action will signal a willingness of the American people to bury the hatchet and restore an ancient friendship between neighbors.

To the Organization of American States, it will demonstrate that the United States is ready to consider a new common policy regarding Cuba to replace an old one that jeopardizes hemispheric solidarity.

To the Soviet Union, it will indicate that we take seriously our policy to reduce international tensions and that we look for similar indications on the part of the Soviets.

To the administration, it will be a reminder that negotiation should replace confrontation close to home as well as farther away.

The current administration has provided effective and dramatic leadership in lifting the dead hand of the past from our relationships with the People's Republic of China and with the Soviet Union. In doing so, the administration has demonstrated a keen awareness that effective foreign policies must be based upon present realities instead of the postures of the past.

In an age when we are able to confer amicably with leaders of the People's Republic of China, with whom our country has many profound differences, it surely is time to recognize that our relations with our Cuban neighbors must consist of more than stern admonitions. We need not approve of the Cuban Government, its economic system, nor of each and every Cuban policy to recognize the desirability of a more flexible approach to relations with Cuba. A first and vital step in that direction is repeal of the outdated and inappropriate Cuban resolution of 1962.

Mr. President, I ask unanimous consent that the text of the Cuban resolution of 1962—Public Law 87–733—and the text of the bill I have introduced be printed in the RECORD at this point.

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

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution expressing the determination of the United States with respect to the situation in Cuba", approved October 3, 1962, 76 Statute 697, and known as the "Cuban Resolution", is repealed.

CUBAN RESOLUTION

Joint resolution expressing the determination of the United States with respect to the situation in Cuba

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "to extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the international Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

By Mr. ERVIN:

S. 2803. A bill to insure the separation of constitutional powers by establishing the Department of Justice as an independent establishment of the United States. Referred to the Committee on the Judiciary.

ESTABLISHMENT OF AN INDEPENDENT DEPARTMENT OF JUSTICE

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to establish the Department of Justice as an independent establishment of the United States.

Events of the past months have strained many institutions of our country. While the strain has produced cracks in some of our institutions of government, the Government remains sound. The flexibility and strength of our system of government is due to the wisdom of the framers of the Constitution in allocating the powers and duties of government to the three separate branches and establishing a system of checks and balances to preserve the separation of powers. Our Government loses its strength and resiliency when one branch encroaches upon the powers of another and the separation of powers is disturbed. The flexibility which allows severe stresses and strains is, then, one of the strengths of our constitutional government. While flaws are revealed by stress, the inherent strengths of the institutions are also revealed. Now that flaws are apparent, the Congress must act to strengthen our governmental institutions by repairing the flaws.

I strongly disagree with those who despair that Watergate and other events show an inherent weakness in our system of government. The wisdom embodied in our Constitution is most apparent in periods of stress. These events have shown the necessity of a free press, the necessity of an independent judiciary, and the necessity for Congress to maintain its constitutional role as a check on the executive branch.

While many American institutions have been strained in the past months, some institutions such as the press and the judiciary have performed their historic or constitutional roles under these stresses; others have not. The Department of Justice is one of the governmental institutions most severely strained by Watergate and other events of the past months. These events have called into question the function of the Department of Justice, and have brought forth allegations, heard also in previous administrations, that the Department of Justice has been used for political purposes by the White House.

A cornerstone of our system of justice is the faith of the American people in that system and their belief in its fair-

ness. Even the appearance of impropriety or unfairness undermines faith in that system. For this reason, Congress should now thoroughly review the duties and function of the Department of Justice and take action to ensure that it is independent of political influence. The Department of Justice should be insulated from the direct political control of the executive branch of government to preserve the independence essential to the proper administration of justice.

The Subcommittee on Separation of Powers will hold hearings in the next session of Congress on the necessity of an independent Department of Justice.

The bill which I introduce today contains several proposals for improvement of the administration of justice and I hope these provisions will stir discussion and debate within the Congress on this matter .The purpose of the bill is to preserve the independence necessary for the proper administration of justice. The bill would remove the Attorney General from the Cabinet and make the Department of Justice independent of the executive branch. The Attorney General would be appointed by the President for a 6-year term, but Assistant Attorneys General, U.S. attorneys, and the FBI Director, all of whom are now appointed by the President, would be appointed by the Attorney General. They would be answerable to, and removable by, the Attorney General rather than the President. The functions of the present Department of Justice would be transferred to the independent Department of Justice.

The Office of Attorney General was established by the Judiciary Act of 1789, and it was not until 1870 that the Department of Justice was established by act of Congress. While there have been many changes in the Department of Justice and its duties since it was established by Congress in 1870, the time has come for Congress again to seek ways to improve the administration of justice, and to insure its independence and fairness.

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

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

S. 2803

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

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SECTION 1. (a) The Congress finds and declares that—

(1) the Department of Justice is responsible for the performance of functions that are both executive and judicial in nature;

(2) the officers and employees of the Department of Justice, including the Attorney General, the Solicitor General, the United States attorneys, and the United States marshals are officers of the courts as well as executive branch officers; and

(3) to preserve the independence essential to the proper administration of justice the Department of Justice should be insulated from the direct political control of the executive branch of Government.

(b) It is the purpose of this Act to establish the Department of Justice as an independent establishment of the United States.

SEC. 2. (a) Sections 501 through 510 of title 28, United States Code, are amended to read as follows:

"§ 501. Independent establishment

"(a) There is established as an independent establishment of the United States Government, the Department of Justice.

"(b) The Department shall be headed by an Attorney General who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. There shall be in the Department—

"(1) a Deputy Attorney General, and

"(2) a Solicitor General

each of whom shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Deputy Director shall perform such functions as the Attorney General may prescribe and shall be the acting Attorney General during the absence or disability of the Attorney General or in the event of a vacancy in the position of Attorney General. Upon the expiration of his term, the Attorney General shall continue to serve until his successor has been appointed and has qualified, except that the Attorney General may not serve under the authority of this sentence for a period longer than one year after the expiration of that term. The Solicitor General shall perform such functions as the Attorney General may prescribe.

"(c) The officers appointed under this subsection may be removed by the President for neglect of duty or malfeasance in office.

"§ 502. Assistant Attorneys General; other personnel

"(a) The Attorney General may appoint nine Assistant Attorneys General. The Attorney General may also appoint one Assistant Attorney General for Administration.

"(b) The Attorney General may appoint such other personnel as may be necessary to carry out his duties and functions under this chapter. The Attorney General may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5.

"§ 503. Vacancies

"(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5, the Deputy Attorney General is the first assistant to the Attorney General.

"(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Solicitor General and the Assistant Attorneys General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

"§ 504. Functions of the Attorney General

"All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

"(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;

"(2) of the Federal Prison Industries, Inc.;

"(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and

"(4) of the Board of Parole.

"§ 505. Administrative provision

"(a) The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

"(b) The Attorney General is authorized—

"(1) to adopt, alter, and use a seal;

"(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law;

"(3) to accept on behalf of the United States gifts or donations of services, money, or property, real, personal, or mixed, tangible, or intangible;

"(4) to enter into contracts or other arrangements or modifications thereof, with any agency or department of the United States, or with any State or political subdivision thereof, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

"(5) to make advance, progress, and other payments which the Attorney General deems necessary under this chapter without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

"(6) to utilize, with their consent, the services, equipment, personnel, and facilities of any other department or agency of the United States, with or without reimbursement;

"(7) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses including per diem, as authorized by section 5703 of title 5;

"(8) to make other necessary expenditures; and

"(9) to take such other action as may be necessary to carry out his duties and responsibilities prescribed by law.

"(c) Upon request made by the Attorney General each Federal department and agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with the laws to the Attorney General in the performance of his functions.

(b) Sections 511 through 526 of such title are redesignated as sections 506 through 521, respectively.

(c) The analysis of chapter 31 of such title is amended—

(1) by striking out items 501 through 510 and inserting in lieu thereof the following:

"501. Independent establishment.
"502. Assistant Attorneys General; other personnel.
"503. Vacancies.
"504. Functions of the Attorney General.
"505. Administrative provisions.".

(d) The analysis of chapter 31 of such title is further amended by redesignating items 511 through 526 as items 506 through 521, respectively.

APPOINTMENT OF DIRECTOR OF FEDERAL BUREAU OF INVESTIGATION

SEC. 3. (a) Title VI of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(b) Section 532 of title 28, United States Code, is amended to read as follows:

"§ 532. Director of the Federal Bureau of Investigation

"The Attorney General may appoint a Director of the Federal Bureau of Investigation for a term of four years. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation."

APPOINTMENT OF UNITED STATES ATTORNEYS

SEC. 4. (a) Section 541 of title 28, United States Code, is amended to read as follows:

"§ 541. United States attorneys

"(a) The Attorney General shall appoint a United States attorney for each judicial district.

"(b) Each United States attorney is subject to removal by the Attorney General."

(b) Section 546 of such title 28 is amended to read as follows:

"§ 546. Vacancies

"A vacancy in the office of United States attorney shall be filled in the same manner as the original appointment.".

APPOINTMENT OF UNITED STATES MARSHALS

SEC. 5. (a)(1) Section 561(a) of title 28, United States Code, is amended to read as follows:

"(a) The Attorney General shall appoint a United States marshal for each judicial district.".

(2) Section 561(b) of such title is amended by striking out "President" and inserting in lieu thereof "Attorney General".

(b) Section 565 of such title is amended to read as follows:

"§ 565. Vacancies

"A vacancy in the office of United States marshal shall be filled in the same manner as the original appointment.".

REMOVAL OF ATTORNEY GENERAL FROM SUCCESSION TO PRESIDENCY

SEC. 6. Section 19(d)(1) of title 3, United States Code, is amended by striking out Attorney General,".

REMOVAL OF DEPARTMENT OF JUSTICE FROM EXECUTIVE DEPARTMENTS

SEC. 7. (a) Section 101 of title 5, United States Code, is amended by striking out "The Department of Justice.".

(b)(1) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"(13) Attorney General.".

(2) Section 5313 of such title 5 is amended by adding at the end thereof the following new item:

"(22) Deputy Attorney General.".

(3) Section 5314 of such title 5 is amended by adding at the end thereof the following new items:

"(60) Solicitor General of the United States.

"(62) Director of the Federal Bureau of Investigation, Department of Justice.".

(4) Section 5315 of such title 5 is amended by adding at the end thereof the following new items:

"(98) Assistant Attorneys General (9).

"(99) United States Attorney for the District of Columbia.

"(100) United States Attorney for the Southern District of New York.".

(5) Section 5316 of such title 5 is amended by adding at the end thereof the following new items:

"(134) Assistant Attorney General for Administration.

"(135) United States Attorney for the Northern District of Illinois.

"(136) United States Attorney for the Southern District of California.".

(6) the following sections of such title are repealed:

(A) section 5312(4).

(B) section 5313(20).

(C) section 5314 (1), and (44).

(D) sections 5315 (19), (76), and (77).

(E) sections 5316 (26), (115), and (116).

TRANSFERS

SEC. 8. (a)(1) There are hereby transferred to the Department of Justice established under section 501(a) of title 28, United States Code (as amended by section 2 of this Act) (hereinafter in this section referred to as the "Department"), all functions carried out by the Department of Justice, and the Department shall perform such functions.

(2) There are transferred to the Department, and the Department shall perform, all functions of the Attorney General, with respect to, and being administered through the Department of Justice.

(b) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under provision of subsection (a), are transferred to the Department.

(c) All personnel transferred by this Act who are in the excepted service shall remain in the excepted service.

SAVINGS PROVISIONS

SEC. 9. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any department or agency, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Attorney General, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department of Justice established under this Act. Such proceedings to the extent they do not relate to functions so transferred, shall be continued before the department or agency, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Department of Justice established under this Act by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Department of Justice established under this Act as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency, or any part thereof, is transferred to the Department of Justice established by this Act, or

(B) any function of such department or agency, or part thereof, or officer is transferred to the Department of Justice established under this Act,

then such suit shall be continued by such Department.

(d) With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Department of Justice established under this Act or the officer in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Department of Justice in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Department of Justice established under this Act.

(g) In the exercise of the functions transferred under this Act, the Department of Justice established under this Act shall have the same authority as that vested in the department or agency, or part thereof, exercising such functions immediately preceding their transfer, and actions of such Department in exercising such functions shall have the same force and effect as when exercised by such department or agency.

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 10. (a) This Act, and amendments made by this Act, other than this section, shall take effect 90 days after the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a) of this section, any of the officers provided for in section 2 of this Act may be appointed in the manner provided for in section 2 of this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the appropriate rates provided for in this Act or amendments made by this Act. Such compensation and related expenses of such officers shall be paid from funds available for the functions to be transferred to the Department of Justice established under this Act.

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

S. 2804. A bill to improve agricultural yields in the production of soybeans through the establishment of a Soybean Research Institute jointly supported by the United States and the People's Republic of China. Referred to the Committee on Foreign Relations.

SINO-AMERICAN SOYBEAN RESEARCH INSTITUTE

Mr. HUMPHREY. Mr. President, it is becoming increasingly evident that there is a critical need to improve the yield per acre of soybeans, one of our most valuable sources of vegetable protein. While a considerable amount of research has been accomplished in recent years on new and continuing uses of soybeans, very little results have been obtained from efforts to improve the yield per acre

of the soybean crop. In fact, yields per acre of soybeans have increased by only 1 percent per year since the early 1950's.

The two major producers of soybeans in the world are the United States and the People's Republic of China. The United States is the world's leader in soybean exports and, as such, the major supplier of soybeans to nonproducing countries. However, the United States has reached the limit of acreage that it can devote to soybean production, and a breakthrough is required in order to achieve greater yields per acre, particularly as the world demand for sources of protein increases. Therefore, it is my proposal that the world's two leading producers of soybeans combine their research efforts and technology to achieve the much-needed breakthrough in improved yields.

Accordingly, I am introducing legislation today that is vitally important both to United States agriculture and world food supplies. This legislation calls upon the President to establish, in consultation and cooperation with the People's Republic of China, a Sino-American Soybean Research Institute. The immediate and primary purpose of this legislation is to provide for the establishment of an institute which would devote its initial attention to improved soybean yields.

I anticipate that the institute would be a jointly funded and staffed organization with equal contributions for such expenses made by goth governments. I also anticipate that the scope and terms of reference for the institute would be jointly worked out and agreed upon by the two parties involved, and that decisions on facilities, physical locations and the nature and substance of the actual research would be subject to negotiation by the two countries. Finally, I envision that the institute would coordinate and make considerable use of those research efforts already underway by prominent soybean institutions and authorities already in existence in the United States and China. With regard to the United States, I am referring, in particular, to the work of the Agricultural Research Service and the Agency for International Development contracts at the University of Illinois and the University of Puerto Rico.

Mr. President, while participating in the FAO Conference held in Rome last month, I had the opportunity to discuss this proposal with the Chinese Deputy Minister of Agriculture. He indicated to me that he was very interested in this proposal and that he would discuss the feasibility of such an effort with his government.

By Mr. HUGH SCOTT:

S.J. Res. 179. A joint resolution to authorize and request the President to issue a proclamation designating the calendar week beginning April 21, 1974, as "National Volunteer Week." Referred to the Committee on the Judiciary.

Mr. HUGH SCOTT. Mr. President, I am today introducing a joint resolution requesting the President to issue a proclamation designating the week of April 21, 1974, as "National Volunteer Week." Representative LARRY COUGHLIN is offering a counterpart measure in the House.

According to the Health and Welfare Council in Philadelphia, Volunteer Recognition Week, which it sponsored, has been observed for 12 years. Inaugurated in 1960, in a proclamation signed by the mayor, the observance gives recognition to the thousands of people who serve as volunteers in the Delaware Valley. During the first few years, Volunteer Week emphasized volunteer recruitment. However, in 1964, recognition of outstanding volunteers became the main focus and the first "Volunteer of the Year Award" was presented in March of that year.

The council further points out that the idea of recognizing volunteers in a special way is spreading nationwide—500 communties, including 60 in Pennsylvania. In 1967, the Governor of Pennsylvania issued the first annual proclamation of Pennsylvania's Volunteer Recognition Week.

Mr. President, I know that this resolution meets with the approval of the National Center for Voluntary Action, and I urge its prompt approval.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1326

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 1326, the Hemophilia Act of 1973.

S. 1414

At the request of Mr. CHILES, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1414, a bill to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps.

S. 2581

At the request of Mr. RANDOLPH, the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 2581, a bill to amend the Randolph-Sheppard Act for the blind to provide for a strengthening of the program authorized thereunder, and for other purposes.

S. 2642

At the request of Mr. TAFT, the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WILLIAM L. SCOTT) were added as cosponsors of S. 2642, a bill to establish an independent Special Prosecution Office, and for other purposes.

S. 2755

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. DOMINICK) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 2755, a bill to require the Administrator of the National Aeronautics and Space Administration to study the feasibility of entering into certain international cooperative programs involving the utilization of space technology and application for the production of solar energy.

S. 2784

At the request of Mr. HARTKE, the Senator from Alabama, (Mr. SPARKMAN), was added as a cosponsor of S. 2784, a bill to amend title 38, United States Code, to increase the vocational rehabilitation subsistence allowance, educational assistance allowances, and the special training allowances paid to eligible veterans and persons under chapters 31, 34, and 35 of such title; to improve and expand the special programs for educationally disadvantaged veterans and servicemen under chapter 34 of such title; to improve and expand the veteran-student services program; to establish a veterans education loan program for veterans eligible for benefits under chapter 34 of such title; to promote the employment of veterans and the wives and widows of certain veterans by improving and expanding the provisions governing the operation of the Veteran's Employment Service and by providing for an action plan for the employment of disabled and Vietnam era veterans; to make improvements in the educational assistance program; to recodify and expand veterans' reemployment rights; to make improvements in the administration of educational benefits; and for other purposes.

SENATE RESOLUTION 215—ORIGINAL RESOLUTION REPORTED AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

(Referred to the Committee on Rules and Administration.)

Mr. JACKSON (for Mr. ERVIN), from the Committee on Government Operations, reported the following original resolution:

S. RES. 215

Resolved, That Senate Resolution 46, 93rd Congress, agreed to February 26, 1973, is amended as follows:

(1) In section 3 strike out "$1,930,000" and insert in lieu thereof "$1,956,000".

(2) In section 4(a) strike out "$980,000" and insert in lieu thereof "$1,006,000".

LEGAL SERVICES CORPORATION ACT—AMENDMENT

AMENDMENT NO. 885

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

Mr. HELMS (for himself and Mr. BROCK) submitted an amendment intended to be proposed by them jointly 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.

AMENDMENT NO. 887

Mr. WILLIAM L. SCOTT. Mr. President, I send to the desk an amendment to S. 2686 to transfer to the Attorney General jurisdiction over the District of Columbia penal facilities at Lorton, Va., and for other purposes, and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie at the desk.

AMENDMENT NO. 892

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (S. 2686), supra.

PRISONERS OF WAR AND MISSING IN ACTION TAX ACT—AMENDMENT

AMENDMENT NO. 886

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

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

FEDERAL ACT TO CONTROL EXPENDITURES AND ESTABLISH NATIONAL PRIORITIES

AMENDMENT NO. 888

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

Mr. CHILES submitted an amendment intended to be proposed by him to the bill (S. 1541) to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes.

AMENDMENT OF THE EXPORT ADMINISTRATION ACT OF 1969—AMENDMENTS

AMENDMENT NO. 889

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

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (H.R. 8547) to amend the Export Administration Act of 1969, to protect the domestic economy from the excessive drain of scarce materials and commodities and to reduce the serious inflationary impact of abnormal foreign demand.

AMENDMENT NO. 890

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

Mr. HARTKE. Mr. President, I send to the desk an amendment to H.R. 8547, an act to amend the Export Administration Act of 1969, and ask that it be printed.

Mr. President, the administration has called on the American people to conserve energy by asking millions to suffer inconvenience and economic distress in order to conserve energy sources. Americans understand that the Federal Government demands that our thermostats be turned down, that our cars be driven slower and less frequently, that our schools and factories and farms be operated shorter hours. What they do not understand is the fact that the Federal Government continues to permit the export of vital domestic supplies of fuel oil, gasoline, coal, natural gas, and propane.

The amendment which I am introducing today would correct this error of judgment on the part of our Government. The purpose of this legislation is to stop all unnecessary exports of No. 2 fuel and heating oil, coal, gasoline, propane, and natural gas. I believe that there is no excuse for our Government permitting the export of these scarce energy resources during a time of domestic energy shortage.

EXPORTS OF NO. 2 FUEL AND HEATING OIL

The Cost of Living Council projects that 53.3 million gallons or 1.5 million barrels of heating oil will be exported from the United States during 1973. This represents a 284-percent increase in heating oil exports over those of 1972.

Last month alone, exports of this heating oil increased by a whopping 350 percent over the previous month. Heating oil exports climbed from 200,000 barrels in August to 642,000 barrels in September. The largest shipments during September were to Great Britain, the Netherlands, and Venezuela.

The 642,000 barrels exported in September received a payment of $7.28 per barrel. This represents a 158-percent increase in the average price per barrel over last year's price. If the heating oil had been sold domestically, it would have brought only $6.50 a barrel.

Apparently the lure of bigger profits abroad is persuading the major oil companies to export desperately needed heating oil despite the shortage.

EXPORTS OF COAL

While coal exports this year are just slightly less than in 1972, the significance of these exports now is much greater because we are now reconverting our electrical generating plants from oil to coal. This will mean increased American production of coal which is possible.

The problem is that most of our coal is already tied up in long-term export contracts with the Japanese and Canadian steel industries. The result will be a continued shortage of a commodity of which we have rich and plentiful sources, if we do not pass this export control legislation.

Bituminous coal accounted for 98 percent of total coal exports in 1972. In 1972, Japan and Canada received 64 percent of the total bituminous coal exports, and Canada received about 64 percent of the total anthracite coal exports.

EXPORT OF GASOLINE

It has come to my attention that there is also a great need to provide surveillance and control over gasoline as well as coal, heating oil No. 2 and the other commodities named in my amendment.

In comparing the export figures of gasoline for 1972, with those for the first 9 months of 1973, there has been a drastic increase in the export of gasoline. In the first 9 months of this year, we have already surpassed the amount exported during the entire year of 1972, by over 178,000 barrels. There are 42 gallons in every barrel.

Mr. President, I ask unanimous consent that a chart showing the exports of gasoline for 1972 and the first 9 months of 1973, be inserted in the RECORD at this point.

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

Export of gasoline

	Barrels
1972 (Jan.–Dec.):	
Aviation fuel (100 octane or more)	77,533
Aviation fuel (less than 100 octane)	16,319
Total	93,841
Gasoline, total	280,894
1973 (Jan.–Sept.):	
Aviation fuel (100 octane or more)	44,044
Aviation fuel (less than 100 octane)	6,247
Total	40,291
Gasoline, total	459,529

Figures from Bureau of the Census.

EXPORTS OF NATURAL GAS AND PROPANE

In the first 10-month period of 1973, our exports of natural gas have increased almost 20 percent over the same period in 1972. By September 1973, we had already exported 67.2 billion cubic feet compared with 57 billion cubic feet for the same period in 1972.

Natural gas is the cleanest form of energy that the United States is producing. I see no reason for shipping such large amounts abroad without some kind of surveillance which these controls would provide.

Canada, Mexico, and Japan are our major export markets for natural gas. Canada and Mexico received natural gas via pipeline transmission, while Japan, starting in 1969, received liquefied natural gas shipments from Alaska. Japan was our largest export market in 1972, receiving over 50 percent of our total natural gas exports.

The export of propane is also up over the 1972 figures. By September we had exported over 2.5 million barrels of this commodity which is in great demand in our country. Over the same period in 1972, we exported 2.3 million barrels.

The Midwest farmers are absolutely dependent upon this source of energy. If exports increase, we may have crop shortages. The American plywood industry has already begun to shut down many of its plants because it cannot get this precious commodity to dry its wood.

FLEXIBILITY OF THE HARTKE APPROACH

The export controls which I advocate would not disrupt the international market and, therefore, would not invite retaliation. They are designed, however, to protect our own national interests.

I would have the Secretary of Commerce estimate the domestic production of fuel oil, gasoline, coal, propane, and natural gas quarterly, in the case of emergencies or shortages. He would then determine those amounts necessary for domestic consumption in the United States including a reasonable amount for a carry-over to build up U.S. stocks and the remainder would be allocated for export to foreign countries.

The Secretary of Commerce then would allocate such exports among countries on a quota system, based upon past exports and such other criteria as are necessary to produce a fair and equitable quota.

Based upon what is available for ex-

port, the Secretary would set up a system for the sale of export licenses through an auction system. Licenses would be sold to the highest responsible bidders with special exceptions for the developing countries. The fees collected would be used to set up a trust fund for the research and development of present and new sources of energy.

The Secretary would be able to lift this licensing system on any of the above energy fuels that he determines is produced in sufficient quantities to meet both U.S. demand and normal world requirements from the United States, without any quota system.

Exception to this quota system is any shipment of these energy fuels for temporary export for processing abroad and reshipment back to the United States. This is necessary because some high sulfur content fuel oil is sent abroad to be mixed with less polluting low sulfur oil and then shipped back to the United States.

In a time of nationwide emergency, we cannot countenance the export of these vital and essential energy resources. Without legislation these exports could increase. Their absolute amounts may not be gigantic, but they are in dire need in this country and should be utilized here in keeping our factories and schools in operation and our homes heated.

Mr. President, I ask unanimous consent that my amendment be printed in the RECORD following my remarks.

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

(See exhibit 1.)

EXPORT OF DOMESTIC PETROLEUM PRODUCTS

Mr. HARTKE. Mr. President, while the United States is on the verge, if not already enmeshed, in the worst energy crisis in its history, domestic oil and other petroleum products, like gasoline, are being shipped abroad in increasing amounts.

It is my belief that my amendment, which would control exports of gasoline, heating oil No. 2, coal, propane, and natural gas; may act as a stimulus to and support of action taken by the Department of the Interior to investigate the profiteering of the oil companies as it relates to these exports.

Even the Treasury Department seems to be admitting that "a few shipments of distillate" fuels such as heating oil, have been exported this year and that this "may not have been in the national interest."

An article by Muriel Allen in the November 15 Journal of Commerce, alludes to a practice which, after checking with a number of very reliable sources both in the oil industry and Government, I strongly suspect is cheating the American consumer out of thousands of dollars.

Some oil companies ship domestic oil out of the continental United States, transfer the title of that oil and then bring it back into the United States as "imported" oil and sell it at exaggerated prices. Imported oil is not subject to any price controls.

What are the results of such a policy? In New York last week, there was little domestic heating oil—No. 2 home heating oil—available because its price is only 26 cents a gallon. Imported home heating oil seemed almost plentiful selling at 67 cents a gallon. This advantageous price policy provides an incentive to import and a temptation to swindle.

How are these companies importing domestic oil? The first and perhaps the best documented method is the "Brownsville Turnaround or Loop." Trucks loaded with American oil drive from Texas into Mexico and turnaround and bring their oil back to the United States as imports. This operation has been filmed and described by television newsmen.

The second method is much more devious and therefore more difficult to document. Highly placed sources at the Port of Houston have indicated to us that shiploads of American oil are leaving the United States, and while the tankers are underway, ship documents are falsified and the product is transported directly back in as an "import."

The Department of the Interior reports that it is trying to crack down on this practice, but I wonder how successful they will be when so much of our administrative machinery on energy is manned by top oil industry executives.

This article by Muriel Allen is an excellent example of investigative reporting. Ms. Allen has covered the oil crisis with expertise and has interpreted very difficult issues with alacrity and precision.

In the hope that this article will prove edifying to all of my colleagues, I ask unanimous consent that it be printed in the RECORD at this point.

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

[From the Journal of Commerce, Nov. 15, 1973]

ILLEGAL EXPORTS? OIL EXPORT ACTION PLANNED BY UNITED STATES

(By Muriel Allen)

WASHINGTON.—The Nixon Administration is planning to use the mandatory allocation program to end what may be illegal exports of U.S. fuel oil, and it is "looking very critically" at oil exchange agreements with other countries to see if they should be modified or eliminated, top government sources said today.

Meanwhile, Rep. Les Aspin, D-Wis. has proposed amendments to emergency energy legislation which would put some of the burden of the fuel shortage on big oil companies. His proposals include measures to restrict exports, encourage imports and an excess profit tax on oil companies.

The congressman is calling for prohibition of all exports of fuel oil, gasoline and propane, and removal of all existing import taxes and fees on crude oil and refined products.

The Interior Department is preparing to act to stem oil exports because of growing complaints from members of Congress about oil being shipped abroad while the U.S. is on the verge of the worst energy crisis in its history.

Interior Secretary Rogers C. B. Morton will shortly announce a program to eliminate fuel oil exports which have a detrimental effect on the American public by reducing short domestic supplies. The department believes the motives for these exports is "unacceptable" profiteering by some companies, according to one-placed source.

Preliminary data made available to the department by the U.S. Customs Bureau in the Treasury Department indicates that "a few shipments of distillate" fuels, such as heating oil, have been exported this year which may not have been in the national interest, the source said.

However, government officials insist that such shipments represent only two-tenths of one per cent of total U.S. demand for distillates.

Secretary Morton is prepared to soften the impact of any export cutback by issuing a statement saying that "since the U.S. imports far more oil than it exports, it would be inappropriate to impose blanket export restrictions while urging other nations to increase exports to U.S."

He will also point out that some exports of distillate directly benefit the U.S. An example of such a benefit is the shipping of U.S. distillates to Venezuela where they are mixed with crude oil. This refinery process is necessary if the heavy Venezuelan crude is to be transported more easily to the U.S.

U.S. distillates also are shipped to the Caribbean to be blended with high-sulfur, "dirty" fuel oil to enable the final product to meet U.S. air quality standards, officials point out.

An interior spokesman told The Journal of Commerce that "we believe everyone should supply the historical customers (overseas) that they supplied in the previous year. But if somebody supplied oil to new customers and it was not excess oil, the government would tell them that's a no-no."

The government could also impose fines and issue injunctions against companies illegally exporting oil under terms of the Economic Stabilization Act or the mandatory allocation program, one key official said.

Since August the Interior Department has been trying to find out how much oil may be leaving the U.S. illegally, from what ports and at what times. The department suspects that two things may be occurring:

U.S. products may be shipped in a black-market way to Europe's markets where there are no price controls and cargoes can sell for two or three times U.S. prices:

Refined products from U.S. refineries may be shipped only half way across the Atlantic to "Europeanize" cargoes, with ships turning around and bringing the fuel back as imports not subject to price controls.

Interior officials say they are trying to "crack down" on the illegal actions through Customs Bureau monitoring of exports, but as one source noted "the monitoring is after the fact." Another obstacle is that export data sent to the Census Bureau is off limits to other agencies under terms of the 1969 Export Administration Act.

The State Department is concerned about any changes or cutoffs of oil exchange agreements the U.S. has with other nations. State fears that the other countries might retaliate with punitive trade actions if they lose U.S. oil.

Between Jan. 1 and Sept. 30, exports of distillates reached 1.5 billion barrels. Countries buying these exports include Great Britain, Mexico, Netherlands Antilles, Denmark, Netherlands, Venezuela and Japan. In the case of Mexico, the U.S. buys much more crude oil than it exports refined products to that country.

Rep. Aspin's proposals include placing a tax on any oil producing company that does not produce at 100 per cent of its maximum efficient rate. Anytime a company falls 2 per cent below its maximum efficient rate of recovery, 1 per cent of its income would be taxed at 100 per cent.

On a related front, President Nixon today directed his chief energy adviser, John Love, to meet immediately with a special task force and report back Thursday on steps being taken to conserve energy. The actions under consideration are said to include gasoline rationing.

EXHIBIT 1

AMENDMENT No. 890

At the end of the Act, insert the following new section:

SEC. 2. The Export Administration Act of 1969 is further amended by redesignating sections 10, 11, 12, 13, and 14 as sections 11, 12, 13, 14, and 15, respectively, and by inserting immediately after section 9, the following new section:

"ENERGY PRODUCING COMMODITIES

"SEC. 10. (a) DEFINITIONS.—As used in this section—

"(1) 'Secretary' means the Secretary of Commerce; and

"(2) 'energy producing commodity' means coal, gasoline, fuel oil number 2, propane gas, and methane gas.

"(b) DETERMINATION OF QUALITY.—(1) At least quarterly during any period of nationwide energy emergency, and at least annually during any other period, the Secretary shall determine the quantity of each energy producing commodity, if any, that will be available for export during the succeeding quarter or year, as the case may be, and shall cause such determination to be published in the Federal Register.

"(2) Such determination shall be made by estimating the total quantity of domestic production of each energy producing commodity and subtracting from each such quantity the sum of—

"(A) the quantity of each such commodity the Secretary estimates will be necessary to meet domestic needs; and

"(B) the quantity of each such commodity the Secretary estimates will be necessary for a reasonable carryover, taking into account any current or possible future national and international emergencies and the need to maintain adequate inventories.

The quantity of any such commodity which remains, if any, shall be the quantity available for export.

"(C) LICENSING AND ALLOCATION OF EXPORT AUTHORITY.—(1) No energy producing commodity may be exported to any foreign country unless the exporter has been issued a license by the Secretary for the export of a quantity of such commodity to such country, or unless such export is exempt under the provisions of subsection (f) of subsection (g)(3).

"(2) The quantity of any commodity available for export shall be allocated among foreign countries by the Secretary on the basis of—

"(A) the quantity of such commodity exported to such country during a representative base period; and

"(B) such other factors as the Secretary determines to be fair, equitable, and sufficient to protect the interests of traditional trading partners of the United States.

"(d) ISSUANCE OF LICENSES.—(1) Upon establishing allocations under section 4, the Secretary shall publicly announce such allocations, and shall announce the time, manner, and place for the submission of bids for the purchase of licenses to export specified quantities of such commodities to specified countries.

"(2) Licenses shall be issued under this section to the highest responsible bidder unless the Secretary determines that no bid is sufficiently high or that there has been collusion among the bidders.

"(e) ADMINISTRATIVE ADJUSTMENTS.—The Secretary may make adjustments in quantities determined under subsection (c) and of allocations determined under subsection (d) if he determines on the basis of new information that original determinations were erroneous.

"(f) EXEMPTIONS.—(1) The Secretary may exempt from payment of any license fee an export which he determines involves—

"(A) the export of an energy producing commodity to a developing foreign country with a serious need for such commodity; and

"(B) such action would be in the best interests of the foreign relations of the United States and would not have an adverse effect on the energy needs of the United States and the program provided for under this section.

"(2) The Secretary may exempt from the application of this section or any requirement under this section the export of any energy producing commodity which he determines—

"(A) involves a temporary export for processing purposes to a foreign country and will result in a subsequent import of such commodity to the United States; or

"(B) such export will be offset by a subsequent import of another energy producing commodity or other matter essential to the energy needs of the United States.

"(g) ADMINISTRATION.—The Secretary is authorized to issue such rules and regulations as may be necessary including rules and regulations—

"(1) providing for the reduction, suspension, or termination of the allocation of any commodity made under this section to any foreign country if the Secretary finds that such country is reexporting all or any portion of such allocation under circumstances that tend to disrupt the regulatory program established under this section;

"(2) limiting or prohibiting the sale or transfer after issuance of export licenses issued under this section if the Secretary finds such limitation or prohibition necessary to the orderly administration of the regulatory program established under this section; and

"(3) exempting from application of this section any commodity the domestic production of which the Secretary determines will equal or exceed domestic and foreign demand.

"(h) USE OF FUNDS.—Fees received by the Secretary under subsection (d) shall be deposited in a special account in the Treasury and shall be available without fiscal year limitation for the purpose of conducting research with respect to the more efficient use of existing energy sources and the development of new energy sources.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974—AMENDMENT

AMENDMENT NO. 891

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

Mr. CRANSTON (for himself, Mr. HUMPHREY, Mr. SCHWEIKER, and Mr. PROXMIRE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

ANNOUNCEMENT OF HEARING ON THE SUBJECT OF FUEL SHORTAGES

Mr. JACKSON. Mr. President, at a time of national crisis, the administration has created dangerous confusion and uncertainty about the nature and extent of fuel shortages unprecedented in our history.

On Monday, stories were leaked from meetings of the Emergency Petroleum Supply Committee that shortages in the first quarter of 1974 might be as low as 2.5 million barrels a day.

This figure was a million barrels a day below the figures issued by the White House on November 25, 1973.

On Tuesday, administration officials assured me that there had been no essential change in the November 25 figures.

Even as these assurances were being given, the Chairman of the Council of Economic Advisers was suggesting to the Joint Economic Committee that the shortage might be smaller than previously thought.

Today's papers carry reports of Mr. Sawhill's testimony that energy conservation measures are saving 1.9 million barrels a day and the balance of the shortfall will be met by allocation measures being announced today.

The administration announcements on shortages come in the midst of rising unemployment, transportation cutbacks, and deepening economic crisis. They come at a time when Congress is being asked to vote broad emergency powers to deal with this problem.

Yet Congress, and the public at large, are confused and uncertain about the facts of the fuel shortages.

The administration cannot have it both ways. Either the shortages are real and critical—requiring the decisive action we have yet to see—or the shortages are under control and more stringent measures are not necessary.

As chairman of the Senate's Permanent Subcommittee on Investigations, I have scheduled a hearing for Friday, December 14, on the subject of fuel shortages. The hearing will begin at 10 a.m., in room 3302 of the Dirksen Senate Office Building. The Federal Energy Administrator and the Chairman of the Council of Economic Advisers, among others, are being asked to appear and give us the facts which Congress must have before taking further action on emergency legislation.

Among other questions, we will want to know:

First, what is the current official administration estimate of the shortages for the first quarter of 1974? How much of the shortage is due to the embargo and how much to other causes?

Second, what evidence is available to support the claim that 1.9 million barrels a day are being saved by the administration's conservation measures?

Third, has 1974 demand been overestimated and, if so, what factors have led to a change in estimates?

Fourth, at what point will the effect of reduced allocations be felt and what savings can be expected from these measures?

Fifth, what is the current rate of stock drawdown for crude oil and petroleum products? What is the projected rate for the first quarter and how long can stocks support these rates?

These are the kinds of questions which must be answered if the administration expects Congress—or the American people—to respond to its calls for action on energy issues. I hope that Friday's hearing will put the facts on the table and end the confusion and uncertainty created by administration statements, both public and private, in recent weeks.

ADDITIONAL STATEMENTS

THE 50TH ANNIVERSARY OF THE SALISBURY, MD., TIMES

Mr. MATHIAS. Mr. President, a few days ago, the Salisbury Times on Maryland's Eastern Shore celebrated its 50th anniversary. As one who has passed the same milestone myself, I can testify that it is of no little significance to have done so. The Times began as a brave experiment in daily journalism for a small town out of the mainstream. One need only note that in its early days, before teletypewriters had been invented, the paper was forced to decode news accounts sent over a Western Union telegraph ticker from Philadelphia. It was still a time when the horses stabled at city hall automatically dashed for the firehouse when the fire alarm sounded, to draw the steam boiler fire engines. This and other recollections of earlier days were printed in the Times in its edition of Sunday, December 2. It is interesting to note that the issue's lead editorial noting the anniversary does not really look backward, but rather concerns itself with the problems and prospects facing Salisbury in the next 50 years. I take this as a sign that the vigor and spirit of the Times is undiminished, and I urge the reading of this editorial as tonic to those who think they have seen all too much of life. 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:

[From the Salisbury (Md.) Times, Dec. 2, 1973]

FIFTIETH ANNIVERSARY

The Daily and Sunday Times marks its 50th anniversary at this time of the year. On Monday, Dec. 3, the front page flag will carry the notation: "Vol. 51, No. 1." Translated into layman's language, this means the first issue of the 51st year.

This newspaper was launched on a wave of great optimism 50 years ago. Events have proved that its organizers and those who have carried on as correct in the view that Salisbury should and would become the largest city on the Eastern Shore. When all of Delmarva is included, it has to be said that Dover, Del., is giving us a good race, though.

We are situated at the crossroads of the peninsula. We are now building a bypass to carry heavy north-south traffic around the city. Our Salisbury Parkway, carrying east-west traffic, appears adequate for the job in the years ahead, though the day must come when a complete beltway will be needed.

Who can say when that will be or what will Salisbury's future be? The good citizens who began publication of a daily newspaper here in 1923 planted one of the seeds that helped to produce the area's growth. We are now a shopping center for a region—for both goods and services and employment. Cultural improvements are coming along with a university branch and a college nearby. We bear little resemblance to Salisbury of 50 years ago.

The men who organized The Times more than half a century ago are now gone. Most of them would agree that the awakening of Salisbury from small country town to regional center has progressed beyond their fondest dreams.

What of the next half century? Who can say? But for those who get a zest out of life—who enjoy innovation and challenge—it's bound to be an exciting 50 years.

THE MILITARY BALANCE 1973–74

Mr. GOLDWATER. Mr. President, inserting lengthy articles in the CONGRESSIONAL RECORD is not particularly a habit of mine, but the Air Force Magazine for December of 1973 has placed the entire military balance in this world in such an understandable and relatively simple form that I think it would be of value for my colleagues to peruse. I ask unanimous consent that this excellent article be printed in the RECORD.

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

THE MILITARY BALANCE 1973–74

FOREWORD

(By the Editors of Air Force Magazine)

For the third successive year, AIR FORCE Magazine is privileged to present "The Military Balance" as an exclusive feature of its December issue.

"The Military Balance," compiled by The International Institute for Strategic Studies, London, is an annual, quantitative assessment of the military power and defense expenditures of countries throughout the world.

The International Institute for Strategic Studies was founded in 1958 as a center for research and discussion in defense, arms control, disarmament, and related areas. It has earned worldwide recognition as *the* authority in its field.

As in the past, "The Balance" is arranged with national entries grouped geographically, with special reference to the principal defense pacts and alignments. Included in the section on the US and USSR is an assessment of the strategic nuclear balance between the two superpowers. There also is a separate section on the European theater balance between NATO and the Warsaw Pact.

In preparing "The Military Balance 1973/74" for our use, the staff of AIR FORCE Magazine has retained the Institute's system of abbreviating military weapons and units as well as British spelling and usage. A list of the abbreviations used in the text appears immediately after this introduction. Because of space limitations, some tabular material on defense expenditures of NATO countries, their expenditures by functional categories, comparison of divisional establishments, and military assistance agreements negotiated since the last issue of "The Balance" have been excluded, as has an appendix, "The Statistics of Mutual Force Reductions."

"The Military Balance" examines the facts of military power as they existed in July 1973 (before the October Middle East war). No projections of force levels or weapons beyond 1973 have been provided, except where explicitly stated. The result should not be regarded as a comprehensive guide to the balance of military power; in particular, the study does not reflect the facts of geography, vulnerability, or efficiency, except where these are touched on the essays on balances.

Figures for defense expenditures are the latest available. GNP figures given are usually at market prices. In addition to the estimates of current defense expenditure and GNP in the individual county entries, similar information on the principal countries covered, for this year and previous years, is collected in tables beginning on p. 116. Because estimates of defense expenditure and GNP have been amended in the case of certain countries, figures will not in all cases be directly comparable with those in previous editions of "The Military Balance." Where a $ sign appears, it refers, unless otherwise stated, to United States dollars.

In order to make comparison easier, national currency figures were converted by the Institute into United States dollars at the rate prevailing on July 1, 1973, generally as reported to the International Monetary Fund (IMF). An exception is the Soviet Net Material Product, which has been converted to dollars at the rate of 0.72 roubles=$1. (*See p. 67 for more detail on Soviet defense expenditures.*) Further exceptions are certain East European countries that are not members of the IMF and Rumania (which is), for which conversion rates used are taken from US Arms Control and Disarmament Agency publication ACDA/E–207, December 1971. In all cases, the conversion rates used are shown in the country entry, but may not always be applicable to commercial transactions.

The manpower figures given are, unless otherwise stated, those of regular forces. An indication of the size of militia, reserve, and paramilitary forces is also included in the country entry where appropriate. Paramilitary forces are here taken to be forces whose equipment and training goes beyond that required for civil police duties and whose constitution and control suggest that they may be usable in support of, or in lieu of, regular forces.

Equipment figures in the country entries cover total holdings, with the exception of combat aircraft, where frontline squadron strengths are normally shown. Except where the contrary is made clear, naval vessels of less than 100 tons structural displacement have been excluded. The term "combat aircraft" used in the country entries comprises only bomber, fighter-bomber, strike, interceptor, reconnaissance, counterinsurgency, and armed trainer aircraft (*i.e.*, aircraft normally equipped and configured to deliver ordnance).

Where the term "mile" is used when indicating the range or radius of weapon systems, it means a statute mile.

The Institute assumes full responsibility for the facts and judgments contained in the study that follows. The cooperation of the governments involved was sought and, in many cases, received. Not all countries were equally cooperative, and some figures were necessarily estimated.

Photographs and captions have been added by AIR FORCE Magazine, and we assume full responsibility for them.

THE EDITORS.

ABBREVIATIONS

AA—Anti-craft.
AAM—Air-to-Air missile(s).
AB—Airborne.
ABM—Anti-ballistic missile.
Ac—Aircraft.
AD—Air Defense.
AEW—Airborne early warning.
AFV—Armoured fighting vehicle(s).
APC—Armoured personnel carrier(s).
Armd—Armoured.
Arty—Artillery.
ASM—Air-to-surface missile(s).
ASW—Anti-submarine warfare.
ATGW—Anti-tank guided weapons(s).
ATk—Anti-tank.
AWX—All-weather fighter.
Bbr—Bomber.
Bde—Bridgade.
Bn—Battalion.
Bty—Battery.
Cav—Cavalry.
Cdo—Commando.
CENTO—Central Treaty Organization.
COIN—Counter-insurgency.
Comm—Communication.
Coy—Company.
DDG—Destroyer, guided missile.
DEG—Destroyer, escort, guided missile.
Det—Detachment.
Div—Division.
DLG—Destroyer/leader, guided missile.

Engr—Engineer.
Eqpt—Equipment.
Excl—Excluding.
FB—Fighter-bomber.
FGA—Fighter, ground attack.
FPB—Fast patrol boat(s).
GM—Guided missile.
GNP—Gross National Product.
GP—General purpose.
Gp—Group.
GW—Guided weapon.
Hel—Helicopter(s).
How—Howitzer(s).
HQ—Headquarters.
Hy—Heavy.
ICBM—Inter-continental ballistic missile(s).
ICBM—Inter-continental ballistic missile(s).
Incl—Including.
Indep—Independent.
Inf—Infantry.
IRBM—Intermediate-range ballistic missile(s).
KT—Kiloton (1,000 tons TNT equivalent).
LCT—Landing craft, tank.
Log—Logistic.
LPH—Landing platform, helicopter.
LST—Landing ship, tank.
Lt—Light.
MCM—Mine counter-measures.
Mech—Mechanized.
Med—Medium.
MIRV—Multiple independently-targetable re-entry vehicle(s).
Misc—Miscellaneous.
Mk—Mark.
Mob—Mobile.
Mor—Mortar(s).
Mot—Motorized.
MR—Maritime reconnaissance.
MRBM—Medium-range ballistic missile(s)
MRV—Multiple re-entry vehicle(s).
Msl—Missile.
MT—Megaton (1 million tons TNT equivalent).
MTB—Motor torpedo boat(s).
NATO—North Atlantic Treaty Organization.
Para—Parachute.
Pdr—Pounder.
Recce—Reconnaissance.
Regt—Regiment.
Rkt—Rocket.
RL—Rocket launcher(s).
SACEUR—Supreme Allied Commander, Europe.
SAM—Surface-to-air missile(s).
SAR—Search and rescue.
SEATO—South-East Asia Treaty Organization.
SHAPE—Supreme Headquarters, Allied Power in Europe.
Sig—Signal.
SLBM—Submarine-launched ballistic missile(s).
SP—Self-propelled.
Sqn—Squadron.
SRBM—Short-range ballistic missiles(s).
SSBN—Ballistic missile submarine(s), nuclear.
SSM—Surface-to-surface missile(s).
SSN—Submarine(s), nuclear.
S/VTOL—Short/vertical take-off or landing.
Tk—Tank.
Tp—Troop.
Tpt—Transport.
Trg—Training.

THE UNITED STATES AND THE SOVIET UNION

The year after the May 1972 Soviet-American Interim Agreement on the limitation of offensive missiles provided little evidence of super-power restraint in that field. Both governments seemed determined to reach the limits set by their Agreement as soon as possible, while also obtaining the maximum qualitative capability.

The United States has deployed 350 *Minuteman 3* ICBM, each with three MIRV, and is now moving towards completing that programme, involving 550 *Minuteman 3* with up to 1,650 warheads by 1975. Meanwhile, all the 1,000 *Minuteman* silos are being substantially strengthened ("hardened") against nuclear attack and a new Command Data Buffer system is being installed to provide rapid ICBM retargeting. At sea, about 320 *Poseidon* SLBM, each with 10–14 MIRV, have been deployed in some 20 submarines. Conversion of another 11 submarines to *Poseidon* is in train and will be complete by 1975–76, at which time only 10 submarines with *Polaris A3* SLBM will remain in service. Thereafter, the *Trident 1* SLBM, with 4,000-mile range, could become operational in late 1978, either in *Poseidon* submarines or in the new *Trident* boats, probably with 24 missile tubes each, which are being developed to enter service, apparently in the Pacific, in the same year. By using the freedom allowed by the Interim Agreement to replace *Titan* 2 ICBM with *Trident* SLBM, the United States could thus have 1,000 ICBM and 710 SLBM, carrying well over 8,000 warheads, by the end of the 1970's.

The Soviet Union has also shown every sign of reaching the Interim Agreement's limits. On land, where 1,527 Soviet ICBM are already deployed, development has continued of three new ICBM types: the SS–16 (an improved version of the solid-fuel SS–13), the SS–17 (an improved SS–11), and the SS–18 (an improved SS–9). The last two have both been tested with re-entry systems of three MRV, and are reportedly being prepared to carry full MIRV systems at a later stage. The SS–18, tests of which began in 1968, is an obvious candidate for installation in the 25 large silos started in 1970 but still incomplete, thus bringing the Soviet total of "heavy" ICBM to the 313 permitted by the Interim Agreement. The SS–17, which has been fired over a range of some 4,500 miles, may equip the remaining 66 incomplete silos, raising the overall ICBM total to the permitted ceiling of 1,618. At sea, the ceilings of 62 "modern" ballistic-missile submarines and 950 "modern" SLBM are further away. Some 31 Y-class submarines, each with 16 SS–N–6 SLBM (1,500–1,750 mile range), have been launched, as have about 3 of the new D-class boats, each with 12 SS–N–8 SLBM (4,600 mile range). Only these count against the submarine ceiling, although another 30 SLBM in older nuclear-powered submarines bring the current number of missiles relevant to SLBM ceiling to about 560. Even if the Soviet Union decides to exercise her option to replace SS–7 and SS–8 ICBM with new SLBM, it thus seems likely, at expected building rates, to be at least 1977 before she could reach the two ceilings now established. No Soviet SLBM has as yet been tested with MRV.

Soviet and American determination to build ABM systems up to the limits in the ABM Treaty of May 1972 is less certain. The United States is completing her one permitted *Safeguard* site for defence of ICBM silos at Grand Forks Air Force Base, North Dakota, to be operational in late 1974, and has also continued research on what is now known as the *Site Defense* (formerly *Hard Site*) ABM system for the more economical defence of ICBM silos with short-range missiles alone, but she has not yet taken any substantial step towards deploying ABM launchers around Washington, D.C. The Soviet Union has continued to develop a more effective ABM missile to replace the *Galosh* in the defence of the Moscow area, and has also showed signs of expanding that defence from 64 to 100 launchers, but there is no clear evidence that she has yet decided to construct the second permitted site for ICBM defence.

In one of the areas still unconstrained by SALT, strategic bomber aircraft, the emphasis has been largely on development rather than deployment. The American force is actually to be reduced during 1973–74, from 30 squadrons to 28 (24 of B–52s and 4 of FB–111s), while the Soviet force is expected to remain at little more than a quarter of that strength. The United States, however, is pressing ahead with the B–1 programme, which should bring that new supersonic bomber into service from 1978, while the Soviet Union has been actively testing her *Backfire* prototypes which, although not fully "inter-continental", have a range comparable to that of the FB–111. The United States is also greatly increasing the striking power of her existing bombers by equipping them with the Short-Range Attack Missile (SRAM), a nuclear air-to-ground missile with a range of 35–100 miles. SRAM entered operational service in August 1972 and should be fully deployed, with 1,500 missiles in 21 bomber squadrons, by 1974–75. Meanwhile, air defence forces on both sides are also subjects for qualitative improvement. The American F–14 and F–15 fighters are moving towards full operational deployment, possibly to be followed in the early 1980s by a new Improved Manned Interceptor (IMI), while the Soviet Union is already introducing new types, including the MiG–25 *Foxbat* and the variable geometry MiG–23 *Flogger* into her fighter forces. Both countries are also seeking to improve static and mobile radar coverage, with equipment such as the American Over-the-Horizon Backscatter (OTH–B) radar and Airborne Warning and Control System (AWACS) aircraft.

Qualitative improvement is, in fact, the keynote in all non-strategic forces. The United States, in particular, having ended her combat role in Vietnam in 1972, is moving towards all-volunteer armed forces by mid-1975 (when the last conscript will be released) amid doubts about her ability thereafter to maintain more than about 1.8 million men under arms: a prospect which demands qualitative excellence, something which the Soviet Union will, for its own reasons, clearly wish to match. In addition to new aircraft, development programmes for new armoured equipment, tactical missiles, and naval vessels all show signs of acceleration. The Soviet Union has launched her first conventional aircraft carrier of 40,000 tons and is actively deploying new *Kara*-class cruisers, *Krivak*-class GM destroyers, and C-class cruise-missile and V-class attack submarines. The United States has committed funds to her fourth nuclear-powered aircraft carrier, to 37 new DD–963 destroyers, and to the first 28 688–class nuclear-powered hunter/killer submarines. Both are developing a range of new battlefield equipment, including new battle tanks: the Soviet M–1970 and the American XM–1. Further ahead, more exotic technical possibilities appear. Just as precision-guided munitions, such as 'smart' bombs and remotely piloted vehicles (RPV), may change the calculus of tactical air/land warfare in the later 1970s, so, in the 1980s, laser weapons may begin to influence aerial combat. In the first year of strategic arms limitation, it was thus also possible to identify many of the elements which could figure in a continued strategic and tactical arms race if political constraints should prove inadequate.

UNITED STATES

Population: 210,900,000.
Military service: voluntary (from 1 July 1973).
Total armed forces: 2,252,900.
Estimated GNP 1972; $1,151.8 billion.
Defence budget 1973–74; $85.2 billion (Budget Authority [NOA]; expected outlay is $79.0 billion).

Strategic Nuclear Forces

Offensive:
(A) *Navy:* 656 SLBM in 41 submarines.
20 SSBN each with 16 *Poseidon*.
21 SSBN each with 16 *Polaris A2* or *A3*.
(B) *Strategic Air Command:*
ICBM: 1,054.

140 *Minuteman 1.*
510 *Minuteman 2.*
350 *Minuteman 3.*
54 *Titan 2.*

Aircraft:

Bombers: 516 (Two B–52 and 1 KC–135 sqn-equivalents are rotated for duty in South-East Asia.)

66 FB–111A in 4 sqns; 240 B–52G/H in 16 sqns—some with SRAM.

142 B–52D in 9 sqns (to be reduced to 117 by the disbandment of 2 sqns in late 1973).

15 B–52F in 1 sqn.

Aircraft in active storage or reserve include 8 FB–111A and 45 B–52D/F/G/H.

Tankers: 615 KC–135A in 38 sqns, plus 130 in reserve.

Strategic Reconnaissance: SR–71A; 2 sqns.

Defensive:

North American Air Defense Command (NORAD):

HQ Colorado Springs—is a joint American-Canadian organization. US forces under NORAD are Aerospace Defense Command (ADC) and Army Air Defense Command (ARADCOM), with a combined strength of 80,000.

Aircraft (excluding Canadian):

Interceptors: 585.

(i) Regular: 7 sqns with F–106A.

(ii) Air National Guard: 6 sqns with F–101B; 10 sqns with F–102A; 4 sqns with F–106A.

AEW aircraft: 3 sqns with EC–121.

SAM: 481.

(i) Regular: 21 *Nike-Hercules* batteries.

(ii) Army National Guard: 27 *Nike Hercules* batteries.

Warning Systems:

(i) *Satelite early warning system:* capable of giving virtually immediate warning of launchings from SLBM, ICBM, and Fractional Orbital Bombardment System (FOBS) launch areas.

(ii) *Distant Early Warning* (DEW) *Line:* 31 stations, roughly along the 70° N parallel.

(iii) *Ballistic Missile Early Warning System* (BMEWS); 3 stations in Alaska, Greenland, and England.

(iv) *Pinetree Line:* 23 stations in central Canada.

(v) *Over-the-Horizon, Forward Scatter* (OTH): radar system with 9 sites capable of detecting, but not tracking, ICBM very early in flight.

(vi) 474N: SLBM detection and warning net of 8 stations on the East, Gulf, and West coasts of the United States; long-range radars have been added to the east coast net.

(vii) USAF Spacetrack (7 sites) and USN SPASUR systems; Space Defense Centre (NORAD): satellite tracking, identification, and cataloguing control.

(viii) Back-Up Interceptor Control (BUIC): system for air defense command and control (all stations except one now on semi-active status).

(ix) Semi-Automatic Ground Environment (SAGE) system for co-ordinating all surveillance and tracking of objects in North American airspace; 14 locations; combined with BUIC.

(x) Ground radar stations: some 55 stations manned by Air National Guard; augmented by the Federal Aviation Administration stations.

Army: 801,500 (16,000 women).

3 armoured divisions.
1 experimental (TRICAP) division.
4 mechanized infantry divisions.
3 infantry divisions.
1 airmobile division.
1 airborne division.
3 armoured cavalry regiments.
1 brigade in Berlin.
1 school brigade.

2 special mission brigades in Alaska and Panama.

30 SSM batteries with Honest John, Pershing, and Sergeant SSM (Lance is being introduced to replace Honest John and Sergeant).

M–48, M–60, and M–60A1/A2 (Shillelagh) med tks; M–41, M–551 Sheridan lt tks with Shillelagh ATGW; M–14, M–113 APC; M–107 175mm SP guns; M–108 105mm, M–109 155mm, and M–110 203mm SP how; M–56 90mm SP ATk guns; TOW and Dragon ATGW; Chaparral/Vulcan 20mm AA msl/gun system; Redeye and HAWK SAM.

Army Aviation; about 10,000 hel and 1,000 fixed-wing ac.

Deployment:

Continental United States:

(i) Strategic Reserve: 1 TRICAP div; 1 inf div; 1 airmobile div; 1AB div; 1 inf bde.

(ii) To reinforce 7th Army in Europe: 1 armd div (with equipment stockpiled in West Germany); 1 mech div (less 1 bde) (this division has two dual-based brigades whose heavy equipment is stored in West Germany); 1 mech div (with equipment stockpiled in West Germany); 1 armd cav regt.

Europe:

(i) Germany: 7th Army: 2 corps incl 2 armd divs, 2 mech inf divs, 1 mech inf bde, and 2 armd cav rgts; 190,000; 2,100 medium tanks (this figure includes those stockpiled for the dual-based brigades and Strategic Reserve divisions).

(ii) West Berlin: HQ elements and 1 inf bde of 3,900 men.

(iii) Italy: Task force of HQ elements and 1 SSM bn.

Pacific:

(i) South Korea: 1 inf div; 20,000.

(ii) Hawaii: 1 inf div.

Reserves, Authorized strength 663,600, actual strength 621,900.

(i) Army National Guard: authorized 402,300, actual 386,700; capable some time after mobilization of manning 2 armd, 1 mech, and 5 inf divs and 18 indep bdes plus reinforcements and support units to fill regular formations; 27 SAM btys (ARADCOM).

(ii) Army Reserves: authorized 261,300, actual 235,200; organized in 13 divs and 3 indep bdes; 48,000 a year undergo short active duty tours.

Marine Corps: 196,000.

3 divs (each of 19,000 men), each supported by 1 tk bn.

2 HAWK SAM bns.

M–48 and M–103A2 tks; LVTP–5 and –7 APC; 175mm guns; 105mm SP how; 105 and 155mm how; M–50 SP multiple 106mm recoilless rifles; 36 HAWK SAM.

3 Air Wings; 550 combat aircraft.

12 fighter sqdns with F–4B/J (with Sparrow and Sidewinder AAM).

11 attack sqnds with A–4/F/M and A–6.

2 close-support sqns with 36 AV–8A Harrier.

3 recce sqns with RF–4B/C and EA–6A.

3 observation sqns with OV–10A and AH–1G.

6 heavy hel sqns with CH–53D

9 med assault hel sqns with CH–46A.

3 assault tpt/tanker sqns with 46 KC–130F.

Deployment:

(i) Continental United States: 2 divs/air wings.

(ii) Pacific Area: 1 div/air wing.

Reserves: Authorized strength 45,000, actual strength 39,100.

1 div and 1 air wing; 4 fighter sqns with F–8J; 5 attack sqns with A–4E/L; 1 recce sqn with RF–4; 1 observation sqn with OV–10A and AH–1G; 1 tpt sqn with C–119G; 2 hy, 2 med, 1 lt hel sqn with CH–53, CH–46, UH–1E, and AH–1; 1 HAWK SAM bn.

Navy: 564,400 (9,000 women); 221 major combat surface ships, 84 attack submarines.

Submarines, attack: 60 nuclear, 24 diesel.

Attack carriers:

(i) Attack: 15.

1 nuclear-powered (U.S.S. Enterprise 76,000 tons); a second will be commissioned in 1973–74.

8 Forrestal/Kitty Hawk-class (60,000 tons).

3 Midway class (52,000 tons).

3 Hancock-class (33,000 tons).

The larger carriers have a normal complement of 80–90 aircraft, and the smaller ones between 70–80. These are organized as an air wing of 2 fighter sqns with F–4 (F–8 in the Hancock-class), 2 lt attack all weather attack sqns with A–4 or A–7; RA–5C or RF–8 recce; S–2E, SH–3A/G/H, ASW helicopters; E–1B, E–2A; AEW; EKA–3B tankers.

(ii) Training: 1.

1 Hancock-class.

Other surface ships:

1 SAM cruiser (nuclear).
3 SAM cruisers.
1 gun cruiser.
4 SAM light cruisers.
3 SAM frigates (nuclear).
25 SAM frigates.
29 SAM destroyers.
71 gun/ASW/radar picket destroyers.
6 SAM destroyer escorts.
62 gun/radar picket escorts.
65 amphibious warfare ships.
10 MCM ships (plus numerous small craft).
150 logistics and operations support ships.

Missiles include *Standard, Tartar, Talos, Terrier, Sea Sparrow* SAM, *ASROC* and *SUBROC* ASW.

Aircraft:

70 fighter/attack sqns with F–14A, F–4, F–8, A–4, A–6, A–7.

10 recce sqns with RA–5C, RF–8.

24 maritime patrol sqns with 216 P–3.

20 ASW sqns with S–2E, SH–3A/G/H hel.

5 helicopter sqns with UH–1/2, AH–1J, RH–53D.

34 other sqns with C–1, C–2, 5 C–9B, C–54 and C–130.

Deployment (average strengths of major combat ships; some ships in the Mediterranean and Western Pacific are selectively based overseas, the remainder are rotated from the US):

Second Fleet (Atlantic): 4 carriers, 63 surface combatants, 1 amphibious ready gp.*

Third Fleet (Eastern Pacific): 7 carriers, 52 surface combatants, 4 amphibious ready gps.*

Sixth Fleet (Mediterranean): 2 carriers, 17 surface combatants, 1 amphibious ready gp.*

Seventh Fleet (Western Pacific): 3 carriers, 29 surface combatants, 2 amphibious ready gps.*

Middle East Force (Persian Gulf): 1 flagship, 2 surface combatants.

Reserves: Authorized strength 129,000, actual strength 131,800; 3,500 a year undergo short active duty tours. Ships in commission with the Reserve include 30 destroyers, 4 destroyer escorts, and 20 MCM ships.

Aircraft:

2 Reserve Air Wings: 9 fighter/attack sqns with F–8 and A–7; 24 MR sqns with P–2 and P–3A/B; 25 ASW sqns with S–2.

2 ASW groups: 12 patrol sqns with S–2, P–3.

Ships in reserve:

8 submarines.
6 aircraft carriers.
4 battleships.
12 heavy cruisers.
2 SAM light cruisers.
43 destroyers.
2 frigates.
33 destroyer escorts (all classes).
8 rocket ships.
74 amphibious warfare ships.
82 MCM ships craft.
75 logistics support ships.

Air Force: 691,000 (17,000 women); about 5,750 combat aircraft.

72 fighter/attack sqns with F–4, F–105, and F–111; A–7D.

13 tactical recce sqns with RF–4C.

17 tactical airlift sqns with C–130E.

11 special purpose sqns with A–1E, A–37,

* Amphibious ready groups are 3–5 amphibious ships with a Marine battalion embarked. Only those in the Mediterranean and two in the Pacific are actually constituted.

AC–47, AC–119, AC–130, EA–6B, EB–66, EB–57, EC–47, C–7, and C–123.

17 hy tpt sqns, 4 with 72 C–5A, 13 with C–141.

24 medical tpt, weather recce, and SAR sqns.

Deployment:

Continental United States (incl Alaska and Iceland):

(i) Tactical Air Command: 124,000; 2,200 combat aircraft. 9th, 12th, and 19th Air Forces.

(ii) Military Airlift Command (MAC): 90,000.

Europe, US Air Forces Europe (USAFE): 50,000.

3rd Air Force (Britain), 16th Air Force (Spain), 17th Air Force (West Germany), and a logistics group in Turkey.

21 fighter sqns (plus 4 in the US on call) with 420 F–4C/D/E and 72 F–111E.

5 tactical recce sqns with 85 RF–4C.

Pacific, Pacific Air Forces (PACAF): 120,000.

5th Air Force in Japan, Korea, Okinawa.

7th Air Force in Thailand.

13th Air Force in the Philippines, Taiwan, Thailand.

Reserves:

(i) Air National Guard: Authorized strength 87,600, actual 90,000; about 650 combat aircraft. 20 fighter-interceptor sqns (ADC); 30 fighter sqns (21 with F–100C/D, 4 with F–105B/D, 1 with F–104, 1 with F–4C, 2 with A–37B, 1 with B–57); 7 recce sqns (4 with RF–101, 3 with RF–4C); 3 strategic tpt sqns with C–124C; 13 tactical tpt sqns (11 with C–130 (A/B/E), 1 with C–123J, 1 with C–7); 9 tanker gps with K–97L; 1 electronic warfare gp with EC–121 (ADC); 3 special operations gps with C–119/U–10 and 5 tactical air support gps with O–2A.

(ii) Air Force Reserve: Authorized strength 51,300, actual strength 44,600; about 120 combat aircraft. 4 fighter sqns with F–100, 3 with F–105D; 24 tactical tpt sqns (18 with C–130A/B, 4 with C–123K, 2 with C–7); 1 electronic warfare gp with EC–121; 4 special operations gps with A–37B; 5 SAR gps, 2 with HC–130, 3 with HH–34; and 1 medical tpt gp with C–9A.

THE SOVIET UNION

Population: 250,500,000.

Military service: Army and Air Force, 2 years; Navy and Border Guards, 2–3 years.

Total armed forces: 3,425,000.

Estimated NMP 1972: $439 billion. NMP (Net Material Product) is used because of the difficulty of arriving at an estimate for GNP; it has been converted at the rate of 0.72 roubles=$1.

Defence budget 1973: See below.

Strategic Nuclear Forces

Offensive:

(A) *Navy:* 628 SLBM in 66 submarines.

3 SSBN (D-class) each with 12 SS–N–8 missiles.

31 SSBN (Y-class) each with 16 SS–N–6 missiles.

10 SSBN (H-II-class) and 10 diesel (G-II-class) each with 3 SS–N–5 *Serb* missiles.

12 diesel (G-I-class) each with 3 SS–N–4 *Sark* missiles.

(B) *Strategic Rocket Forces (SRF):* 350,000. (The Strategic Rocket Forces are a separate service with their own manpower.)

ICBM: 1,527.

209 SS–7 *Saddler* and SS–8 *Sasin.*

288 SS–9 *Scarp.*

970 SS–11 (including about 100 with variable-range capability sited within IRBM/MRBM fields).

60 SS–13 *Savage.*

IRBM and MRBM: about 600.

100 SS–5 *Skean* IRBM.

500 SS–4 *Sandal* MRBM.

(The majority are sited near the western border of the USSR, the remainder east of the Urals.)

(C) *Air Force.*

Long Range Air Force (LRAF): 840 combat aircraft. (About 75 per cent is based in the European USSR, with most of the remainder in the Far East; in addition it has staging and dispersal points in the Arctic.)

Long-range bombers: 140.

100 Tu-95 *Bear* and 40 Mya-4 *Bison.*

Tankers: 50 Mya-4 *Bison.*

Medium-range bombers: 700.

500 Tu-16 *Badger* and 200 Tu-22 *Blinder.*

Defensive:

Air Defense Forces (PVO-*Strany*) form a separate command, comprising an early warning and control system, fighter-interceptor squadrons, and SAM units. Air Defence Forces have a total strength of 500,000, manpower being provided by the Army and Air Force.

Aircraft: about 2,900.

Interceptors: include about 950 MiG-17, Mig-19, and Yak-25; 800 Su-9; 1,150 Yak-28P *Firebar,* Tu-28P *Fiddler,* Su-11 *Flagon* A, and MiG-25 *Foxbat.*

AEW aircraft: 10 modified Tu-114 *Moss.*

Anti-Ballistic Missiles (ABM):

64 *Galosh* long-range missile launchers are deployed in four sites around Moscow, each with *Try Add* engagement radars (another radar of this type is under construction). Target acquisition and tracking is by a phased-array *Dog House* radar, and early warning is given by phased-array *Hen House* radar on the Soviet borders. The range of *Galosh* is believed to be over 200 miles, and its warheads are nuclear, presumably in the megaton range. Work has been resumed on previously uncompleted complexes in the Moscow area. A follow-on long-range ABM system is believed to be under development.

SAM: 10,000 launchers at about 1,600 sites.

SA-2 *Guideline:* about 5,000; track-while-scan *Fan Song* radar; high-explosive warhead; slant range (launcher to target) about 25 miles; effective between 1,000 and 80,000 feet.

SA-3 *Goa:* Two-stage, short-range, low-level missile; slant range about 15 miles.

SA-4 *Ganel:* Twin-mounted (on tracked carrier), air-transportable, long-range missile with solid fuel boosters and ram-jet sustainer.

SA-5 *Griffon:* Two-stage, boosted AA missile; slant range about 50 miles, with a capability against ASM.

SA–6 *Gainful:* Triple-mounted (on tracked carrier), low-level missile.

Anti-Aircraft Artillery:

14.5mm, 23mm, 57mm towed guns and ZSU–57–2 57mm twin-barrelled and ZSU–23–4 23mm four-barrelled tracked SP guns; 85mm, 100mm, and 130mm guns.

Army: 2,050,000.

107 motorized rifle divisions.

50 tank divisions.

7 airborne divisions.

SSM: (nuclear capable): about 900 (units are organic to formations), including:

(1) *FROG–1–7,* range 14–45 miles.

(2) *Scud A,* range 50 miles.

(3) *Scud B,* range 185 miles.

(4) *Scaleboard,* range 500 miles.

SAM: SA–2, SA–4, SA–6, and possibly SA–7 *Grail* (man-portable).

Tanks:

JS 2/3 hy; T–62 and T–54/55 med; PT–76 amphibious recce lt (most Soviet tanks are equipped for amphibious crossing by deep wading, and many carry infra-red night-fighting equipment). At full strength, tank divisions have 316 medium tanks and motorized rifle divisions 188. Production has begun on a new medium tank, the M–1970, and a light tank.

AFV: BTR–152, –60, –50P series; BMP APC; BRDM scout car.

Artillery:

100 mm, 122mm, 130mm, 152mm, and 203mm field guns; 12.2mm to 25mm multiple RL; 140mm RL; ASU–57 and ASU–85 SP and 85mm and 100mm ATK guns; *Sagger, Snapper, Swatter* ATGW; AA guns.

Deployment and Strength:

Central and Eastern Europe: 31 divs: 20 divs (10 tank) in East Germany; 2 tank divs in Poland; 4 divs (2 tank) in Hungary; and 5 divs (2 tank) in Czechoslovakia; 7,850 medium tanks. (These are the tanks held in the divisions; there are known to be in addition, some 1,000 T–54/55 tanks in reserve which have been replaced by T–62 but which have not yet been withdrawn.)

European USSR: 60 divs (about 20 tank).

Central USSR (between the Volga and Lake Baikal): 5 divs (2 tank).

Southern USSR (Caucasus and West Turkestan): 23 divs (4 tank).

Sino-Soviet border area: 45 divs, incl 2 in Mongolia (about 8 tank).

Soviet divisions have three degrees of combat readiness; Category 1, between three-quarters and full strength, with complete equipment; Category 2, between half and three-quarters strength, with complete fighting vehicles; Category 3, about one-third strength, possibly with complete fighting vehicles (though some may be obsolescent). The 31 divs in Eastern Europe are Category 1, as are about a third of those in the European USSR and the Far East and a few in the Southern USSR. The remaining divisions in European USSR, Southern USSR, and the Far East are probably evenly divided between Categories 2 and 3. The divisions in Central USSR are likely to be in Category 3.

Outside the Warsaw Pact area:

Instructors and advisers: Algeria 1,000, Cuba 1,000, Egypt 1,000, Iraq 1,500, North Vietnam 1,000, Somali Republic 1,000, Syria 2–3,000, Yemen Arab Republic 500, People's Democratic Republic of South Yemen 200.

Navy: 475,000 (incl Naval Air Force, 75,000, and Naval Infantry, 17,000); 212 major surface combat ships, 285 attack and cruise missile submarines.

Submarines:

Attack: 35 nuclear (C-, V-, N-classes), 195 diesel (B-, F-, R-, Q-, Z-, W-classes).

Long-range cruise missile, 30 nuclear-powered (E-class) and 25 diesel (J-, W-classes) with 2–8, 450–mile range SS-N-3 missiles.

Surface ships:

2 ASW helicopter cruisers, each with 2 twin SAM and about 20 Ka-25 hel.

2 Kara-class cruisers with SSM and SAM.

4 Kresta 1-class cruisers with SSM and SAM.

5 Kresta 11-class cruisers with SSM and SAM.

4 Kynda-class cruisers with SSM and SAM.

11 Sverdlov-class (1 with SAM) adn 4 older cruisers.

4 Krivak-class destroyers wtih SSM and SAM.

5 Kanin-class destroyers with SAM.

3 Krupny-class destroyers with SSM.

4 Kildin-class destroyers with SSM.

18 Kashin-class destroyers with SAM.

6 modified Kotlin-class destroyers with SAM.

37 Kotlin- and Skory-class destroyers.

103 other ocean-going escorts.

250 coastal escorts and submarine chasers.

6 Nanuchka-class coastal escorts wtih SSM and SAM.

117 Osa- and 10 Komar-class FPB with Styx SSM.

200 torpedo boats.

170 fleet minesweepers.

125 coastal minesweepers.

102 amphibious ships.

131 landing craft.

6 air cushion vehicles.

(1 40,000-ton aircraft carrier has been launched, apparently designed to operate V/STOL aircraft and helicopters; a second may be building.)

Some trawlers are used for electronic intelligence. All submarines and the larger surface vessels not fitted with SSM are equipped for minelaying.

A proportion of the destroyers and smaller vessels may not be fully manned.

Coasts are covered by a coast watch radar and visual reporting system. Approaches to naval bases and major ports are protected by SS–N–3 *Shaddock* coast defence missiles and heavy guns under naval command.

Shore-based aircraft: about 670 combat aircraft (most based near the north-west and Black Sea coasts of the USSR).

300 Tu-16 *Badger* with one *Kipper* or two *Kelt* ASM.

60 Tu-22 *Blinder* strike and reconnaissance.

40 II-28 Beagle torpedo-equipped light bombers.

50 Tu-Bear long-range naval reconnaissance.

150 Tu-16 *Badger* reconnaissance and tanker.

80 Be-2 *Mail* ASW amphibians.

40 II-38 *May* ASW aircraft.

240 Mi-4 and Ka-25 ASW helicopters.

200 miscellaneous transports.

Naval Infantry (marines): 17,000.

Organized in brigades and assigned to fleets. Equipped with standard infantry weapons. T-54/55 med tks, PT-76 lt tks, and APC.

Deployment (average strengths only):

Northern Fleet: 170 submarines, 45 major surface combat ships.

Baltic Fleet: 43 submarines, 52 major surface combat ships.

Black Sea Fleet: 31 submarines, 63 major surface combat ships.

Pacific Fleet: 107 submarines, 52 major surface combat ships.

Air Force: 550,000; about 8,250 combat aircraft.

(i) Long Range Air Force (see above).

(ii) Tactical Air Force: about 4,500 aircraft, incl medium and light bombers and fighter-bombers, fighters, helicopters, transport, and recce aircraft. Some obsolescent MIG–17, MIG–19, and II–2ℭ are still in service. The most notable high performance aircraft are the MIG–21MF Fishbed J and MIG–23 Flogger fighters, the ground attack Su–7 Fitter, and Yak–28 Brewer light bomber.

(iii) Air Defence Forces (see above).

(iv) Air Transport Force: about 1,700 aircraft, II–14, An–8, An–24, some 800 An–12 and II–18 medium tpts, and 15 An–22 heavy tpts.

1,750 hel (about 800 Mi–6, Mi–8, Mi–10, and Mi–12).

Deployment:

About half the Tactical Air Force is oriented towards Western Europe and a quarter towards China. Some 1,250 aircraft are actually deployed in Eastern Europe.

Reserves: about 3,000,000 (500,000 with recent training earmarked for divisional reinforcements).

Para-Military Forces: 300,000.

125,000 security troops; 175,000 KGB border troops. There are also about 1.5 million members of the part-time military training organization (DOSAAF) who take part in such recreational activities as athletics, shooting, and parachuting, but reservist training and refresher courses seem to be haphazard and irregular. However, DOSAAF assists in pre-military training given in schools, colleges, and workers' centres to those of 15 and over.

SOVIET DEFENCE EXPENDITURE

No single figure of Soviet defence expenditure in dollar terms can be given, as precision is not possible on present knowledge.

Budgetary information is lacking. The Soviet defence budget, which has remained implausibly static at just under 18 billion roubles a year since 1969, excludes a number of items: 'military R&D, stockpiling, civil defence, foreign military aid, as well as space and nuclear energy programs';[1] and also frontier guards and other security troops.[2] The largest of these missing items is military R&D, much of which is thought to be financed out of the growing votes for science. The All-Union science budget has grown at a rate of 9 per cent per year since 1969, equivalent to doubling over eight years, to reach an estimated level of 8.4 billion roubles in 1973. Between 1950 and 1957, a period for which detailed statistics were available, 56–75 per cent of the All-Union science budget was unidentified.[3] Becker assumed all these unidentified items to be defence-related, justifying this on the grounds that even if this were an overstatement it would compensate for other defence-related R&D in the unidentified residuals of the budgets for Higher Education Institutions and Enterprises; he suggests that 25–75 per cent of such residuals might be defense-related. Anderson and Lee estimate that 50–80 per cent of Enterprises 'own funds' and 70–80 per cent of the All-Union science budget are defence-related.[4] Cohn gives a much wider range of 50–100 per cent of the All-Union science budget as being defence-related.[5]

An alternative method, which gives an insight into Soviet expenditure on defence equipment in particular, has been attempted by both Becker and Boretsky.[6] They have each attempted to estimate the proportion of Soviet machine building which is defence-related and then to find a rouble exchange rate which, when applied to the rouble estimate of defence-related machine production, results in a dollar estimate of what it would cost to produce the equivalent machines in the United States. Such an estimate, in conjunction with an allowance for manpower costs, produces an impression of Soviet defence spending. Unfortunately most published data still relates to 1955, and it is difficult to up-date this. In particular Soviet prices are known to have been revised, notably in 1967. A controversy has centered on Boretsky's rouble estimate of defence-related machine production, as well as on his exchange rate for converting the rouble value of machinery into dollars (0.32 roubles = $1).[7]

The overall defence rouble exchange rate, as opposed to that for defence equipment, has ranged from 0.40 to 0.50 roubles to $1. Bornstein suggests 0.40 roubles to $1 in 1955;[8] Benoit and Lubell give 0.42 roubles to $1 in 1962;[9] and Lee presents a set of rising ranges which reaches 0.45–0.50 roubles to $1 by 1965.[10] Lee's implicit growth rate of 1–2 per cent would suggest a range of 0.50–0.55 roubles to $1 by 1973. His rising trend was based on the belief that development costs for the Soviet Union were rising more rapidly than in the United States, but overall inflation in the United States (the wholesale price index has risen at the annual rate of 3 per cent since 1965) may have offset such a trend, if not actually reserved it Lee himself acknowledges two schools of thought on this matter. There exists, therefore, a degree of uncertainty over the correct defence rouble exchange rate.

An example will illustrate the cumulative impact of the several uncertainties. If the Cohn assumption (50–100 per cent of the All-Union science budget) is taken for 1973 and added to the official Soviet defence budget, it produces a range of 22.1–26.3 billion roubles, which gives a + or — variation of 9 per cent around the mid-point. The range is widened still further when a rouble exchange rate range of 0.40 to 0.55 roubles to $1 is taken. This gives a maximum range of $40.2–$65.8 billion, which gives a 24 per cent + or — variation around the mid-point. The defence expenditure figure at once becomes more speculative when converted into dollar terms.

The Institute's own inclination is to base an estimate on a more precise allowance for manpower costs. For FY 1973 United States military manpower-related costs amount to 40 per cent of total Department of Defense outlays[11] and National Guard, Reserves, and Civilians ('others') accounted for an additional 16 per cent. Assuming the same percentages for FY 1974 this would give for the calendar year 1973 a military manpower cost of $30.8 billion and a total for 'others' of $12.3 billion. In mid-1973 there were 2,288,000 servicemen and 1,982,000 others,[12] giving an average cost per serviceman of $13,444 and an average cost per head of other personnel of $6,208. Soviet military manpower in mid-1973 is estimated at 3,425,000. Security and border guards number around 300,000, and, in addition, there are reserves and some civilians. Though the organization and training of reserves in the Soviet Union differs from that in the United States, a figure of 700,000 would cover the number of reserves of comparable preparedness to those in the United States, as well as civilians. Using these figures the equivalent dollar costs of Soviet military manpower are $46.0 billion and of other personnel $6.2 billion.

It has been asserted that 30–35 per cent of the Soviet defence budget is personnel-related.[13] To the remainder may be added 70–80 per cent of the All-Union science budget, assumed to cover defence-related R&D, producing a non-manpower cost range of 17.5–19.2 billion roubles, if this is converted at the rate of 0.5 roubles to $1 it gives $35.0–$38.4 billion. When this is added to the dollar manpower costs arrived at above a total range of $87.2–$90.6 billion results. If 'others' were excluded from the calculation the range would be $81.0–$84.4 billion. This would suggest that the equivalent dollar costs of Soviet resources devoted to defence may well be comparable to American spending and perhaps well above it. It must be borne in mind, however, that this method uses United States price weightings. The relationships could be very different if Soviet prices were used as weights instead.

FOOTNOTES

[1] A. S. Becker, *Soviet Military Outlays Since 1955* (Santa Monica, Calif.: RAND Corporation, July 1964), p. v.

[2] *The Military Balance 1970–71*, p. 11.

[3] Nancy Nimitz, *Soviet Expenditure on Scientific Research* (Santa Monica, Calif.: RAND Corporation, January 1963), p. 45.

[4] S. Anderson and W. Lee, *Probable Trends and Magnitude of Soviet Expenditure for National Security Purposes* (Stanford, Calif.: Stanford Research Institute, February 1969).

[5] Stanley H. Cohn, 'Economic Burden of Soviet Defense Expenditure', in *Economic Performance and the Military Burden in the Soviet Union* (Washington, D.C.: Congress of the United States, 1970), pp. 166–88.

[6] Michael Boretsky, 'The Technological Base of Soviet Military Power' in *Economic Performance and the Military Burden in the Soviet Union*, op. cit., pp. 189–231.

[7] *Survival*. October 1971; July/August 1972.

[8] Morris Bornstein, 'A Comparison of Soviet and United States National Product', in *Sub-Committee on Economic Statistics of the Joint Economic Committee* (Washington, D.C., 1960), pp. 377–95.

[9] Emile Benoit and Harold Lubell, 'The World Burden of National Defense' in Emile Benoit, ed., *Disarmament and World Economic Interdependence* (New York and London: Columbia University Press, 1967).

[10] W. T. Lee, 'Calculating Soviet National Security Expenditures', in *Sub-Committee in Government of the Joint Economic Committee. The Military Budget and National Economic Priorities, Part 3* (Washington, D.C., June 1969), pp. 932–33.

[11] *Military Manpower Requirements Report for FY 1973* (Washington, D.C.: Department of Defense, February 1972), p. 101.

[12] This is the total budgeted for; see *Statement of Secretary of Defense Elliot L. Rich-*

ardson FY 1974 Defense Budget and FY 1974–78 Program (Washington, D.C.: The House Armed Services Committee, March 1973); see country entry for actual total.

[13] *Secretary of Defense Melvin R. Laird's Annual Defense Department Report FY 1973* (Washington, D.C.: The House Armed Services Committee, February 1972).

THE WARSAW PACT

TREATIES

The Warsaw Pact is a multilateral military alliance formed by the 'Treaty of Friendship, Mutual Assistance, and Co-operation' which was signed in Warsaw on 14 May 1955 by the Governments of the Soviet Union, Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania; Albania left the Pact in September 1968. The Pact is committed to the defence only of the European territories of the member states.

The Soviet Union is also linked by bilateral treaties of friendship and mutual assistance with Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Rumania. Members of the Warsaw Pact have similar bilateral treaties with each other. The essence of East European defence arrangements is not therefore dependent on the Warsaw Treaty as such. The Soviet Union has concluded status-or-forces agreements with Poland, East Germany, Rumania, and Hungary between December 1956 and May 1957 and with Czechoslovakia in October 1968; all these remain in effect except the one with Rumania which lapsed in June 1958 when Soviet troops left Rumania.

ORGANIZATION

The Political Consultative Committee consists, in full session, of the First Secretaries of the Communist Party, Heads of Government, and the Foreign and Defence Ministers of the member countries. The Committee has a joint Secretariat, headed by a Soviet official, consisting of a specially appointed representative from each country, and a Permanent Commission, whose task it is to make recommendations on general questions of foreign policy for Pact members. Both these bodies are located in Moscow. Since the 1969 re-organization of the Pact the non-Soviet Ministers of Defence are no longer directly subordinate to the Commander-in-Chief of the Pact, but form, together with the Soviet Minister, the Council of Defence Ministers, which is the highest military body in the Pact.

The second body, the Joint High Command, is required by the Treaty to strengthen the defensive capability of the Warsaw Pact, to prepare military plans in case of war, and to decide on the deployment of troops. The Command consists of a Commander-in-Chief (C-in-C), and a Military Council. This Council meets under the chairmanship of the C-in-C, and includes the Chief of Staff C of S and permanent military representatives from each of the allied armed forces. It seems to be the main channel through which the Pact's orders are transmitted to its forces in peacetime and through which the East European forces are able to put their point of view to the C-in-C. The Pact also has a Military Staff, which includes non-Soviet senior officers. The posts of C-in-C and C of S of the Joint High Command have however, always been held by Soviet officers and most of the key positions are still in Soviet hands.

In the event of war, the forces of the other Pact members would be operationally subordinate to the Soviet High Command. The command of the air defence system covering the whole Warsaw Pact area is now centralized in Moscow and directed by the C-in-C of the Soviet Air Defence Forces. Among the Soviet military headquarters in the Warsaw act area are the Northern Group of Forces at Legnica in Poland; the Southern Group of Forces at Budapest; the Group of Soviet Forces in Germany at Zossen-Wünsdorf, near Berlin; and the Central Group of Forces at Milovice, north of Prague. Soviet tactical air forces are stationed in Poland, East Germany, Hungary, and Czechoslovakia.

The Soviet Union has deployed short-range surface-to-surface missile (SSM) launchers in Eastern Europe. Most East European countries also have short-range SSM launchers, but there is no evidence that nuclear warheads for these missiles have been supplied to them. Soviet longer-range missiles are all based in the Soviet Union.

BULGARIA

Population: 8,660,000.
Military service: Army and Air Force, 2 years; Navy, 3 years.
Total regular forces: 152,000.
Estimated GNP 1972: $11.1 billion.
Defence budget 1973: 422 million leva ($301 million).
1.4 leva=$1.
Army: 120,000.
(East European Warsaw Pact formations are not all manned at the same level. They can be regarded as being in two categories: Category 1 formations up to three-quarters of establishment strength: Category 2 (shown here and throughout this section as cadre); unlikely to be at more than a quarter of establishment strength.)
8 motorized rifle divisions (3 cadre).
5 tank brigades.
Some hy tks; about 2,000 med tks mainly T–54, with some T–34 and T–55; PT–76 lt tks; BRDM scout cars; BTR–50, BTR–60, and BTR–152 APC; 88mm, 100mm, 122mm, 130mm, and 152mm guns; SU–100 SP guns; FROG and Scud SSM; 57mm and 85mm ATk guns; Sagger and Snapper ATGW; 37mm and 57mm AA guns.
Reserves: 250,000.
Navy: 10,000.
2 W-class submarines.
2 Riga-class escorts.
8 SOI- and Kronstadt-type coastal escorts.
20 MCM ships.
5 Osa-class patrol boats with Styx SSM.
20 coastal patrol boats.
15 motor torpedo boats (8 less than 100 tons).
20 landing craft.
6 Mi-4 helicopters.
Reserves: 10,000.
Air Force: 22,000; 252 combat aircraft.
6 fighter-bomber squadrons with MiG–17.
3 interceptor squadrons with MiG–21.
3 interceptor squadrons with MiG–19.
6 interceptor squadrons with MiG–17.
1 reconnaissance squadron with II–28.
2 recce sqns with MiG–15, MiG–17, and MiG–21.
(12 aircraft in a combat squadron.)
4 Li-2, 6 An-2, and 10 II–14 transports.
About 40 Mi-4 helicopters.
SA–2 SAM.
1 parachute regiment.
Reserves: 20,000.
Para-Military Forces: 17,000, including border guards; security police; a volunteer People's Militia of 150,000.

CZECHOSLOVAKIA

Population: 14,600,000.
Military service: Army 24 months; Air Force 27 months.
Total regular forces: 190,000.
Estimated GNP 1972: $32.9 billion.
Defence budget 1973: 16.7 billion koruny ($1,336 million).
12.5 koruny=$1.
Army: 150,000.
5 tank divisions.
5 motorized rifle divisions (2 cadre).
1 airborne brigade.
Some hy tanks; about 3,400 med tks, mostly T–55 and T–62 with some T–54 and T34; OT–62 and OT–64 APC; SU–100, SU–122, and JSU–152 SP guns; 122mm how; 82mm and 120mm mor; FROG and Scud SSM; 57mm, 85 mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm AA guns.
About 200 Mi–1 and Mi–4 hel.
Reserves: 300,000.
Air Force: 40,000; 504 combat aircraft.
12 FGA sqns with Su–7, MiG–15, and MiG–17.
18 interceptor squadrons with MiG–19 and MiG–21.
6 recce sqns with MiG–21, II–28, and L–29.
(14 aircraft in a combat squadron.)
About 50 An–24, II–14, and II–18 transports.
About 90 Mi–1, Mi–4, and Mi–8 helicopters.
SA–2 SAM.
Reserves: 50,000.
Para-Military Forces: Border troops (Pohranicki straz), 35,000 (subordinate to the Ministry of the Interior). A part-time People's Militia of about 120,000 is being increased to 250,000.

GERMAN DEMOCRATIC REPUBLIC

Population: 17,000,000.
Military service: 18 months.
Total regular forces: 132,000.
Estimated GNP 1972: $35.3 billion.
Defense budget 1973: 8,328 million Ostmarks ($2,031 million).
4.1 Ostmarks=$1.
Army: 90,000.
2 tank divisions.
4 motorized rifle divisions.
Some hy tks; about 2,000 med tks, T–54, T–55, and T–62; several hundred T–34 (used for training); about 130 PT–76 lt tks; BRDM scout cars; BTR–50P, BTR–60P, and BTR–152 APC; SU–100 SP guns; 85 mm, 122 mm, 130mm, and 152mm guns; FROG 7 and Scud B SSM; 57mm and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm SP AA guns and 100mm AA guns.
Reserves: 200,000.
Navy: 17,000.
2 Riga-type escorts.
25 coastal escorts.
12 Osa-class patrol boats with Styx SSM.
26 SOI- and Hai-type submarine chasers.
12 fleet and 45 medium minesweepers.
63 motor torpedo boats (45 less than 100 tons).
18 landing ships and craft.
8 Mi–4 helicopters.
Reserves: 20,000.
Air Force: 25,000; 320 combat aircraft.
2 interceptor squadrons with MiG–17.
18 interceptor squadrons with MiG–21.
(16 aircraft in a combat squadron.)
30 transports, including An–2, II–14, and II–18.
40 Mi–1, Mi–4, and Mi–8 helicopters.
1 AD div of 9,000 (5 regiments), with about 120 57mm and 100mm AA guns and SA–2 SAM.
Reserves: 30,000.
Para-Military Forces: 80,000.
46,000 Border Guards (Grenzschutz-truppen) including a Border Command separate from the regular army. 24,000 security troops plus 400,000 in armed workers' organizations (Kampfgruppen der Arbeiterklasse).

HUNGARY

Population: 10,450,000.
Military service: 2 years.
Total regular forces: 103,000.
Estimated GNP 1972: $15.3 billion.
Defence budget 1973: 16,117 million forints ($695 million).
23.2 forints=$1.
Army: 90,000.
1 tank division.
4 motorized rifle divisions (2 cadre).
Some hy tks; about 1,500 med tks, mainly T–55 and T–54; some T–34 for training; 50 PT–76 lt tks; FUG–M and OT–65 scout cars; FUG–M–1970, OT–64, and BTR–152 APC; 76mm, 85mm, and 122mm guns; 122mm and 152mm how; FROG and Scud SSM; 57mm ATk guns; Sagger, Snapper, and Swatter ATGW; 57mm twin SP AA guns.

Reserves: 150,000.
Navy: 500.
Danube River Guard of small patrol craft.
Air Force: 12,500; 108 combat aircraft.
9 interceptor sqns with 108 MiG–17 and MiG–21.
About 25 An–2, Il–4, and Li–2 transport aircraft.
About 15 Mi–1, Mi–4, and Mi–8 helicopters.
2 SAMS battalions with SA–2.
Reserves: 13,000.
Para-Military Forces: 27,000 security and border guard troops; 250,000 workers' militia.

POLAND

Population: 33,725,000.
Military service: Army and Air Force, 2 years; Navy and special services, 3 years; internal security forces, 27 months.
Total regular forces: 280,000.
Estimated GNP 1972: $44.5 billion.
Defence budget 1973: 39.21 billion zloty ($1,799 million).
21.8 zlotys = $1.
Army: 200,000.
5 tank divisions.
8 motorized rifle divisions (2 cadre).
1 airborne division.
1 amphibious assault division.
Some hy tks; 3,400 med tks, T–54, T–55, and some T–62; some T–34 for training; about 250 PT–76 lt tks; FUG and BRDM scout cars; OT–62, OT–64, and BTR–152 APC; ASU–57 and ASU–85 AB assault guns; 122mm guns, 122mm how, and 152mm gun/how; FROG and Scud SSM; 57mm, 85mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 23mm and 57mm SP AA guns.
Reserves: 500,000.
Navy: 25,000 (including 1,000 marines).
5 W–class submarines.
4 destroyers (1 Kotlin-class with SA–N–1).
30 coastal escorts/submarine chasers.
24 fleet and 25 inshore minesweepers.
12 Osa-class patrol boats with Styx SSM.
20 torpedo boats.
38 fast patrol boats.
16 landing ships.
55 naval aircraft, mostly MiG–17, with a few Il–28 lt bomber/recce and some helicopters.
Reserves: 40,000.
Air Force: 55,000; 696 combat aircraft.
4 light bomber squadrons with Il–28.
12 fighter-bomber sqns with MiG–17 and Su–7.
36 interceptor squadrons with MiG–15, MiG–17, MiG–19, and MiG–21.
6 recce sqns with MiG–15, MiG–21, and Il–28.
(12 aircraft in a combat squadron.)
About 45 An–2, An–12, An–24, Il–12, Il–14, Il–18, and Li–2 transports.
40 helicopters, including Mi–1, Mi–4, and Mi–8.
SA–2 SAM.
Reserves: 60,000.
Para-Military Forces: 73,000 security and border troops, including armoured brigades of the Territorial Defence Force; 20 small patrol boats are operated.

RUMANIA

Population: 20,900,000.
Military service: Army and Air Force, 16 months; Navy, 2 years.
Total regular forces: 170,000.
Estimated GNP 1972: $26.5 billion.
Defence budget 1973: 7.92 billion lei ($528 million).
15.0 leis = $1.
Army: 141,000.
2 tank divisions.
7 motorized rifle divisions.
1 mountain brigade.
1 airborne regiment.
Some hy tks; 1,700 T–34, T–54, T–55, and T–62 med tks; BTR–40, BTR–50P, and BTR–152 APC; SU–100 SP guns; 76mm, 122mm, and 152mm guns; FROG and Scud SSM; 57mm, 85mm, and 100mm ATk guns; Sagger, Snapper, and Swatter ATGW; 37mm, 57mm, and 100mm AA guns.
Reserves: 250,000.
Navy: 8,000.
6 Poti- and Kronstadt-class coastal escorts.
5 Osa-class patrol boats with Styx SSM.
24 MCM ships.
12 motor torpedo boats.
4 Mi–4 helicopters.
Reserves: 10,000.
Air Force: 21,000; 252 combat aircraft.
20 interceptor squadrons with MiG–17, MiG–19, and MiG–21.
1 reconnaissance squadron with Il–28.
(12 aircraft in a combat squadron.)
1 transport squadron with Il–14 and Li–2.
10 Mi–4 helicopters.
SA–2 SAM.
Reserves: 25,000.
Para-Military Forces: 40,000 including border troops; militia of about 500,000.

The North Atlantic Treaty

TREATIES

The North Atlantic Treaty was signed in 1949 by Belgium, Britain, Canada, Denmark, France, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, and the United States; Greece and Turkey joined in 1952 and West Germany in 1955. The treaty binds Western Europe and North America in a commitment to consult together if the security of any one member is threatened, and to consider an armed attack against one as an attack against all, to be met by such action as each of them deems necessary, 'including the use of armed force, to restore and maintain the security of the North Atlantic area'.

The Paris Agreements of 1954 added a Protocol to the Treaty aimed at strengthening the structure of NATO, and revised the Brussels Treaty of 1948, which now includes Italy and West Germany in addition to its original members (Benelux countries, Britain, and France). The Brussels Treaty signatories are committed to give one another 'all the military and other aid and assistance in their power' if one is the subject of 'armed aggression in Europe'.

Since 1969 members of the Atlantic Alliance can withdraw on one year's notice; the Brussels Treaty was signed for 50 years.

ORGANIZATION

The Organization of the North Atlantic Treaty is known as NATO. The governing body of the alliance, the North Atlantic Council, which has its headquarters in Brussels, consists of the Ministers of the fifteen member-countries, who normally meet twice a year, and of ambassadors representing each government, who are in permanent session.

In 1966, France left the integrated military organization and the 14-nation Defence Planning Committee (DPC), on which France does not sit, was formed. It meets at the same levels as the Council and deals with questions related to NATO's integrated military planning and other matters in which France does not participate. The Secretary-General and an international staff advise on the politico-military, financial, economic, and scientific aspects of defence planning.

Two permament bodies for nuclear planning were established in 1966. The first, the Nuclear Defence Affairs Committee (NDAC), is open to all NATO members (France, Iceland, and Luxembourg do not take part); it normally meets at Defence Minister level once or twice a year, to associate non-nuclear members in the nuclear affairs of the alliance. The Secretary-General is Chairman of the NDAC.

The second, the Nuclear Planning Group (NPG), derived from and subordinate to the NDAC, has seven or eight members, and is intended to go further into the details of topics raised there. The composition consists, in practice, of Britain, Germany, Italy, and the United States, plus three or four other member countries serving in rotation each for a term of 18 months. On 1 July 1973, there were four such members: Canada, Greece, the Netherlands, and Norway. The Secretary-General also chairs the NPG.

The Council's military advisers are the Military Committee, which gives policy direction to the NATO military commands. The Military Committee consists of the Chiefs of Staff of all member countries, except France, which maintains a liaison staff, and Iceland, which is not represented; in permanent session, the Chiefs of Staff are represented by Military Representatives who are located in Brussels together with the Council. The Military Committee has an independent Chairman and is served by an integrated international military staff. The major NATO commanders are responsible to the Military Committee, although they also have direct access to the Council and heads of Governments.

The principal military commands of NATO are Allied Command Europe (ACE), Allied Command Atlantic (ACLANT), and Allied Command Channel (ACCHAN).

The NATO European and Atlantic Commands participate in the Joint Strategic Planning System at Omaha, Nebraska, but there is no Alliance Command specifically covering strategic nuclear forces. As for ballistic-missile submarines, the United States has committed a small number and Britain all hers to the planning control of SACEUR, and the United States a larger number to SACLANT.

The Supreme Allied Commander Europe (SACEUR) and the Supreme Allied Commander Atlantic (SACLANT) have always been American officers; and the Commander-in-Chief Channel (CINCCHAN) and Deputy SACEUR and Deputy SACLANT British. SACEUR is also Commander-in-Chief of the United States Forces in Europe.

(1) Allied Command Europe (ACE) has its headquarters, known as SHAPE (Supreme Headquarters, Allied Powers in Europe), at Casteau, near Mons, in Belgium. It is responsible for the defence of all NATO territory in Europe except Britain, France, Iceland, and Portugal, and for that of all Turkey. It also has general responsibility for the air defence of Britain.

The European Command has some 7,000 tactical nuclear warheads in its area. The number of delivery vehicles (aircraft, missiles, and howitzers) is over 2,000, spread among all countries, excluding Luxembourg. The nuclear explosives themselves, however, are maintained, with the exception of certain British weapons, in American custody. (There are additionally French nuclear weapons in France.) Tactical nuclear bombs and missile warheads are all fission. There is a very wide range in the kiloton spectrum, but the average yield of the bombs stockpiled in Europe for the use of NATO tactical aircraft is about 100 kilotons, and of the missile warheads, 20 kilotons.

About 60 division equivalents are available to SACEUR in peacetime. The Command has some 2,750 tactical aircraft, based on about 150 standard NATO airfields and backed up by a system of jointly financed storage depots, fuel pipelines, and signal communications. The majority of the land and air forces stationed in the Command are assigned to SACEUR, while the naval forces are normally earmarked.

The 2d French Corps of two divisions (which is not integrated in NATO forces) is stationed in Germany under a status agreement reached between the French and German Governments. Co-operation with NATO forces and commands has been agreed between the commanders concerned.

The ACE Mobile Force (AMF) has been formed as a NATO force with particular reference to the northern and southeastern flanks. Formed by eight countries, it com-

prises eight infantry battalion groups, an armoured reconnaissance squadron, and ground-support fighter squadrons, but has no air transport of its own.

The following Commands are subordinate to Allied Command Europe:

(a) Allied Forces Central Europe (AFCENT) has command of both the land forces and the air forces in the Central European Sector. Its headquarters are at Brunssum in the Netherlands, and its Commander (CINCENT) is a German general.

The forces of the Central European Command include 22 divisions, assigned by Belgium, Britain, Canada, West Germany, the Netherlands, and the United States, and about 1,600 tactical aircraft.

The Command is sub-divided into Northern Army Group (NORTHAG) and Central Army Group (CENTAG). NORTHAG, responsible for the defence of the sector north of Göttingen-Liège axis, includes the Belgian, British, and Dutch divisions and four German divisions and is supported by 2nd Allied Tactical Air Force (ATAF), composed of Belgian, British, Dutch, and German units. The American forces, seven German divisions, and the Canadian battle group are under the Central Army Group, supported by the 4th ATAF, which includes American, German, and Canadian uni's and ar. American Army Air Defense Command.

(b) Allied Forces Northern Europe (AFNORTH) has its headquarters at Kolsaas, Norway, and is responsible for the defence of Denmark, Norway, Schleswig-Holstein, and the Baltic Approaches. The commander has always been a British general. Most of the Danish and Norwegian land, sea, and tactical air forces are earmarked for it, and most of their active reserves assigned to it. Germany has assigned one division, two combat air wings, and her Baltic fleet. Apart from exercises and some small units, US naval forces do not normally operate in this area.

(c) Allied Forces Southern Europe (AFSOUTH) has its headquarters at Naples, and its commander (CINCSOUTH) has always been an American admiral. It is responsible for the defence of Italy, Greece, and Turkey, and for safeguarding communications in the Mediterranean and the Turkish territorial waters of the Black Sea. The formations available include 17 divisions from Turkey, 8 from Greece, and 11 from Italy, as well as the tactical air forces of these countries. Other formations from these three countries have been earmarked for AFSOUTH, as have the United States 6th Fleet and naval forces from Greece, Italy, Turkey, and Britain. The ground-defence system is based on two separate commands: Southern, comprising Italy and the approaches to it, under an Italian commander, and Southeastern, comprising Greece and Turkey, under an American commander. There is, however, an overall air command and there is a single naval command (NAVSOUTH), responsible to AFSOUTH with headquarters in Naples.

A special air surveillance unit, Maritime Air Forces Mediterranean (MARAIRMED), is now operating Italian, British, and American patrol aircraft from bases in Greece, Turkey, Sicily, and Italy; French aircraft are participating in these operations. Its commander, an American rear-admiral, is immediately responsible to CINCSOUTH.

The Allied On-Call Naval Force for the Mediterranean (NAVOCFORMED) has consisted of at least three destroyers, contributed by Italy, Britain, and the United States, and three smaller ships provided by other Mediterranean countries, depending upon the area of operation.

(ii) Allied Command Atlantic (ACLANT) has its headquarters at Norfolk, Virginia, and is responsible for the North Atlantic area from the North Pole to the Tropic of Cancer, including Portuguese coastal waters. The commander is an American admiral.

In the event of war, its duties are to participate in the strategic strike and to protect sea communications. There are no forces assigned to the command in peacetime except Standing Naval Force Atlantic (STANAVFORLANT), which normally consists, at any one time, of four destroyer-type ships. However, for training purposes and in the event of war, forces which are predominantly naval are earmarked for assignment by Britain, Canada, Denmark, Netherlands, Portugal, and the United States. There are arrangements for co-operation between French naval forces and those of SACLANT. There are five subordinate commands; Western Atlantic Command, Eastern Atlantic Command, Iberian Atlantic Command, Striking Fleet Atlantic, and Submarine Command. The nucleus of the Striking Fleet Atlantic has been provided by the American 2nd fleet with up to six attack carriers; carrier-based aircraft share the nuclear strike role with missile-firing submarines.

(iii) Allied Command Channel (ACCHAN) has its headquarters at Northwood, near London. The wartime role of Channel Command is to exercise control of the English Channel and the southern North Sea. Many of the smaller warships of Belgium, Britain, and the Netherlands are earmarked for this Command, as are some maritime aircraft. There are arrangements for co-operation with French naval forces. The commander is a British admiral. A Standing Naval Force, Channel (STANAVFORCHAN) was formed on 2 May 1973, to consist of mine countermeasures ships from Belgium, the Netherlands, and Britain; other interested nations might participate on a temporary basis. Its operational command is vested in the Commander-in-Chief, Channel Command.

POLICY

Political guidelines agreed between NATO members in 1967 include the concept of political warning time in a crisis and the possibility of distinguishing between an enemy's military capabilities and his political intentions. The strategic doctrine defined by the DPC in December 1967 envisaged that NATO would meet attacks on its territory with whatever force levels were appropriate, including nuclear weapons.

In June 1968, at the Ministerial Meeting at Reykjavik, the Council called on the countries of the Warsaw Pact to join in discussions of mutual force reductions, reciprocal and balanced in scope and timing. Preliminary talks on negotiating procedures and agendas took place in the first half of 1973 and further negotiations, for which guidelines but no agenda have been agreed, were to begin in Vienna on 30 October 1973. The aim is to secure practical arrangements that will ensure undiminished security for all parties at lower levels of forces in Central Europe.

BELGIUM

Population: 9,800,000.

Military service: 12–15 months. (Conscripts serve 12 months if posted to Germany, 15 months if serving only in Belgium. A reduction to 10 and 12 months respectively is being studied.)

Total armed forces: 89,600.

Estimated GNP 1972: $35.5 billion.

Defence budget 1973: 35,648 million francs ($990 million).

43.8 francs=$1 1 July 1972.

35.99 francs=$1 1 July 1973.

Army: 65,000.

1 armoured brigade.

3 mechanized infantry brigades.

3 reconnaissance battalions.

3 motorized infantry battalions.

1 para-commando regiment.

3 artillery battalions.

3 combat engineer battalions.

2 SSM battalions with 8 Honest John launchers.

2 SAM battalions with 24 HAWK launchers.

4 air sqns with 75 Alouette II hel and 11 Do-27.

334 Leopard and 148 M–47 med tks; 90 M–41 lt tks; 1,000 M–75 and AMX APC (there is a programme for procurement of 700 light armoured vehicles, including Scorpion lt tks); 106 M–108 105mm, M–44 and M–109 155mm, and M–110 203mm SP how; 203mm how; Honest John SSM (being replaced by Lance); HAWK SAM.

Deployment:

Germany: 2 div HQ, 1 armed bde, and 3 mech inf bdes.

Reserves: 8,000 trained: 1 mech inf bde and one inf bde.

Navy: 4,600.

7 ocean minesweepers/minehunters.

9 coastal minesweepers/minehunters.

12 inshore minesweepers.

2 support ships.

2 S–58 and 3 Alouette III helicopters.

Reserves: 7,600 trained.

Air Force: 20,000; 144 combat aircraft.

2 fighter-bomber squadrons with F–104G.

3 fighter-bomber squadrons with Mirage-VBA.

2 AWX squadrons with F–104G.

1 reconnaissance squadron with Mirage-VBR.

(A combat squadron normally has 18 aircraft.)

2 tpt sqns with 12 C–130 Hercules, 4 DC–3, 12 Pembroke, and 4 DC–6.

5 HSS–1 and 6 S–58 hel.

8 SAM squadrons with 16 Nike-Hercules.

Para-Military Forces: 15,000 Gendarmerie.

BRITAIN

Population: 56,250,000.

Military service: voluntary.

Total armed forces: 361,500 (including 9,300 enlisted outside Britain).

Estimated GNP 1972: $151 billion.

Defence budget 1973–74: £3,365 million ($8,673 million).

£0.413=$1 1 July 1972.

£0.388=$1 1 July 1973.

Strategic Forces:

SLM: 4 SSBN each with 16 Polaris A3 missiles. Ballistic Missile Early Warning System (BMEWS) station located at Flyingdales.

Army: 177,000 (incl 7,900 enlisted outside Britain).

13 armoured regiments.

5 armoured reconnaissance regiments.

47 infantry battalions.

3 parachute battalions.

5 Gurkha battalions.

1 special air service (SAS) regiment.

2 regts with Honest John SSM launchers and 203mm SP how.

23 other artillery regiments.

1 SAM regiment with 12 Thunderbird launchers.

14 engineer regiments.

59 of the above units are organized in 5 armd, 10 mech or inf, 1 para, and 1 Gurkha bdes.

900 Chieftain and Centurion med tks; Scorpion lt tks; Saladin armd cars; Ferret scout cars; FV 432, Saracen APC; 105mm Abbot and M–107 175mm SP guns; M–109 SP how; 12 M–110 203mm SP how; Model 56 105mm pack how; Honest John SSM (Lance on order); Carl Gustav, Vigilant, and Swingfire ATGW; L–40/70 AA guns; Thunderbird SAM (Rapier on order); 2 SRN–6, 2 CC–7 hovercraft.

2 Army Aviation wings of 17 sqns and 8 indep flights with 24 Beaver lt ac; 120 Scout, 12 Alouette AH–2, 175 Sioux hel (150 Lynx, 30 Gazelle on order).

Deployment:

United Kingdom: Land element of United Kingdom Mobile Force (UKMF) (1 div, 4 bdes, and 1 para bde); 1 SAS regt, 1 Gurwha inf bn. HQ Northern Ireland with 3 bde HQ, 1 armd recce regt, 3 armd recce sqns, 3 field engr sqns, 17 units, and 4 army aviation sqns.

Germany: British Army of the Rhine (BAOR), of 54,900 includes 1 corps HQ, 3 div HQ, 5 armd bdes, 1 mech bde, 2 arty bdes (incl the Thunderbird SAM regt), and 2 armd recce regts. In Berlin there is one 3,000-strong inf bde. (Some units from BAOR are serving on short tours in Northern Ireland, being away from Germany for up to six months. Numbers involved averaged 3,500.)

Singapore: 1 inf bn group (part of the ANZUK force).

Brunei: 1 Gurkha bn.

Hong Kong: 2 bdes with 2 British and 3 Gurkha inf bns; 1 arty regt.

Cyprus: 1 inf bn and 1 airportable recce sqn with UN force (UNFICYP); 1 inf bn and 1 armd recce sqn in garrison at Sovereign Base Areas.

Gibraltar: 1 inf bn.

British Honduras: 1 bn HQ and 2 inf coys.

Reserves: 300,000 regular reserves, 59,300 volunteer reserves; 9,200 Ulster Defence Regiment.

Navy: 81,000 (including Fleet Air Arm, Royal Marines, and 800 enlisted outside Britain); 78 major surface combat vessels.

Submarines, attack:

6 nuclear (1 more to come into service in 1973, a second in 1974); 22 diesel.

Surface ships:

1 aircraft carrier.

2 commando carriers.

2 assault ships.

2 cruisers with Seacat SAM.

9 destroyers (8 with Seaslug I and Seacat II Sam, 1 with Sea Dart SAM and Ikara ASW msls), each with 1 ASW hel.

35 general purpose frigates (12 with Seacat, 1 with Ikara), each with 1 ASW hel.

20 ASW frigates (9 with Seacat and 1 ASW hel).

3 AA and 4 aircraft direction frigates.

38 coastal minesweepers/minehunters.

6 inshore minesweepers.

5 coastal patrol vessels.

6 patrol/seaward defence boats.

(Included in the above are the following ships in reserve or undergoing refit or conversion; 6 diesel submarines, 1 destroyer, 10 frigates, 2 minesweepers.)

The Fleet Air Arm: 30 combat aircraft.

1 strike squadron with 12 Buccaneer S2 with Martel ASM.

1 air defence squadron with 12F-4K.

1 AEW sqn with 6 Gannet.

8 hel sqns with Wessex.

3 hel sqns with Sea King.

3 hel sqns with Wash and Whirlwind.

(100 Lynx hel on order.)

The Royal Marines; 8,000.

1 commando bde with 3 commandos; SRN 6 Mk. 5 hovercraft.

Deployment:

Malta: 1 commando.

Falkland Islands: 1 detachment.

Gibralter: 1 detachment.

Reserves (naval and marines): 27,500 regular and 7,000 volunteers.

Air Force: 103,500 (incl 600 enlisted outside Britain); about 500 combat aircraft.

6 medium bomber squadrons with Vulcan B2.

3 strike squadrons with Buccaneer.

1 FGA squadron with Hunter (a second forming).

7 strike/attack/recce sqns with F-4M.

4 close support squadrons with Harrier.

8 air defense squadrons with Lightning.

1 air defense squadron with F-4K.

1 recce squadron with 15 Victor SR2.

4 recce squadrons with Canberra.

1 AEW squadron with Shackleton.

6 maritime patrol squadrons with Nimrod. (Combat squadrons have 6–18 aircraft.)

3 tanker squadrons with total of 56 Victor K1/K1A/K2.

4 strategic transport squadrons with 14 VC–10, 10 Belfast, and 15 Britannia.

7 tactical tpt sqns with C–130 Hercules.

2 light communication squadrons with HS 125.

7 hel sqns with 60 Wessex, 75 Whirlwind, and 40 SA–330 Puma.

There are 11 ground defence and air defence squadrons of the Royal Air Force Regiment, some with Bloodhound and Tigercat SAM, and L40/70 AA guns (Rapier SAM on order).

Deployment: The Royal Air Force includes one operational home command—Strike Command—and two smaller overseas commands—RAF Germany (8,600), and Near East Air Force. Squadrons are deployed overseas as follows:

Germany: 4 F-4; 2 Buccaneer; 2 Lighting; 3 Harrier: 1 Wessex; 2 sqns RAF Regt. Gibralter: Hunter detachment.

Near East: (a) Cyprus: 2 Vulcan; 1 Lightning; 1 Hercules; 1 Whirlwind; 2 sqns RAF Regt.

(b) Malta: 1 Nimrod; 1 Canberra. Singapore: detachments Nimrod and Wessex hel (in ANZUK force).

Hong Kong: hel and RAF Regt detachments.

British Honduras: RAF Regt detachment.

Reserves: 31,800 regular; about 200 volunteer.

CANADA

Population: 22,300,000.

Military service; voluntary.

Total armed forces, 83,000.

Estimated GNP 1972: $102.9 billion.

Defence expenditure 1973–74: $Can. 2.13 billion ($US 2,141 million).

$Can. 1 = $US 11 July 1972.

$Can. 0.995 = $US 11 July 1973.

Army (Land): 33,000.

(The Canadian Armed Forces have been unified since February 1968. The strengths shown here for Army, Navy, and Air Force are only approximate.)

In Canada: Mobile Command (about 20,000).

1 airborne regiment.

3 combat groups each comprising:

3 infantry battalions.

1 reconnaissance regiment.

1 reduced light artillery regiment (of 2 batteries).

Support units.

M–113 APC, Ferret armed cars; Model 56 105mm pack how; 106mm recoilless rifles.

One group is intended for operations in Europe; part of it, an air transportable bn gp, for use with the AMF. The other groups contributes to North American ground defence and UN commitments.

In Europe: One mech battle group of 2,800 men, with 32 Centurion med tks, 375 M–113 APC, and 18 M–109 155mm SP how.

In Cyprus (UNFICYP). 580 men.

Reserves: about 19,000.

Navy (Maritime): 14,000.

4 submarines.

10 ASW hel destroyer escorts, 4 with Sea Sparrow SAM (2 hel destroyers under construction).

11 ASW destroyer escorts.

3 support ships with Sea Sparrow SAM and 2 CHSS–2 hel.

The Maritime Air Element consists of:

4 maritime patrol squadrons with Argus.

1 maritime patrol squadron with S–2 Tracker.

ASW squadron with SH–3 Sea King helicopters.

Air Force (Air): 36,000; 162 combat aircraft.

In Canada:

Mobile Command:

2 CF–5 tactical fighter sqns (for use with AMF).

6 helicopter squadrons.

Air Defence Command (Canadian component of NORAD).

3 interceptor squadrons with F–101C.

28 surveillance and control radar squadrons.

1 SAGE control centre.

1 CF–100 electronic warfare training squadron.

Air Transport Command:

2 sqns with C–1309 Hercules.

tankers.

2 sgns with C–1309 Hercules.

4 sqns with CC–115 Buffalo, CC–138 Twin Otter, and CH–113 Labrador SAR hel.

1 sqn with CC–109 Cosmopolitan; Falcon and Dakota.

In Europe:

Germany: 2,300; 3 attack sqns with CF–104.

Reserves: 1,300.

DENMARK

Population: 5,020,000.

Military service: 12 months (to be reduced to 9 months from October 1973).

Total armed forces: 39,800. (Planned defence cuts include a reduction of army manpower to 13,000, of the navy by 5 ships, and of combat aircraft by 1 squadron.)

Estimated GNP 1972: $20.3 billion.

Defence budget 1973–74: 3,196 million kroner ($568 million).

7.0 kr.=$1 1 July 1972.

5.63 kr=$1 1 July 1973.

Army: 24,000.

4 brigades each of 2 mechanized infantry battalions, 1 tank battalion, 1 artillery battalion and support units.

1 battalion group.

1 artillery battalion.

250 Cenurion med tks; M–41 lt tks; M–113 APC, M–109 155mm SP how; 203mm how; Honest John SSM (all three are dual-capable, but there are no clear warheads on Danish soil); 12 Hughes 500M (OH–6A) hel.

Reserves: 80,000, including 2 mech inf bdes and support units to be formed from reservists within 72 hours; local defence units form 15 inf bn gps and 15 arty btys. Volunteer Home Guard 51,500.

Navy: 6300.

6 coastal submarines.

2 destroyers.

4 frigates.

4 coastal escorts (corvettes).

9 seaward defence craft.

12 fast patrol boats.

6 coastal minelayers.

12 minesweepers (4 inshore).

8 Alouette III helicopters.

Reserves: 4,000 Volunteer Home Guard 4,300 with small patrol boats.

Air force: 9,500; 112 combat aircraft.

1 fighter-bomber sqn with 16 F–35XD Draken.

2 fighter-bomber squadrons with 32 F–100D/F.

2 interceptor squadrons with 32 F–104G.

1 interceptor squadron with 16 Hunter.

1 recce sqn with 16 RF–35XD Draken.

1 transport squadron with 8 C–47 and 5 C–54. (3 C–130 on order.)

1 SAR squadron with 8 S–61 helicopters.

4 SAM squadrons with Nike-Hercules launchers.

4 SAM squadrons with HAWK launchers.

Reserves: 7,000. Volunteer Home Guard 11,500.

FRANCE

Population: 52,000,000.

Military service: 12 months.

Total armed forces: 503,600 (conscripts 271,200).

Estimated GNP 1972: $202 billion.

Defence budget 1973: 34,800 million francs ($8,488 million).

5.00 francs=$1 1 July 1972.

4.10 francs=$1 1 July 1973.

Strategic Forces:

SLBM: 2 SSBN each with 16 MSBS M–1 msls (a third scheduled to become operational in 1974; five are due to be built in all).

IRBM: 2 squadrons, each with 9 SSBS S–2 msls.

Aircraft:

9 squadrons with 36 Mirage IVA bombers.

3 squadrons with 12 KC–135F tankers.

20 Mirage IVA bombers are in reserve.

Army: 332,400 (conscripts 216,000) (including Aviation).

5 mechanized divisions.

1 airborne division (2 brigades).
1 airportable motorized brigade.
2 alpine brigades.
9 armoured car regiments.
2 motorized infantry regiments.
1 parachute battalion.
21 infantry battalions.
5 SSM battalions with 20 Honest John launchers. (The nuclear warheads held under double-key arrangements with the United States were withdrawn in 1966. The tactical nuclear SSM Pluton is due to enter service in 1973–74.)
3 SAM regiments with 54 HAWK launchers.
820 AMX–30 med tks; AMX–13 lt tks; Panhard EBR hy and AML lt armd cars; AMX APC; AMX SP 105mm guns and 155mm how; Model 56 105mm pack how; 30mm twin SP AA guns; SS–11/Harpon ATGW; Honest John SSM and HAWK SAM.
Army Aviation (ALAT): 4,500.
70 Bell, 175 Alouette II, 60 Alouette III, and 80 SA–330 Puma hel (30 Puma, 50 Gazelle on order).
150 light fixed-wing aircraft.
Deployment (incl Navy and Air Force):
Strategic Reserve (Force d'Intervention):
2 airborne and 1 airportable motorized brigades.
Manoeuvre Forces (Force de Manoeuvre):
First Army: 2 mech divs and 4 SSM bns in Germany; 58,000; 3 mech divs in support in France. About 2,000 men in Berlin.
French Territory of the Afars and Issas: 2 battalions.
Elsewhere in Africa: about 4,000.
Malagasy (until Sept. 1973): 3,000; 2 battalions, 2 minesweepers, 2 FGA squadrons, 6 tpt ac.
Pacific Territories: 2 battalions.
Caribbean: 1 battalion.
The remaining troops are stationed in France for territorial defence (Défense Operationelle du Tarritoire—DOT). Their strength is about 52,000 including two alpine bdes, 21 inf bns, 3 armd cav regts, and one arty regt. Mobilization of reserves would bring the force up to a total of 80 bns.
Reserves: about 450,000.
Navy: 69,000 (conscripts 16,500) (including Naval Air Force); 47 major surface combat vessels.
19 attack submarines (diesel).
2 aircraft carriers.
1 helicopter carrier.
2 cruisers (1 SAM, 1 hel).
17 destroyers (2 with Masurca SAM and Malaton ASW msls. 4 with Tartar SAM, 6 ASW, 4 aircraft direction, 1 command).
25 frigates.
7 fleet minesweepers.
42 coastal minesweepers.
4 inshore minesweepers.
14 patrol vessels.
7 landing ships.
13 landing craft.
Naval Air Force: 12,000: 150 combat aircraft.
2 fighter-bomber sqns with Etendard IV–M.
2 interceptor sqns with F–8F Crusaders.
2 ASW sqns with Alizé.
5 maritime recce sqns with Atlantic and P–2.
1 reconnaissance sqn with Etendard IV–P.
1 ASW helicopter sqn with Super Frelon.
2 helicopter sqns with HSS–1.
Reserves: about 90,000.
Air Force: 102,000; 500 combat aircraft.
Air Defence Command (CAFDA):
3 interceptor sqns with Mirage IIIC.
2 AWX sqns with 30 Vautour IIN.
(Mirage F–1 being delivered.)
3 interceptor sqns with Super Mystère B–2.
(Automatic STRIDA II air defence system.)
Tactical Air Force (FATAC—divided into 1st and 2nd CATAC):
8 fighter-bomber squadrons with Mirage IIIE.
2 fighter-bomber squadrons with Mirage V.
1 fighter-bomber squadron with Mirage IIIB.
4 fighter-bomber squadrons with F–100D.
2 fighter-bomber squadrons with Mystère IVA and Jaguar.
2 light bomber sqns with 30 Vautour IIIB.
3 recce sqns with Mirage IIIR/RD.
Air Transport Command (COTAM):
7 tactical transport sqns; 3 with 40 C–160F Transall and 4 with 130 Nord 2501 Noratlas.
1 heavy transport sqn with 4 DV–6B.
1 heavy transport squadron with 3 DC–8.
1 tpt sqn with 5 DC–6 and 2 Br 763.
4 helicopter tpt sqns with H–34 and Alouette II.
Para-Military Forces: Gendarmerie 70,000; CRS (Compagnies Républicaines de Sécurité) 15,000 (subordinate to the Ministry of the Interior).

FEDERAL REPUBLIC OF GERMANY

Population: 60,100,000 (excluding West Berlin).
Military service: 15 months.
Total armed forces: 475,000 (conscripts 228,000).
Estimated GNP 1972: $259 billion.
Defence budget 1973: DM 26,600 million ($11,083 million).
DM 3.2=$1 1 July 1972.
DM 2.40=$1 1 July 1973.
Army: 334,000 (conscripts 183,500).
13 armoured brigades.
12 armoured infantry brigades.
3 motorized infantry brigades.
2 mountain brigades.
3 airborne brigades.
(The above are organized in 12 divisions.)
2 tank regts (a third being formed).
11 SSM battalions with Honest John launchers.
4 SSM battalions with Sergeant launchers.
Territorial Army: organized into 9 geographical commands for home defence, communications, engineers, police, and service support units; also contains units for expansion on mobilization.
1,050 M–48A2 Patton and 2,200 Leopard med tks; 750 HS–30, 1,300 Marder, 1,800 Hotchkiss and 3,170 M–113 APC; 1,100 tank destroyers; 280 105mm how, 70 155mm, and 75 203 mm how; 580 155mm, 150 175mm SP guns; 200 multiple RL; 500 40mm SP AA guns; ATGW; 86 Honest John, 19 Sergeant SSM (to be replaced by Lance); 200 UH–1D Iroquois, 30 CH–53G, and 235 Alouette II hel, and 18 Do–27 lt ac.
Reserves: 510,000 on immediate recall.
Navy: 37,000 (including 9,500 conscripts) (including Naval Air Arms).
8 coastal submarines.
11 destroyers (3 with Tartar SAM).
6 fast frigates.
5 fleet utility vessels.
12 fast combat support ships.
61 minesweepers.
38 fast patrol boats.
2 landing ships.
22 landing craft.
Naval Air Arm: 6,000; 84 combat aircraft.
4 fighter-bomber/recce squadrons with 72 F–104G.
2 MR squadrons with 12 Br–1150 Atlantic.
23 S–58 SAR helicopters (being replaced by 20 SH–3D Sea King MK 41).
20 Do–28 liaison aircraft.
Reserves: 35,000 on immediate recall.
Air Force: 104,000 (conscripts 35,000); 456 combat aircraft.
6 fighter-bomber squadrons with 108 F–104G.
4 fighter-bomber/interceptor sqns with 60 F–104G.
8 lt FGA/recce squadrons with 168 G–91.
4 interceptor squadrons with 60 F–104G.
4 heavy reconnaissance squadrons with 60 RF–4E.
4 transport squadrons with Transall C–160.
4 helicopter squadrons with 80 UH–1D, 50 Bell 47, and 54 Alouette II.
2 Pershing SSM wings with 72 launchers.
24 Nike-Hercules SAM batteries with 216 launchers.
36 HAWK SAM batteries with 216 launchers.
Reserves: 80,000 on immediate recall.
Para-Military Forces: 20,000 Border Police with Saladin armoured cars and coastal patrol boats.

GREECE

Population: 8,900,000.
Military service: 24 months.
Total armed forces: 160,000.
Estimated GNP 1972: $12.2 billion.
Defence budget 1973: 17,366 million drachmas ($580 million).
30 drachmas=$1 1 July 1972.
29.94 drachmas=$1 1 July 1973.
Army: 120,000.
1 armoured division.
11 infantry divisions (8 at cadre strength).
10 independent brigades (at cadre strength).
1 commando brigade.
2 SSM battalions with 8 Honest John launchers.
1 SAM battalion with 12 HAWK launchers.
300 M–47, 320 M–48, and 30 AMX–30 med tks (20 more AMX–30 on order); M–24, M–26, and M–41 lt tks; M–8 and M–20 armd cars; M–2, M–3, M–59, and M–113 APC; 175mm SP guns; 25-pdr, 105mm, 155mm, and 203mm how; 40mm, 75mm, and 90mm AA guns; Honest John SSM; HAWK SAM; Bell 47G hel.
Reserves: about 160,000.
Navy: 18,000.
7 submarines.
9 destroyers.
4 destroyer escorts.
7 coastal patrol vessels.
2 minelayers.
14 coastal minesweepers.
13 fast torpedo boats (less than 100 tons).
4 fast missile patrol boats with Exocet SSM.
8 tank landing ships.
5 medium landing ships.
1 dock landing ship.
8 landing craft.
Reserves: about 20,000.
Air Force: 22,000; 225 combat aircraft.
5 fighter-bomber squadrons with F–84F.
2 fighter-bomber squadrons with F–104G.
3 interceptor squadrons with F–5A.
1 interceptor squadron with F–102A.
1 recce sqn with RF–84F (40 F–4 on order).
1 maritime recce squadron of 12 Hu–16.
(A combat squadron has up to 18 aircraft.)
3 tpt sqns of 27 C–47 and 30 Noratlas.
1 helicopter squadron with 14 H–19 and 6 AB–205.
1 helicopter squadron with 10 Bell 47G.
1 SAM battalion with Nike-Hercules.
Reserves: about 25,000.
Para-Military Forces: 30,000 Gendarmerie; 69,000 National Guard.

ITALY

Population: 54,400,000.
Military service: Army and Air Force, 15 months; Navy, 24 months.
Total armed forces: 427,500 (excluding Carabinieri).
Estimated GNP 1972: $118.1 billion.
Defense budget 1973: 2,294.5 billion lire ($3,964 million).
582 lire=$1 1 July 1972.
579 lire=$1 1 July 1973.
Army: 306,500.
2 armoured divisions.
5 infantry divisions.
1 independent cavalry brigade.
4 independent infantry brigades.
5 alpine brigades.
1 airborne brigade.
1 amphibious regiment.
1 SSM brigade with 2 bns of Honest John launchers and 2 bns of 203mm SP how.
4 SAM battalions with Hawk launchers.
800 M–47, 200 M–60, and 200 Leopard med tks (600 more Leopard on order); 3,300 M–113, some LVT–4 APC; 155mm guns; M–107

175mm SP guns; Model 56 105mm pack how; 105mm, 155mm how; M–44 155mm, M–109 155 mm, M–55, 203mm SP how; M–42 40mm SP AA guns; Mosquito, Cobra, SS–11 ATGW (TOW on order); 8 Honest John (to be replaced by Lance); 68 HAWK SAM.

Army Aviation: 21 units with 50 Piper L–18, L–19, L–21B, some SM.1019 lt ac (100 SM.1019, 20 AM–3C on order); over 250 hel, incl 125 AB–47G/J, 49 AB–204B, 29 AB–205A, 60 AB–206A/B–1, and 6 CH–47C (20 more CH–47C, 12 Agusta 101G, 30 more AB 206 on order).

Reserves: 450,000.

Navy: 44,500 (incl air arm and marines).

9 submarines.

3 cruisers each with Terrier SAM and 4 ASW hel (1 ship with ASROC ASW msls).

3 destroyers with Tartar SAM and ASW hel.

5 ASW destroyers.

10 frigates.

8 corvettes.

4 ocean minesweepers.

37 coastal and 20 inshore minesweepers.

7 torpedo boats.

5 motor gunboats.

4 amphibious transports.

4 landing ships, tank.

1 marine infantry battalion.

Naval Air Arm:

3 MR sqns, 2 with 20 S–2 Tracker, 1 with 6 Atlantic.

24 SH–3D, AB–204B and A–106 hel.

Reserves: 65,000.

Air Force: 76,500; 330 combat aircraft.

2 fighter-bomber squadrons with F–104G.

2 fighter-bomber squadrons with F–104S.

2 fighter-bomber squadrons with G–91Y.

3 light attack squadrons with G–91R.

1 AWX squadron with 15 F–86K.

5 AWX squadrons with F–104S.

3 recce squadrons with RF–104G.

(A combat squadron has 12–18 aircraft.)

3 tpt sqns with 25 C–119 (to be replaced by 32 of 44 G.222 on order) and 14 C–130E Hercules.

2 tpt sqns with Convair 440 and DC–6.

12 SAM groups with 96 Nike-Hercules launchers.

2 SAR sqns with 12 HU–16 ac and 15 AB–204 hel.

Helicopters include 60 AB–204B, 90 AB–205, 2 AB–206A, and some AB–47G/J.

Reserves: 30,000.

Para-Military Forces: 80,700 Carabinieri.

LUXEMBOURG

Population: 345,000.

Military service: voluntary.

Total armed forces: 550.

Estimated GNP 1972: $1.3 billion.

Defence budget 1973: 529 million francs ($15 million).

43.8 francs=$1 1 July 1972.

35.99 francs=$1 1 July 1973.

Army: 550.

1 light infantry battalion.

1 independent company.

106mm recoilless rifles and mortars.

Para-Military Forces: 350 Gendarmerie.

NETHERLANDS

Population: 13,500,000.

Military service: Army, 16–18 months; Navy and Air Force, 18–21 months.

Total armed forces: 112,200.

Estimated GNP 1972: $44.8 billion.

Defence budget 1973; 5,465 million guilders ($2,102 million).

3.19 guilders=$1 1 July 1972.

2.60 guilders=$1 1 July 1973.

Army: 70,000.

2 armoured brigades.

4 mechanized infantry brigades.

2 SSM battalions with *Honest John.*

400 *Centurion* and 485 *Leopard* med tks; 700 YP–408, M–106, M–113, and M–577 (amphibious) APC; M–107 175mm SP guns; AMX 105mm, M–109 155mm, and M–110 203mm SP how; 8 *Honest John* SSM (*TOW* on order).

Deployment:

Germany: 1 mech bde, 1 recce bn.

Reserves: about 300,000, of which 40,000 are on immediate recall. 1 inf div and corps troops, incl 1 indep inf bde, would be completed by call-up of reservists. A number of infantry brigades could be mobilized, if needed for territorial defence.

Navy: 20,000 (including 2,800 marines and 2,000 naval air arm).

6 submarines.

6 frigates with *Seacat* SAM; 1 lt ASW hel.

12 destroyers.

6 corvettes.

3 MCM support ships.

5 patrol vessels.

26 coastal minesweepers.

16 inshore minesweepers.

1 fast combat support ship.

2 marine commandos.

Naval Air Arm: 2,000; 44 combat aircraft. 3 MR sqns; 2 with 9 BR–1150 Atlantic and 17 P–2 Neptune and 1 with 18S–2N.

6 Sikorsky H–34J, 7 AB–204B, and 11 Wasp hel (1 Wasp on order).

Deployment:

Surinam: 1 destroyer; 1 marine commando.

Reserves: about 20,000, 9,000 on immediate recall; 6 frigates; one hel sqn.

Air Force: 22,200, 144 combat aircraft.

2 fighter-bomber squadrons with 36 F–104G.

8 fighter-bomber squadrons with 54 NF–5A.

2 interceptor squadrons with 36 F–104G.

1 reconnaissance squadron with 18 RF–104G.

1 transport squadron with 12 F–27.

30 NF–5B trainers.

3 observation and communication squadrons (under Army command) with 70 Alouette III hel; 60 Piper L–21 and 9 DHC–2 Beaver lt ac.

8 SAM squadrons with 32 Nike-Hercules.

11 SAM squadrons with 66 HAWK.

Reserves: about 20,000.

Para-Military Forces: 3,200 Gendarmerie.

NORWAY

Population: 4,000,000.

Military service: Army, 12 months; Navy and Air Force, 15 months.

Total armed forces; 35,400.

Estimated GNP 1972: $15.1 billion.

Defence budget 1973: 3,485 million kroner ($665 million).

6.51 Kroner=$1 1 July 1972.

5.24 Kroner=$1 1 July 1973.

Army: 18,000.

The peacetime establishment includes 1 brigade group in North Norway, independent battalions, and supporting elements and training units.

78 Leopard and 80 M–48 med tks; 45 M–24 lt tks; M–8 armed cars; M–113 and BV–202 APC; M–109 155mm SP how; Bofors L–40/70 AA guns; L–18 and L–19 lt aircraft.

Reserves: mobilization would produce 11 Regimental Combat Teams (brigades) of 5,000 men each, supporting units and territorial forces totalling 135,000.

Navy: 8,000 (incl 1,600 coastal artillery).

15 coastal submarines.

5 frigates.

2 coastal escorts.

10 coastal minesweepers.

5 minelayers.

20 fast patrol boats (with Penguin SSM).

20 torpedo boats (6 with Penguin SSM).

2 support ships.

7 landing craft.

A number of coastal artillery batteries.

Reserves: 12,000.

Air Force: 9,400; 135 combat aircraft.

5 FGA squadrons each with 16 F–5A.

1 AWX fighter squadron with 16 F–104G.

1 interceptor squadron with 13 CF–104G.

1 reconnaissance squadron with 16 RF–5A.

1 MR squadron with 5 P–3B; some HU–16.

1 transport squadron with 6 C–130 and 4 C–47.

2 hel sqns with 32 UH–1B and 10 Sea King.

4 SAM batteries with Nike-Hercules.

Reserves: 10,600, providing 12 airfield defence lt AA bns. Home Guard (all service), 80,000.

PORTUGAL

Population: 9,200,000.

Military service: Army, 24 months; Air Force, 36 months; Navy, 48 months.

Total armed forces: 204,000.

Estimated GNP 1972: $8.3 billion.

Defence budget 1972: 11,468.7 million escudos ($425 million).

27 escudos equal $1 1 July 1972.

22.77 escudos equal $1 1 July 1973.

Army: 170,000.

2 tank regiments.

8 cavalry regiments.

25 infantry regiments.

13 artillery regiments.

1 coastal artillery regiment.

3 AA artillery regiments.

8 engineer battalions.

8 signals battalions.

M–47 and M–7 med tks; M–41 lt tks; Humber Mark IV and EBR–75 armd cars; AML–60 scout cars; FV–1609 and M–16 half-track APC; 105mm and 140mm how; coast and AA arty.

Deployment: Some of the above units form 2 infantry divisions, at or below half-strength, in Portugal. About 25 infantry battalions and supporting units are located in the African provinces. (The numbers of all armed forces in each province, including locally enlisted are:

Angola: 55,000.

Mozambique: 55,000.

Portuguese Guinea: 27,000.

Reserves: 306,000.

Navy: 18,000 (including 3,300 marines).

4 submarines.

8 frigates.

6 corvettes.

25 coastal patrol vessels.

4 ocean and 12 coastal minesweepers.

24 patrol launches (less than 100 tons).

66 landing craft.

Reserves: 12,000.

Air Force: 16,000; 152 combat aircraft.

2 lt bbr sqns with 6 B–26 Invader and 10 PV–2.

1 fighter-bomber squadron with 20 F–84G.

2 FGA squadrons with 40 G–91.

2 interceptor squadrons with 40 F–86F.

6 COIN flights with 24 armed T–6K.

1 maritime patrol squadron with 12 P–2V5.

24 Noratlas, 20 C–47, 10 DC–6, and 15 C–45 tpts.

13 T–33, 25 T–37, and 35 T–6 recce/trainers.

Other aircraft include 11 Do–27 and about 100 Alouette II/III and 12 SA–330 Puma helicopters.

1 parachute regiment of 4,000.

Para-Military Forces: 9,700 National Republican Guard.

TURKEY

Population: 37,900,000.

Military service: 20 months.

Total armed forces: 455,000.

Estimated GNP 1972: $15.8 billion.

Defence budget 1973–74: 11,100 million liras ($812 million).

14.17 liras=$1 July 1, 1972.

13.67 liras=$1 July 1, 1973.

Army: 365,000.

1 armoured division.

2 mechanized infantry divisions.

11 infantry divisions.

4 armoured brigades.

3 mechanized infantry brigades.

3 infantry brigades.

1 parachute brigade.

1 armoured cavalry regiment.

2 SSM battalions with Honest John.

1,400 M–47 and M–48 med tks; M–24, M–26, and M–41 lt tks; M–36 tank destroyers; M–8 armd cars; M–59 and M–113 APC; 105mm and 155mm SP guns; 105mm, 155mm, and 203mm how; SS–11 and Cobra ATGW; 40mm, 75mm, and 90mm AA guns; 8 Honest John SSM; Do–27, Do–28D–1 Sky Servant, and U–1

Beaver lt ac; 20 AB–206 and 20 Bell 47G hel.
(250 M–48 med tks on order.)
Reserves: 750,000.
Navy: 40,000.
15 submarines.
14 destroyers.
8 coastal escorts.
11 motor torpedo boats (2 less than 100 tons).
14 fast patrol boats.
20 minesweepers.
7 minelayers.
A number of landing craft.
3 AB–205A ASW helicopters.
Reserves: 50,000.
Air Force: 50,000; 288 combat aircraft.
2 fighter-bomber squadrons with F–104G.
5 fighter-bomber squadrons with F–100D.
2 fighter-bomber squadrons with F–5A.
2 interceptor squadrons with F–5A.
2 AWX squadrons with F–102A.
3 recce squadrons with RF–84F and RF–5A.
(40 F–4 on order.)
(A combat squadron has an average of 18 aircraft.)
3 tpt sqns with 14 C–47, 10 C–130, and 20 Transall.
10 Bell UH–1D, 10 Sikorsky UH–19D, and some AB–204B hel.
2 SAM battalions (8 batteries) with Nike-Hercules.
Para-Military Forces: 75,000 Gendarmerie (including 3 mobile brigades).

THE THEATER BALANCE BETWEEN NATO AND THE WARSAW PACT

Any assessment of the military balance between NATO and the Warsaw Pact involves comparison of the strengths of both men and equipment, consideration of qualitative characteristics, such as geographical advantages, deployment, training and logistic support, and differences in doctrine and philosophy.

Certain qualitative factors are of special importance. For a variety of reasons the Soviet Union is likely to have within the theater, or nearby, forces which closely reflect her doctrine and strategy; on the other hand NATO, bound as it is by a multi-national political process and by public pressures that do not exist in the Soviet Union, has tended to compromise on its military requirements. Warsaw Pact equipment is, though much of it might not meet NATO qualitative standards, standardized whereas that of NATO is not, imposing limits on interchange and flexibility. There is little depth in the NATO central area and this presents problems in its defence.

The appraisal which follows should be regarded as primarily a quantitative guide since there are difficulties in giving values, in so short a space, to qualitative factors and deciding on their relevance. It is military only and thus one-dimensional. Furthermore the situation is not a static one: any single presentation must have inadequacies. The comparisons necessarily over-simplify what is by its nature a complex problem.

LAND AND AIR FORCES

The three major NATO subordinate commands, Northern, Central, and Southern Europe, at first seem to offer a convenient basis for making a direct comparison with the opposing forces of the Warsaw Pact, but there are problems. The Northern European Command covers not only Norway but also the Baltic area, including Denmark, Schleswig-Holstein, and the Baltic Approaches. It is not possible to make precise calculations as to the Soviet or Warsaw Pact formations that would be committed to the Baltic area rather than towards the NATO Central European Command, since in both land and air forces there is a considerable degree of flexibility to do either. For the Warsaw Pact this sector is a coherent front though a number of Soviet divisions, notably in the Leningrad area and in the Kola Peninsula, would undoubtedly be directed towards Norway. Northern and Central Europe are therefore grouped together in the tables which follow, and Southern Europe is shown separately.

COMPARISON OF GROUND FORMATIONS

A traditional basis of comparison is the number of combat divisions that the two sides have. This is far from an adequate guide by itself, since not only do divisions vary greatly in their organization, size, and equipment, but there are a number of combat units outside divisions as well. As a broad indication of the front-line combat resources available it has some utility, taken in conjunction with the various tables which follow it, but to read too much into this divisional count could be misleading.

Category	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Ground forces available to commanders in peacetime (in division equivalents):						
Armored	10	33	21	6	7	3
Infantry, mechanized, and airborne	14	35	20	31	21	4

In this table (and the ones that follow in this section), the portion headed "Northern and Central Europe" includes (on the NATO side) the commands for which AFCENT and AFNORTH commanders have responsibility. France is not included, nor are any allied ground forces in Portugal or Britain. On the Warsaw Pact side it includes the command for which the Pact High Commander has responsibility, but excludes the armed forces of Bulgaria, Hungary, and Rumania. Certain Soviet units normally stationed in western USSR and such troops as might be committed to the Baltic and Norwegian theatre of operations have, however, been included on the Warsaw Pact side.

The entries under the heading "Southern Europe" include, on the NATO side, the Italian, Greek, and Turkish land forces (including those in Asian Turkey) and such American and British units as would be committed to the Mediterranean theatre of operations, and on the Warsaw Pact side, the land forces of Bulgaria, Hungary, and Rumania and such Soviet units normally stationed in Hungary and southern USSR as might be committed to the Mediterranean theatre.

French formations are not in the above figures; if included they would add two mechanized divisions to the NATO totals. These are the two divisions stationed in Germany. There are four more in France, outside the NATO area. Though these divisions are stationed in Germany and there has been some joint planning with NATO military commanders, they are not committed to NATO and there has been no agreement on the military strategy under which they might be employed. On the other hand, all the appropriate forces of the Warsaw Pact countries are included, though the military value of some of them might be suspect of political reasons, dependent on circumstances. Offsetting advantages to NATO are the facts that most of the NATO strength is in West Germany, where it is wanted, while about a third of the Soviet divisions here are some distance away in the western military district of the Soviet Union. The figures show, therefore, from a NATO viewpoint, what is the worst case.

The figures do not include French forces; if those stationed in Germany are counted, the NATO figure for Northern and Central Europe might be increased by perhaps 50,000.

The table conceals a marked imbalance in North Norway. In Norway there are only Norwegian forces in peacetime, a brigade group being located in the north. The Soviet forces facing them, or which could be brought against them from north-western Russia, probably amount to at least four divisions. This wide disparity highlights the problem of the defence of North Norway against surprise attack. To meet this difficulty a system of self-defence, based on a powerful Home Guard and rapid mobilization, has been designed to take maximum advantage of the ruggedness of the country and the poor road and rail communications, but it is clear that defence against attack of any size depends on timely external assistance.

Two further imbalances are worth noting. The first, a legacy from the post-war occupation zones, is a certain maldeployment in the NATO Central European Command, where the well-equipped and strong American formations are stationed in the southern part of the front, an area which geographically lends itself to defence, while in the north German plain, across which the routes to allied capitals run, where there is little depth and few major obstacles, certain of the forces are less powerful. The second is that the whole of the Italian land forces, which are included in the table under Southern Europe, are stationed in Italy and thus are at some distance from the areas of potential confrontation both in the South-East and the Centre.

COMPARISON OF MANPOWER

A comparison of front-line manpower deployed on the ground in normal circumstances, that is, before any reinforcement, fills out the picture further. The figures shown reflect the variations in divisional establishments mentioned above but also include combat troops in formations higher than divisions and those men who directly support them. They take account of undermanning as well—many NATO and Warsaw Pact divisions are kept well below strength in peacetime. Figures calculated on this basis can only be approximate. They give the following comparison (figures are in thousands):

Category	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Combat and direct support troops available	600	900	600	530	320	90

The figures do not include French forces; if those stationed in Germany are counted, the NATO figure for Northern and Central Europe might be increased by perhaps 50,000.

The table still reveals an advantage to the Warsaw Pact in Northern and Central Europe (subject to the caveat above about the value to be placed on the forces of the East European Pact countries). It does not, of course, include the men in the American dual-based brigades, because they are not physically present in Europe, but does include on the Warsaw Pact side some 200,000 in divisions in the western Soviet Union, since these formations are clearly designed for operations in Central Europe, though they are

at some distance in time and space from the area.

In Southern Europe the figures favour NATO but conceal the fact that the forces are widely separated, with Italian troops deployed at a very considerable distance from those of Greece and Turkey.

THE MOVEMENT OF REINFORCEMENTS

The movement of reinforcements to the theatre and the mobilization of first-line reserves would materially alter the above figures. NATO might get its earliest reinforcements from West Germany and Britain, but these would be designed mainly to increase manning strengths rather than to increase materially the number of formations. The three mechanized divisions in eastern France might also be made available, but NATO would rely principally on the United States for major reinforcement with extra divisions. There are in the United States the two dual-based brigades and a further two divisions specially earmarked for Europe, all with their equipment stockpiled in Germany. The personnel of these formations could be moved very quickly, using the very considerable airlift which exists. There are then a further 4 divisions in the active army and two in the Marines in the Strategic Reserve in the United States but, although they might be available very early, some of their equipment would have to be moved by sea. This would also be the case with the 8 divisions and some 18 independent brigades in the National Guard that could nominally be ready for movement some five weeks after mobilization but might need further training (as might Soviet reinforcements).

Warsaw Pact reinforcement plans follow a rather different pattern. Soviet divisions are kept at three different manning levels and other Warsaw Pact formations at two. Reinforcement depends on filling out these divisions by mobilization and then on moving them forward. As far as can be judged, mobilization by the Soviet Union in particular could be very speedy, since many of the formations likely to be used in Central Europe are kept at the higher manning levels. It has been estimated that the 27 Soviet divisions in Eastern Europe could be increased to perhaps 70 in about a month—if mobilization were unimpeded. (This 70 includes the divisions in the western USSR already counted in the Ground Formation table.) Of course it might not be. If hostilities had already started, movement by rail and road could be interdicted and the build-up be slowed down considerably. Nonetheless, the Soviet Union, a European power operating on interior lines, should be able in the early weeks to move reinforcements with heavy equipment faster overland than the United States could by sea. American ability to bring back the men of the dual-based brigades in days by air has been demonstrated on exercises, and for the two divisions with equipment in Germany the airlift of personnel would be a matter of another week or so. As with Soviet forces, this would depend on movement not being hindered, on a secure air environment and safe airfields to fly into; and quick dispersal from airfields could be difficult once fighting had started. The increase of manpower strengths in combatant units could take place rapidly, both from the United States and from the European NATO countries, but the real problem for a fast build-up lies in the inevitable time lag there would be before the American follow-up formations, dependent for their heavy weapons on sealift, could be ready for operations.

Implicit in Western defence plans is the concept of political warning time, that there will be sufficient warning of a possible attack to enable NATO forces to be brought to a higher state of readiness and for reinforcement and mobilization to take place. This does, of course, assume the willingness—this applies to both sides—to reinforce in a crisis situation at the risk of heightening tension by doing so. Advantage here will generally lie with an attacker, who can start mobilization first, hope to conceal his intentions, and finally achieve some degree of tactical surprise. The point of attack can be chosen and a significant local superiority built up. The defender is likely to start more slowly and will have to remain on guard at all points.

A fair summary of the reinforcement position might be that the Warsaw Pact is intrinsically capable of a faster build-up of formations in the early weeks, particularly if local surprise is achieved; that NATO can only match such an initial build-up if it has, and takes advantage of, sufficient warning time; that the subsequent rate of build-up favours the Warsaw Pact unless the crisis develops slowly enough to permit full reinforcement; in this last case the West could eventually reach an advantageous position.

Alliance countries maintain more men under arms than the Warsaw Pact. For Army/Marines the figures (in thousands) are: NATO 3,025 (including France 3,357); Warsaw Pact 2,859. And the Soviet Union has a large proportion of her forces not available for Europe but on her border with China.

COMPARISON OF EQUIPMENT

In a comparison of equipment one point stands out: the Warsaw Pact is armed almost completely with Soviet or Soviet-designed material and enjoys the flexibility, simplicity of training, and economy that standardization brings. NATO forces have a wide variety of everything from weapons systems to vehicles, with consequent duplication of supply systems and some difficulties of interoperability; they do, however, have many weapons qualitatively superior. As to numbers of weapons, there are some notable differences of which that in tanks is perhaps the most significant. The relative strengths are:

Category	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Main battle tanks in operational service: In peacetime	6,500	17,000	10,000	2,150	6,200	1,700

These are tanks with formations, or which are earmarked for the use of dual-based or immediate reinforcing formations (some 750). They do not include those in reserve, or to replace tanks damaged or destroyed. In this latter category NATO has perhaps 1,500 tanks in Europe. The Soviet Union has recently replaced about 1,000 T-54/55 tanks with T-62s in its divisions in East Germany but has not withdrawn the older ones. These extra tanks are not included above. There may perhaps be other tanks in reserve in the Warsaw Pact area, but in general in the Pact reinforcement system the tanks in formations form the reserves.

Again, French forces are not included in the above figures. If the two divisions stationed in Germany are taken into account, 325 should be added to the NATO total; if the three divisions in eastern France are counted, the NATO figures go up by a further 485.

It will be seen that in Northern and Central Europe NATO has little more than a third as many operational tanks as the Warsaw Pact, though NATO tanks are generally superior (even to the T-62, now increasingly coming into service in the Pact forces). This numerical weakness in tanks (and in other armoured fighting vehicles) reflects NATO's essentially defensive role and is offset to some extent by a superiority in anti-tank weapons, a field in which new missiles coming into service may increasingly give more strength to the defence. NATO probably also has more effective airborne anti-tank weapons carried by fighter aircraft and helicopters. In conventional artillery the Warsaw Pact is stronger, though this advantage is partly redressed by the greater lethality of NATO ammunition and its greater logistic capability to sustain higher rates of fire. This capability stems from a significantly higher transport lift, about half as high again in a NATO division as compared with a Warsaw Pact one. NATO has, however, an inflexible logistic system, based almost entirely on national supply lines with little central coordination. It cannot now use French territory, and has many lines of communication running north to south near the area of forward deployment. Certain NATO countries are, furthermore, short of supplies for sustained combat, but Warsaw Pact countries may be no better off.

NUMBERS OF AIRCRAFT

If NATO ground formations are to be able to exploit, by day as well as by night, the mobility they possess, they must have a greater degree of air cover over the battlefield than they now have. Such cover is provided by a combination of rapid warning communications systems, surface-to-air weapons, and fighter aircraft. In much of this ground-air environment NATO is well prepared; in numbers of aircraft it is inferior. NATO has, however, a higher proportion of multi-purpose aircraft of good performance over their full mission profiles, especially in range and payload; considerable power can be deployed in the ground attack role in particular. Both sides are modernizing their inventories, and the US forces in Europe in particular can now be assumed to have available the very advanced air-delivered weapons, such as the laser-guided bombs and other precision-guided munitions, of the types used in South-East Asia. The two air forces have rather different roles: long range and payload have lower priority for the Warsaw Pact. NATO, for example, has maintained a long-range deep-strike tactical aircraft capability; the Soviet Union has chosen to build a MRBM force which could, under certain circumstances, perform analogous missions, though not in a conventional phase of any battle.

Categories	Northern and Central Europe			Southern Europe		
	NATO	Warsaw Pact	Of which U.S.S.R.	NATO	Warsaw Pact	Of which U.S.S.R.
Tactical aircraft in operational service:						
Light bombers	140	250	200	6	30	30
Fighter/ground attack	1,100	1,400	1,110	450	125	50
Interceptors	350	2,100	1,110	275	950	450
Reconnaissance	300	550	400	125	90	40

In this table, the area covered for "Northern and Central Europe" is slightly wider than for ground troops as described in the earlier tables. Many aircraft have a long-range capability and in any case can be redeployed very quickly. Accordingly, the figures here include the appropriate British and American aircraft in Britain, American aircraft in Spain, and Soviet aircraft in western USSR. They do not, however, include the American dual-based squadrons, which would add about 100 fighter-type aircraft to the NATO totals, nor French squadrons with perhaps another 500 fighters. Carrier-borne aircraft of the US Navy are excluded but so, on the other hand, are the medium bombers in the Soviet Air Force, which could operate in a tactical role.

The Warsaw Pact enjoys the advantage of interior lines of communication, which makes for ease of command and control and logistics. It has a relatively high capability to operate from dispersed natural airfields serviced by mobile systems, far more airfields with more shelters, and the great advantage of standard ground support equipment which stems from having only Soviet-designed aircraft. These factors make for greater flexibility than NATO has, with its wide variety of aircraft and support equipment. NATO undoubtedly has superiority in sophistication of equipment, the capability of its air crews, which have in general higher training standards and fly more hours, and the versatility of its aircraft, which give operational flexibility of a different kind. NATO's real advantage, however, is that it has more reinforcement aircraft. Since squadrons can be moved quickly the NATO numerical inferiority shown above could rapidly be turned into superiority if enough airfields are available. The total American tactical aircraft inventory, for example (excluding training or home air defence), is 5,100; that for the Soviet Union is 4,500.

THEATRE NUCLEAR WEAPONS

NATO has some 7,000 nuclear warheads, deliverable by a variety of vehicles, over 2,000 in all, aircraft, short-range missiles, and artillery of the types listed in Table 1 in the "Tables of Comparable Strengths" section elsewhere in this issue. These nuclear weapons are in general designed for use against targets within the battlefield area or directly connected with the manoeuvre of combatant forces, which could be described as a 'tactical' use. The figure of 7,000 warheads includes, however, a substantial number carried out by, for example, aircraft such as the F–4 or F–104, which could be delivered on targets outside the battlefield area or unconnected with the manoeuvre of combatant forces and thus put to 'strategic' use. There is inevitably some overlap when describing delivery vehicles, aircraft and missiles, capable of delivering conventional or nuclear warheads as 'tactical' or 'strategic'. The total of 7,000 also includes nuclear warheads for certain air-defense missiles. There are also nuclear mines. Yields are variable but are mainly in the low kiloton range. The ground-based missile launchers and guns are in formations down to divisions and are operated both by American and allied troops, but in the latter case warheads are under double key. The figure for Soviet warheads is probably about 3,500, similarly delivered by aircraft and missile systems (again, see Table 1). Soviet warheads are thought to be somewhat larger, on average, than those of NATO. Some of the delivery vehicles, but not the warheads, are in the hands of non-Soviet Warsaw Pact forces.

This comparison of nuclear warheads must not be looked at in quite the same light as the conventional comparisons preceding it, since on the NATO side the strategic doctrine is not, and cannot be, based on the use of such weapons on this sort of scale. These numbers were accumulated to implement an earlier, predominantly nuclear, strategy and an inventory of this size now has the chief merit of affording a wide range of choice of weapons, yield, and delivery system if controlled escalation has to be contemplated. A point that does emerge from the comparison, however, is that the Soviet Union has the ability to launch a battlefield nuclear offensive on a massive scale if she should choose, or to match any NATO escalation with broadly similar options.

CHANGES OVER TIME

The comparisons above are not very different from those of a few years ago, but over a longer period the effect of small and slow changes can be marked, and the balance can alter. In 1962 the American land, sea, and air forces in Europe totalled 434,000; now the figure is around 300,000. There were 26 Soviet divisions in Eastern Europe in 1967; now there are 31. The numerical pattern over the years so far has been a gradual shift in favour of the East; qualitatively NATO has more than held its own. In future the advent of new weapons systems, particularly precision-guided munitions and anti-tank and air defense missiles, may cut into the Warsaw Pact's advantage in tank and aircraft numbers. The extent to which negotiated force reductions may change the balance also remains to be seen.

OTHER EUROPEAN COUNTRIES

ALBANIA

Population: 2,400,000.
Military service: Army 2 years; Air Force, Navy, and special units 3 years.
Total regular forces: 38,000.
Estimated GNP 1971: $1.04 billion.
Defence budget 1973: 589 million leks ($118 million).
5 leks equal $1.
Army: 30,000.
1 tank brigade.
6 infantry brigades.
Some light coastal batteries.
70 T–34, 15 T–54 and T–59 med tks; T–62 lt tks; 20 BA–64, BTR–40, and BTR–152 APC; SU–76 SP guns; 122mm and 152mm gun/how; 45mm, 57mm, 76mm, and 85mm ATk guns; 37mm, 57mm, and 85 mm AA guns.
Navy: 3,000.
4 submarines (ex-Soviet W-class).
4 coastal escorts.
40 MTB and patrol boats.
8 MCM ships (2 ex-Soviet T–43, 6 T–301 class).
Coastal defence SSM deployed around Durazzo and Valona.
Air Force: 5,000; 96 combat aircraft.
2 FB squadrons with 24 MiG–17/F–4 (Chinese).
2 fighter squadrons with 24 MiG–15/F–2 (Chinese).
2 interceptor squadrons with 36 MiG–19 and 12 MiG–21 (Chinese).
1 transport squadron with 3 An–2 and 3 Il–14.
2 squadrons with 20 Mi–1 and Mi–4 helicopters.
SA–2 SAM.
Para-Military Forces: 15,000; internal security force 5,000; frontier force 10,000.

AUSTRIA

Population: 7,500,000.
Military service: 6 months, followed by 60 days' reservist training.
Total armed forces: 12,000 regular, 40,000 conscript (total mobilizable strength 150,000).
Estimated GNP 1972: $20.4 billion.
Defence budget 1973: 5,080 million schilling ($291 million).
23 schilling equal $1 1 July 1972.
17.46 schilling equal $1 1 July 1973.
Army: 10,250 regulars, 38,050 conscripts.
3 armoured brigades.
7 infantry brigades.
16 territorial regiments.
3 independent air defence battalions.
153 M–47, 120 M–60 med tks; 100 Kuerassier tk destroyers; 470 Saurer APC; 108 105mm, 38 M–109 155mm, and 31 SFK M–2 155mm SP how; 18 130 mm Praga V3S multiple RL; 301 80mm med mortars; 107 107mm and 82 120mm heavy mortars; 299 20mm Oerlikon, 44 35mm Super Bat and 60 40mm Bofors AA guns.
Deployment: 1 400-man battalion and 1 field hospital in Syprus (UNICYP).
Reserves: 100,000 Landwehr, Frontier Guard, and area militia.
Air Force: 1,750 regulars, 1,950 conscripts; 38 combat aircraft. (Austrian air units are an integral part of the army, but have been listed separately for purposes of comparison.)
3 fighter-bomber sqns with 38 SAAB 105OE.
1 sqn SAAB 105OE and 1 sqn SAAB Safir trainers.
1 tpt sqn with 19 Cessna L–19, 3 Beaver L–20, 2 Skyvan.
6 hel sqns with 2 AB–204B, 18 AB–206A and H–13, 22 Alouette II/III, and 2 S–65–Oe.
Para-Military Forces: 11,250 Gendarmerie.

EIRE

Population: 3,000,000.
Military service: voluntary.
Total armed forces: 10,570.
Estimated GNP 1972: $5.62 billion.
Defence budget 1973: £34.2 million ($88 million).
£0.413=$1 1 July 1972.
£0.388=$1 1 July 1973.
Army: 9,600.
7 infantry battalions (one coy in UNIFICYP).
1 tank squadron.
1 recce squadron.
6 field artillery batteries.
1 AA battery.
8 Comet, 3 Churchill med tks; 20 Panhard armd cars (incl 4 AML–90); 17 Unimog and 13 Panhard AML APC; 48 25-pdr guns; 447 84mm Carl Gustav and 96 90mm IIIO ATGW; 72 120 mm mortars; 26 40mm Bofors AA guns.
Reserves: 19,800: Regular Reserve 1,500; Territorial Army; 18,300.
Navy: 400.
1 corvette.
3 coastal minesweepers.
Air Force: 570; 7 combat aircraft.
3 Vampire, 4 BAC Provost, 8 Chipmunk, and 8 Cessna F–172; 2 Dove It tpt; 6 Alouette III hel.

FINLAND

Population: 4,710,000.
Military service: 8–11 months.
Total armed forces: 39,500.
Estimated GNP 1972: $12.6 billion.
Defence budget 1973: 843.2 million markkaa ($231 million).
4.1 markkaa=$1 1 July 1972.
3.65 markkaa=$1 1 July 1973.
Army: 34,000.
1 armoured brigade (at about half strength).
6 infantry brigades (at about 35 per cent strength).
7 independent infantry battalions.
3 field artillery regiments.
4 independent field artillery batteries.
7 coastal artillery battalions.
4 anti-aircraft battalions.
T-54, T-55, and Charioteer med tks; PT-76 lt tks; BTR-50P APC; 105mm, 122mm, and 130mm guns; 122mm and 152mm how; Viglant and SS-11 ATGW; ZSU-57-2, ZU-23-2, 35mm Oerlikon and 40mm Bofors AA guns.
Navy: 2,500.
3 frigates (one used as training ship).
2 gunboats.
1 patrol boat with SSM (training ship).
15 fast patrol boats (less than 100 tons).
2 coastal minelayers.
5 inshore minesweepers.
Air Force: 3,000; 47 combat aircraft.
3 fighter sqns with MiG-21F, 12 SAAB J-35BS draken, and Fouga Magister.

About 10 DC-3 transports.
60 Magister, 30 Safir, and 4 Mig-15/21 UTI trainers.
3 Mi-4, 1 Alouette II, and 1 AB-204B hel.
Reserves: 685,000.
Para-Military Forces: 4,000 frontier guards.

SPAIN

Population: 34,700,000.
Military service: 18 months.
Total armed forces: 293,000.
Estimated GNP 1972: $46.2 billion.
Defence budget 1973; 65.7 billion pesetas ($1,132 million).
63 pesetas=$1 1 July 1972.
58.06 pesetas=$1 1 July 1973.
Army: 210,000.
1 armoured division.
1 mechanized infantry division.
1 motorized infantry division.
2 mountain divisions.
1 armoured cavalry brigade.
12 independent infantry brigades.
(All above are about 70% strength.)
1 mountain brigade.
1 airportable brigade.
1 parachute brigade.
2 military brigades (1 coast artillery).
1 SAM battalion with HAWK.
20 AMX-30, 350 M-47, and M-48 med tks; 250 M-24 and M-41 lt tks; Greyhound armd cars; AML-60/90 and M-3 scout cars; 50 M-113 APC; 130 105mm, and 175mm SP guns; 200 105mm, 155mm, and 203mm how; 90 mm SP ATk guns; 40mm L/70 and 90mm AA guns; 88mm coastal guns; Cessna O-1E, CASA 127 lt ac; 6 Bell 47G, 12 UH-1B, 16 UH-1H, and 16 AB-206A hel (6 CH-47C tp ts on order); HAWK SAM.
Navy: 44,000 (incl 8,000 marines).
6 submarines (4 Daphne-class on order).
1 helicopter carrier.
1 cruiser.
19 destroyers/fast frigates (5 more on order).
5 frigates.
5 corvettes.
3 ASW launches.
3 torpedo boats.
26 minesweepers.
14 landing ships/craft.
3 ASW hel and 1 lt hel sqns with 6 SH-30, 12 AB-204B, 9 H-19, 5 Hughes 500, 16 Bell 47H-1G, Bell 212, and Sikorsky CH-47.
Air Force: 39,000; 151 combat aircraft.
2 fighter-bomber sqns with 36 F-4C.
2 fighter-bomber sqns with 24 Mirage 111EE.
2 fighter-bomber sqns with 36 F-5A.
2 fighter-bomber sqns with 44 HA-200 Saeta.
1 ASW sqn with 11 SA-16.
Tpt ac include C-47, DC-4, CASA 207 Azor, Caribou; KC-137 tankers.
Trainers include 6 Mirage IIIBE and 6 F-5B.
Hel include A-205 and AB-47.
(15 Mirage F-1, 4 C-130H, up to 20 C-212 Aviorcar, 8 Chinook, and 8 Cobra on order.)
Para-Military Forces: 65,000 Guardia Civil.
Deployment (outside mainland Spain): 41,000.
Balearic Islands: 6,000.
Canary Islands: 8,000.
Ceuta: 8,000, incl 1 regt of Foreign Legion.
Melilla: 9,000, incl 1 regt of Foreign Legion.
Spanish Sahara: 10,000, incl 2 regts of Foreign Legion.

SWEDEN

Population: 8,200,000.
Military service: Army and Navy, 7½–15 months; Air Force, 9–14 months.
Total armed forces: 20,500 regulars, 18,300 reservists, and 54,300 conscripts, plus 99,600 conscripts on annual refresher training. (Total mobilization strength 750,000.)
Estimated GNP 1972: $42.3 billion.
Defence budget 1973–74: 7,550 million kroner (1,883 million).
4.72 kroner=$1 1 July 1972.
4.01 kroner=$1 1 July 1973.
Army: 10,700 regulars, 13,400 reservists, and 40,500 conscripts, plus 83,000 conscripts on 18–40 days' annual refresher training.
6 armoured brigades.
20 infantry brigades.
4 Norrlands winter brigades.
50 independent battalions.
23 Local Defence Districts with 100 independent battalions and 400-500 independent companies.
49 non-operational armoured, infantry, and artillery training units to provide basic arms training for conscripts.
Strv 101, 102 (Centurion), and 103B med tks; Strv 74 lt tks (Ikv 91 on order); Pbv 301, 302A, SKPF APC; Ikv 102, Ikv 103 105mm and Bk 1A (L/50) and other 155mm SP guns; 75mm, 105mm, and 155mm how; 75mm SP and 90mm ATk guns; SS-11. Bantam, Carl Gustav, and Miniman ATGW: 20mm, 40mm, and 57mm AA guns; Redeye and HAWK SAM; 20 Sk 61 (Bulldog), 18 Fpl 51 (Piper Super Cub), 4 Fpl 53 (Do.27) lt ac; Hkp-3 (AB-204B), 22 Hkp-6 (Jet-Ranger) hel.
Navy: 4,400 regulars, 2,900 reservists, and 7,500 conscripts, plus 12,000 conscripts on annual refresher training.
22 submarines.
8 destroyers, 2 with Rb–08 SSM, 4 with Seacat SAM.
5 fast ASW frigates.
19 heavy torpedo boats.
25 motor torpedo boats (less than 100 tons).
1 fast patrol boat.
2 minelayer/submarine depot ships.
18 coastal minesweepers.
20 inshore minesweepers (8 less than 100 tons).
20 mobile and 45 static coastal artillery batteries with 75mm, 105mm, 120mm, 152mm, and 210mm guns and Rb–08 and Rb–52 (SS–11) SSM.
7 Kkp–2 (Alouette II), 3 Hkp–4B (Vertol 107), 7 Hkp–4C (Kawasaki-Vertol 107/II), and 10 Hkp–6 (JetRanger) hel.
Air Force: 5,400 regulars, 2,000 reservists, and 6,300 conscripts, plus 4,600 conscripts on annual refresher training; 600 combat aircraft.
9 attack sqns with A–32A Lansen (with Rb–04E ASM) and AJ–37 Viggen (replacement of Lansen by Viggen started in 1971).
1 FGA sqn with SAAB S/T–60B.
13 AWX sqns with J–35 Draken F.
6 AWX sqns with J–35 Draken A/D.
2 recce-fighter sqns with S–32C.
3 recce/day fighter sqns with S–35E.
(A combat sqn has up to 18 aircraft.)
2 tpt sqns with 2 C–130E and 7 C–47, Norseman, and BAC Pembroke.
5 comm sqns with 110 SAAB 105 and 78 Sk 61 (Bulldog) (suitable for light ground attack duties).
5 hel groups (up to 3–4 aircraft each) with 1 Hkp–2 (Alouette II), 6 Hkp–3 (AB–204B), and 4 Hkp–4B (Vertol 107).
6 SAM sqns with Bloodhound 2.
There is a fully computerized, fully automatic control and air surveillance system, Stril 60, co-ordinating all air defence components.
Reserves: Voluntary defence organizations, 500,000.

SWITZERLAND

Population: 6,500,000.
Military service: 4 months initial training, followed by refresher training of three weeks a year for 8 years, two weeks for 3 years, and one week for 2 years.
Total armed forces: 3,500 regulars and 30,000 conscripts (total mobilizable strength 600,000; militia can be fully mobilized within 48 hours).
Estimated GNP 1972: $30.6 billion.
Defence budget 1973: 2,309 million francs ($799 million).
3.75 francs=$1 1 July 1972.
2.89 francs=$1 1 July 1973.
Army: 1,500 regular cadre (including Air Defence troops): 27,500 conscripts; 526,500 militia.
1 corps (Alpine defence) of 3 mountain divisions.
3 corps, each of an armoured division and 2 infantry divisions.
17 frontier, fortress or 'redoubt' brigades.
300 Centurion and 260 Pz–61/68 med tks; 200 AMX–13 lt tks; 1,250 M–113 APC; 150 155mm SP how; 900 105mm guns and how.
Air Force: 2,000 regular; 2,500 conscripts; 40,000 militia (maintenance is by civilians); 285 combat aircraft. (Swiss Air Force and Air Defense Troops are an integral part of the army, but are listed separately for purposes of comparison.)
11 FB squadrons with 165 Venom FB 50.
2 interceptor squadrons with 30 Mirage IIIS.
5 FGA squadrons with 75 Hunter F–58 (with Sidewinder AAM). (30 more Hunters on order.)
1 reconnaissance squadron with 15 Mirage IIIRS.
28 transport aircraft.
100 Alouette II/III hel.
2 SAM battalions with Bloodhound 2.
45 AA batteries with Oerlikon twin 35 mm cannon.
Reserves: 566,500.

YUGOSLAVIA

Population: 21,000,000.
Military service: Army and Air Force, 15 months; Navy, 18 months.
Total armed forces: 240,000.
Estimated GNP 1972: $12.83 billion.
Defence budget 1973: 12.8 billion dinars ($826 million).
16.5 dinars=$1 1 July 1972.
15.5 dinars=$1 1 July 1973.
Army: 200,000.
1 tank division.
10 infantry division.
9 armoured brigades.
24 independent infantry brigades.
1 airborne brigade.
Several hundred T–54/55, T–34, and M–47, and about 650 M–4 med tks; some PT–76 lt tks; M–3, BTR–50P, BTR–60P, BTR–152, and M–590 APC; SU–100 SP guns; 105mm and 155mm how; 50mm, 57mm, 75mm, and 76mm ATk guns; ZSU–57–2 SP AA guns; SA–2 SAM.
Navy: 20,000.
5 submarines.
1 destroyer.
19 coastal escorts.
30 MCM ships.
10 Osa-class patrol boats with Styx SSM.
80 patrol torpedo boats (55 less than 100 tons).
30 landing craft.
1 marine infantry brigade.
25 coastal artillery batteries.
Air Force: 20,000; 342 combat aircraft.
12 FGA sqns with F–84, Kraguj, and Jastreb.
8 fighter sqns with 50 F–86D/E and 82 MiG–21.
2 reconnaissance sqns with RT–33.
(A combat squadron has about 15 aircraft.)
25 Li-2, Beaver, and C–47 and 13 Il–14 tpts.
60 Galeb trainers.
15 Whirlwind, 18 Mi-4 and Mi-8, and 5 Alouette III helicopters (130 SA–341 Gazelle on order).
8 SAM batteries with SA–2.
Para-Military Forces: 19,000 Frontier Guards; 1,000,000 Territorial defence force (planned to increase to 3,000,000).

THE MIDDLE EAST AND THE MEDITERRANEAN

BILATERAL AGREEMENTS WITH EXTERNAL POWERS

The Soviet Union has military assistance agreements and a 15-year treaty of friendship and cooperation, signed in May 1971, with Egypt. A similar treaty, though with less comprehensive defence provisions, was concluded with Iraq in April 1972. Important military assistance has also been provided to Algeria,

Sudan, Syria, and the People's Democratic Republic of Yemen.

The United States has varying types of security assistance agreements and provides significant military aid on either a grant or credit basis to Greece, Turkey, Portugal, Spain, Morocco, Tunisia, Lebanon, Jordan, Saudi Arabia, and Israel. She provides, in addition, a significant amount of military equipment on a cash sales basis to many countries, notably Spain, Israel, Iran, and Jordan. For grant military aid purposes Turkey is considered a forward defence area, and Spain is considered a base rights country under a basing agreement concluded in August 1970. A naval facilities agreement was signed with Bahrain in late 1971. Communications bases are maintained in Morocco under informal arrangements.

Britain has defence commitments to Cyprus and is responsible for the defence of Gibraltar. A new seven-year agreement with Malta, signed on 26 March 1972, permits Britain to base forces on the island for British and NATO purposes. Britain concluded treaties of friendship with Bahrain, Qatar, and the United Arab Emirates in August 1971 and is also an important arms supplier for Iran, Kuwait, Bahrain, Qatar, United Arab Emirates, Saudi Arabia, Oman, and Jordan.

The People's Republic of China has supplied arms to Albania and the People's Democratic Republic of Yemen.

France has a pilot-training agreement with Morocco and supplies arms to a number of countries, particularly Libya.

MULTILATERAL AGREEMENTS INCLUDING EXTERNAL POWERS

The members of the Central Treaty Organization (CENTO) are Britain, Iran, Pakistan, and Turkey, with the United States as an associate. All sit on the Military, Economic, and Counter-Subversion Committees and on the Permanent Military Deputies Group. The Treaty provides for mutual co-operation for security and defence but has no central command structure nor forces allocated to it. For the local powers, the economic organization of Regional Co-operation for Development (RCD), which has evolved independently out of CENTO, could become more important.

ARRANGEMENTS WITHIN THE REGION (BETWEEN ARAB STATES)

Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen Arab Republic, and the People's Democratic Republic of Yemen are members of the League of Arab States. Among its subsidiary bodies are the Arab Defence Council, set up in 1950, and the Unified Arab Command, organized in 1964.

Defence agreements were concluded by Egypt with Syria in November 1966 and Jordan in May 1967, to which Iraq later acceded. These arrangements provided for the establishment of a Defence Council and a Joint Command. The loosely associated Eastern Front Command, comprising Iraq, Jordan, the Palestine Liberation Army, and Syria, was reorganized in December 1970 into separate Jordanian and Syrian commands. Iraq and Syria concluded defence pacts in May 1968 and July 1969. The Federation of Arab Republics formed by Libya, Syria, and Egypt in April 1971, provides for a common defence policy and a Federal Defence Council. The proposed union between Egypt and Libya, announced in August 1972 and to be effective in September 1973, could, if it takes place, presumably affect existing defence arrangements.

ALGERIA

Population: 15,700,000.
Military service: voluntary.
Total armed forces: 63,000.
Estimated GNP 1972: $5.5 billion.

Estimated defence expenditure 1972: 450 million dinars ($100 million).
4.5 dinars=$1 1 July 1972.
3.72 dinars=$1 1 July 1973.
Army: 55,000.
1 armoured brigade.
4 motorized infantry brigades.
3 independent tank battalions.
50 independent infantry battalions.
1 parachute battalion.
12 companies of desert troops.
5 independent artillery battalions.
5 AA battalions.
3 engineer battalions.
100 T–34, 300 T–54/55 med tks; 50 AMX–13 lt tks; 350 BTR–152 APC; 85 SU–100 and 15 JSU–152 SP guns; 85mm guns; 122mm and 152mm how; 140mm and 240 mm RL; 57mm, 85mm, and 100mm AA guns.
Reserves: 50,000.
Navy: 3,500.
6 SOI submarine chasers.
2 fleet minesweepers.
1 coastal minesweeper.
6 Komar- and 3 Osa-class FPB with Styx SSM.
12 P–6 torpedo boats.
Reserves: 9,000.
Air Force: 4,500; 206 combat aircraft.
2 lt bomber sqns with 30 Il–28.
2 interceptor sqns with 35 MiG–21.
1 FGA sqn with 20 Su–7.
4 FGA sqns with 70 MiG–17.
2 FGA sqns with 25 MiG–15.
2 COIN sqns with 26 Magister.
1 transport sqn with 8 An–12 and 5 Il–18.
4 hel sqns with 4 Mi–1, 42 Mi–4, 6 Hughes 269a, and 5 SA–330.
1 SAM battalion with SA–2.
Reserves: 3,000.
Para-Military Forces: 10,000 Gendarmerie with 50 AML armoured cars.

EGYPT

Population: 35,700,000.
Military service: 3 years.
Total armed forces: 298,000.
Estimated GNP 1972: $7.5 billion.
Defence budget 1973–74: £E 700 million ($1,737 million).
£E 0.43=$1 1 July 1972.
£E 0.403=$1 1 July 1973.
Army: 260,000.
2 armoured divisions.
3 mechanized infantry divisions.
5 infantry divisions.
2 independent armoured brigades.
2 independent infantry brigades.
1 airborne brigade.
1 parachute brigade.
6 artillery brigades.
26 commando battalions.
30 JS–3 hy tks; 1,650 T54/55, 100 T–62, and 100 T–34 med tks; 75 PT–76 lt tks; 2,000 BTR–40, BTR–50P, BTR–60P, OT–64, and BTR–152 APC; about 150 SU–100 and JSU–152 SP guns; about 750 122mm, 130mm, and 152mm guns and how; 40 203mm how; about 900 57mm, 85mm, and 100mm ATk guns; Snapper ATGW; 24 FROG–3, some FROG–7 and 100 Samlet SSM; ZSU–23–4 and ZSU–57–2 SP AA guns; SA–7 Strela SAM.
Reserves: about 500,000.
Navy: 15,000 (including coastguard).
12 submarines (6 W– and 6 R–class—ex-Soviet).
5 destroyers (including 4 ex-Soviet Skory-class).
4 escorts (ex-British).
1 corvette (ex-Soviet).
12 SOI submarine chasers (ex-Soviet).
10 fleet minesweepers.
2 inshore minesweepers.
12 Osa- and 7 Komar-class patrol boats with Styx SSM.
36 motor torpedo boats (most less than 100 tons).
14 landing craft.
Reserves: about 14,000.
Air Force: 23,000; 620 combat aircraft (including 200 aircraft estimated to be in storage).
25 Tu–16 Badger medium bombers.
5 Il–28 Beagle light bombers.
210 MiG–21 Fishbed interceptors.
80 Su–7 Fitter fighter-bombers.
100 MiG–17 Fresco fighter-bombers.
200 MiG, Yak, and L–29 trainers.
About 50 Il–14 lt and 20 An–12 med tpts.
190 Mi–1, Mi–4, Mi–6, and Mi–8 helicopters.
Air defence is provided by 130 SAM sites, each of 6 SA–2, SA–3, and some SA–6 launchers; 20mm, 23mm, 37mm, 57mm, 85mm, and 100mm AA guns; all integrated, through a warning and command network, with 9 Air Force squadrons of MiG–21MF interceptors.
Reserves: about 20,000.
Para-Military Forces: about 100,000 National Guard, including Frontier Corps, Defence, and Security.

IRAN

Population: 30,805,000.
Military service: 2 years.
Total armed forces: 211,500.
Estimated GNP 1972: $15.09 billion.
Defence budget 1973: 136,340 million rials ($2,010 million).
76.6 rials=$1 July 1, 1972.
67.83 rials=$1 July 1, 1973.
Army: 160,000.
3 armoured divisions.
2 infantry divisions.
4 indep bdes (2 inf, 1 AB, 1 special force).
1 SAM battalion with HAWK.
60 Chieftain, 400 M–47, and 460 M–60A1 med tks; about 2,000 M–113, BTR–50, and BTR–60 APC; 130mm and 155mm guns; 75 mm, 105mm, and 155mm how; 40mm, 57mm, and 85mm AA guns; SS–11, SS–12, TOW ATGW; HAWK SAM (740 Chieftain tks; 155 mm, 175mm SP guns and 203mm now on order).
About 30 lt ac, incl C–45 Li–8, Cessna 185, O–2A.
20 Huskie, 59 AB–206A, and 3 CH–47C hel (46 AB–205A on order).
Reserves: 300,000.
Navy: 11,500.
3 destroyers.
4 frigates with Seakiller SSM and Seacat SAM.
4 corvettes (2 in reserve).
10 patrol boats.
4 coastal minesweepers.
2 inshore minesweepers.
4 landing craft.
8 SRN–6 and 2 BH–7 Wellington hovercraft.
1 sqdn with 4 AB–205A, 6 AB–212, and 6 SH–3D hel.
(6 P–3C Orion MR ac, 202 AH–1J hel, and 4 BH–7 hovercraft on order.)
Air Force: 40,000; 159 combat aircraft.
2 FB sqns with 64 F–4D/E with Sidewinder and Sparrow AAM (70 more F–4E on order).
6 FB sqns with 80 F–5A (141 F–5E on order).
1 recce sqn with 15 RT–33.
1 med tpt sqn with 35 C–130E. (20 C–130H, 4 F.28, and 6 Boeing 707–320C tankers on order.)
2 lt tpt sqdns with 12 FX27 and 6 DHC–2 Beaver.
12 Huskie, 5 AB–206A, 5 AB–212, and 4 CH–47C hel (287 UH–1H/214A Huey Plus on order).
Reserves: 15,000.
Para-Military Forces: 70,000 Gendarmerie with armoured cars, light aircraft, and helicopters; one naval battalion with 40 patrol boats.

IRAQ

Population: 10,142,000.
Military service: 2 years.
Total armed forces: 101,800.
Estimated GNP 1972: $3.5 billion.
Estimated defence expenditure 1972: 102 million dinars ($309 million).
0.33 dinars=$1 July 1, 1972.
0.302 dinars=$1 July 1, 1973.

Army: 90,000.
1 armoured division of 2 armd bdes and 1 mech bde.
2 inf divs, each of 1 mech and 3 inf bdes.
1 Republican Guard mech bde.
2 special forces bdes.
900 T–54/55 and 90 T–34 med tks; 45 PT–76, 30 M–24 lt tks; about 1,300 APC, incl 600 BTR–152; 700 75mm, 85mm, 100mm, 120mm, 130mm, and 152mm guns; 23mm, 37mm, 57mm, 85mm, 100mm AA guns.
Reserves: 250,000.
Navy: 2,000.
3 SOI submarine chasers.
2 minesweepers.
3 Osa-class patrol boats with Styx SSM.
12 P–6 torpedo boats.
10 patrol boats (less than 100 tons).
Air Force: 9,800; 224 combat aircraft.
1 bomber sqn with 8 Tu–16.
3 fighter-bomber sqns with 60 Su–7.
2 FGA sqns with 36 Hunter.
5 interceptor sqns with 90 MiG–21.
3 fighter sqns with 30 MiG–17.
2 tpt sqns with 27 An–2, An–12, An–24, Il–14, Tu–124, and Heron.
35 Mi–4, 29 Mi–8, and 5 Alouette III hel.
SA–2 and SA–3 SAM.
Reserves: 18,000.
Para-Military Forces: 10,000 National Guard, 4,800 security troops, and 4–5,000 others.

ISRAEL

Population: 3,180,000.
Military service: men 36 months, women 20 months (Jews and Druse only; Moslem and Christian may volunteer). Annual training for reservists thereafter to age limits.
Total armed forces: 30,000 regular, 85,000 conscripts (mobilization to about 300,000 in 72 hours).
Estimated GNP 1972: $6.85 billion.
Defence budget 1973–74: 6,180 million Israeli pounds ($1,474 million).
4.25 Israeli pounds=$1 1 July 1972
4.19 Israeli pounds=$1 1 July 1973.
Army: 11,500 regular, 83,000 conscripts (including 12,000 women); 275,000 on mobilization.
10 armoured brigades (2 at full strength; 1 at about 50%; 7 at cadre strength).
9 mechanized brigades (4 at about 50% strength; 5 at cadre strength).
9 infantry brigades (3 at full strength; 6 at cadre strength).
5 parachute brigades (2 at full strength; 3 at cadre strength).
3 artillery brigades.
About 1,700 med tks, incl 400 M–48 (with 105mm guns), 250 Ben Gurion (Centurion with French 105mm gun), 600 Centurion, 200 Isherman (with 105mm gun) and Super Sherman, 100 TI–67 (T–54/55 with 105mm gun), and some 150 M–60 med tks; about 3,000 AFV, incl AML–60, 15 AML–90, and some Staghound armd cars; about 1,000 M–2 and M–3 half-tracks, and 450 M–113 APCs; 350 105mm and 155mm, and some 175mm SP how; 155mm how on Sherman chassis; 900 120mm and 160mm mortars on AMX chassis; 122mm guns and how; 130mm guns; 240mm RL (captured equipment); about 50 90mm SP ATk guns and 106mm jeep-mounted recoilless rifles; Cobra, and weapons-carrier-mounted SS–10/11 ATGW; about 300 20mm, 30mm, and 40mm AA guns.
(The 280-mile range MD–660 Jericho SSM is believed to be in production, but has not yet been reported deployed operationally.)
Reserves: 180,000.
Navy: 3,500 regular, 1,000 conscripts; 5,000 on mobilization.
3 submarines (2 in reserve, 3 more on order).
1 destroyer (plus 1 awaiting disposal).
1 Reshef-class FPB (with Gabriel SSM).
12 Saar-class FPB (with Gabriel SSM).
9 motor torpedo boats.
23 small patrol boats (less than 100 tons).
9 landing craft (3 less than 100 tons).
Naval commandos: 300.
Air Force: 15,000 regular, 1,000 conscripts; 20,000 on mobilization; 488 combat aircraft.
12 Vautour light bombers (in storage).
95 F-4E fighter-bomber/interceptors.
35 Mirage IIIB/C fighter-bomber/interceptors (some with R530 AAM).
160 A-4E/H Skyhawk fighter-bombers.
24 Barak fighters.
18 Super Mystere B.2 interceptors.
6 RF-4E reconnaissance aircraft.
23 Mystere IV A fighter bombers (in reserve).
30 Ouragan FB (used mainly for training).
85 Magister trainers (limited FGA capability).
10 Straocruiser transports (incl 2 tankers).
20 Noratlas, 10 C–47, 2 C–130E transports.
12 Super Frelon, 12 CH–53G, 20 AB–205A, 25 UH–1D Iroquois, and 5 Alouette II helicopters.
10 SAM batteries with 60 HAWK.
Para-Military Forces: 4,000 Border Guards and 5,000 Nahal militia.

JORDAN

Population: 2,560,000.
Military service: voluntary.
Total armed forces: 72,850.
Estimated GNP 1972: $686 million.
Defence budget 1972: 42.9 million dinars ($119.2 million).
0.36 dinar=$1 1 July 1972.
0.32 dinar=$1 1 July 1973.
Army: 68,000.
2 armoured divisions.
1 mechanized division.
2 infantry divisions.
1 independent infantry brigade.
1 special forces battalion.
3 artillery regiments.
200 M–47, M–48, and M–60 and 220 Centurion med tks; 130 Saladin armd cars; 140 Ferret scout cars; 280 M–113 and 120 Saracen APC; 110 25-pdr, 50 105mm, and 155mm how; 10 155mm guns; 350 81mm mor; 200 M–42 40mm SP AA guns.
Navy: 250.
8 small patrol craft.
Air Force: 4,600; 52 combat aircraft.
2 FGA squadrons with 32 Hunter.
1 interceptor squadron with 20 F–104A. (36 F–5E on order.)
4 C–47, 2 Dove, 2 Packet, and 1 Falcon tpts.
3 Whirlwind and 6 Alouette III helicopters.
Reserves: 20,000.
Para-Military Forces: 22,000: 7,000 Public Security Force; 15,000 Civil Militia.

LEBANON

Population: 3,009,000.
Military service: voluntary (proposals have been made to introduce compulsory military training).
Total armed forces: 15,250.
Estimated GNP 1972: $1.88 billion.
Estimated defence expenditure 1972: £L225 million ($75 million).
£L3=$1 1 July 1972.
£L2.38=$1 1 July 1973.
Army: 14,000.
1 infantry brigade with 3 infantry battalions, 1 tank battalion, 1 artillery battalion.
1 tank battalion.
2 reconnaissance battalions.
1 commando battalion.
6 infantry battalions.
2 artillery battalions.
1 AA battalion.
60 Charioteer med tks; 40 AMX–13 and 20 M–41 lt tks; about 100 M–706, M–6, and AEC Mk 3 armd cars; 20 M–113, some M–59 APC; 6 75mm guns; 24 122mm, 20 155mm how; 80 81mm, 25 120mm mor; 15 M–42 40mm SP AA guns.
Navy: 250.
1 patrol vessel.
4 small inshore patrol craft.
1 landing craft.
Air Force: 1,000; 18 combat aircraft.
1 FGA sqn with 8 Hunter.
1 interceptor squadron with 10 Mirage IIID with R–530 AAM.
1 hel sqn with 4 Alouette II and 10 Alouette III.
Some French early warning/ground control radars.
Para-Military Forces: 5,000 Gendarmerie.

LIBYA

Population: 2,160,000.
Military service: voluntary.
Total armed forces: 25,000.
Estimated GNP 1972: $4.59 billion.
Defence budget 1973: 43 million Libyan dinars ($145 million).
0.33 Libyan dinar=$1 1 July 1972.
0.296 Libyan dinar=$1 1 July 1973.
Army: 20,000.
1 armoured brigade.
2 mechanized infantry brigades.
1 National Guard brigade.
1 commando battalion.
3 artillery battalions.
2 anti-aircraft artillery battalions.
6 Centurion Mk 5, 200 T–54/55, and 15 T–34 med tks; 40 Saladin armed cars; Shorland and Ferret scout cars; BTR–60, Saracen and 170 M–113A1 APC; 70 122mm, 75 105mm, and 30 155mm how; 300 Vigilant ATGW; L40/70 Bofors AA guns.
5 AB–206, 7 OH–13, and 3 Alouette III helicopters.
Navy: 2,000.
1 frigate.
1 corvette.
3 FPB each with 8 SS–12 (M) SSM.
2 inshore minesweepers.
8 patrol craft.
1 logistics support ship.
Air Force: 3,000; 44 combat aircraft.
1 interceptor squadron with 9 F–5A.
2 fighter squadrons with 35 Mirage IIIB/E.
8 C–130E and 9 C–47 medium transports.
3 T–33 trainers.
2 AB–206, 3 OH–13, 10 Alouette III, and 9 Super Frelon helicopters.
(About 65 of a total order of 110 Mirage IIIB/E/R and V have been delivered.)

MOROCCO

Population: 16,300,000.
Military service: 18 months.
Total armed forces: 56,000.
Estimated GNP 1972: $4.46 billion.
Defence budget 1972: 568 million dirham ($123.5 million).
4.6 dirham=$1 1 July 1972.
3.9 dirham=$1 1 July 1973.
Army: 50,000.
1 armoured brigade.
3 motorized infantry brigades.
1 light security brigade.
1 parachute brigade.
9 independent infantry battalions.
1 Royal Guards battalion.
5 camel corps battalions.
3 desert cavalry battalions.
5 artillery groups.
2 engineer battalions.
120 T–54 med tks; 120 AMX–13 lt tks; 36 EBR–75, 50 AML–245, and M–8 armd cars; 40 M–3 half-track and 95 Czech APC; 25 SU–100, AMX–105, and 50 M–56 90mm SP guns; 100 76 mm, 85mm, and 105mm guns; 75mm and 105 mm how; 82mm and 120mm mortars; 50 37mm and 100mm AA guns; 3 Alouette III hel.
Deployment: Syria: armed bde elements.
Navy: 2,000 (including 500 marines).
1 frigate.
2 coastal escorts.
1 patrol boat.
12 patrol boats (less than 100 tons).
1 landing craft.
Air Force: 4,000; 48 combat aircraft.
2 interceptor sqns with 20 F–5A and 4 F–5B.
2 FGA sqns with 24 Magister.
2 transport sqns with 10 C–47 and 11 C–119.
35 T–6 and 25 T–28 trainers.
12 AB–205A, 4 HH–43B, and 4 Alouette III hel.

(12 MiG–17 fighter-bombers are in storage.)
Para-Military Forces: 23,000; 8,000 Gendarmerie, including 2 mobile security battalions; 15,000 Auxiliaries.

OMAN

Population: 710,000.
Military service: voluntary.
Total armed forces: 9,600 (including some 600 expatriate personnel of several nationalities serving on contract or on secondment).
Defence budget 1973: 25.5 million rial saidi ($77.5 million).
0.413 rial saidi=$1 1 July 1972.
0.329 rial saidi=$1 1 July 1973.
Army: 9,000.
4 infantry battalions.
1 frontier force battalion.
1 armoured cavalry squadron.
1 artillery regiment.
Saladin armoured cars; 75mm pack how; 25-pdr and 5.5 inch guns.
Navy: 200.
1 fast patrol boat (2 more to be delivered in 1973).
3 armed motorized dhows.
1 patrol vessel (yacht).
Air Force: 400 (including 160 contract personnel); 12 combat aircraft.
1 FGA squadron with 12 BAC–167.
1 air support squadron with 3 Caribou and 10 Skyvan (2 more Skyvan on order).
1 hel sqn with 8 AB–205 and 4 AB–206A (3 more AB–205A on loan from Iran).
1 transport flight with 3 Viscount.
Para-Military Forces: 2,000; about 900 gendarmerie; about 1,000 irregulars.

SAUDI ARABIA

Population: 8,400,000.
Military service: voluntary.
Total armed forces: 42,500.
Estimated GNP 1972: $5.2 billion.
Defence budget 1973–74: saudi riyals 3,990 million ($1,090 million).
4.2 riyals=$1 1 July 1972.
3.66 riyals=$1 1 July 1973.
Army: 36,000.
4 infantry brigades.
1 armoured battalion.
1 reconnaisance battalion.
1 parachute battalion.
1 Royal Guard battalion.
3 artillery battalions.
3 AA battalions.
10 SAM batteries with HAWK.
25 M–47 med tks; 60 M–41 lt tks; 200 AML–60 and AML–90, some Staghound and Greyhound armd cars; Ferret scout cars; field guns; AA guns; HAWK SAM. (30 AMX–30 tks on order.)
Deployment: 4,000 in Jordan.
Navy: 1,000.
2 torpedo boats.
1 motor gunboat.
2 utility craft.
9 patrol boats (coastguard).
8 SRN–6 hovercraft (coastguard).
Air Force: 5,500; 70 combat aircraft.
2 FB sqns with 15 F–86F (140 F–5 and 30 F–4 on order).
2 FGA sqns with 20 BAC–167 (10 more on order).
2 interceptor sqns with 35 F–52/F–53 Lightning.
2 tpt sqns with 10 C–130 and 2 C–140B (4 C–130E on order).
2 hel sqns with 1 Alouette III, 1 AB–204, 8 AB–205, and 20 AB–206.
1 T–33 trainer, 1 Cessna 310K, and 6 172G lt ac.
37 Thunderbird Mk 1 SAM.
Para-Military Forces: 3,500 National Guard (formerly known as the 'White Army'), organized into regular and semi-regular battalions; 6,500 Coastguard and Frontier Force.

SUDAN

Population: 17,000,000.
Military service: voluntary.
Total armed forces: 38,000.
Estimated GNP 1972: $1.9 billion.
Defence budget 1971–72: £ Sudan 50 million ($143 million).
£ Sudan 0.35=$1 1 July 1971.
£ Sudan 0.35=$1 1 July 1972.
Army: 37,000.
1 armoured brigade.
7 infantry brigades.
1 parachute brigade.
3 artillery regiments.
3 air defence artillery regiments.
1 engineer regiment.
20 T–34/85, 60 T–54, 50 T–55, and some T–59 med tks; 16 T–62 lt tks (Chinese); 50 Saladin and 45 Commando armd cars; 60 Ferret scout cars; 50 BTR–50 and 50 BTR–152, 49 Saracen, and 60 OT–64 APC; 55 25–pounder, 40 105mm, and some 122mm guns and how; 30 120mm mortars; some 85mm ATk guns; 80 Bofors 40mm and some Soviet 37mm and 85mm AA guns.
Navy: 600.
6 Coastal patrol boats and 2 landing craft (ex-Yugoslav).
Air Force: 1,000; 50 combat aircraft.
20 MiG–21 interceptors.
17 MiG–17 fighter-bombers (ex-Chinese).
5 BAC–145 Mk 5 and 8 Jet Provost Mk 52 light attack aircraft.
3 Pembroke and 5 An–24 transports.
10 Mi–8 helicopters.
Para-Military Forces: 5,000: 500 National Guard; 4,500 Border Guard.

SYRIA

Population: 6,775,000.
Military service: 30 months.
Total armed forces: 132,000.
Estimated GNP 1972: $1.93 billion.
Defence budget 1973: £Syr 800 million ($216 million).
£ Syrian 4.32=$1 1 July 1972.
£ Syrian 3.71=$1 1 July 1973.
Army: 120,000.
2 armoured divisions.
3 infantry divisions.
1 armoured brigade.
1 mechanized brigade.
1 infantry brigade.
2 commando brigades.
1 reconnaissance battalion.
3 parachute battalions.
7 artillery regiments.
12 SAM batteries wih SA–2 and SA–3.
About 30 JS–3 hy tks; 240 T–34 and 900 T–54/55 med tks; 100 PT–76 lt tks; 75 SU–100 SP guns; 1,000 BTR–50/60, BTR–152 APC; 122mm, 130mm, and 152mm guns; ATGW; 37mm, 57mm, 85mm, and 100mm AA guns; SA–2, SA–3, and SA–7 Strela SAM.
Reserves: 200,000.
Navy: 2,000.
3 minesweepers (ex-Soviet T–43 class).
2 submarine chasers (ex-French CH-class).
2 coastal patrol vessels.
6 Komar- and Osa-class FPB with Styx SSM.
12 motor torpedo boats (less than 100 tons).
(1 destroyer, 2 submarines, and some torpedo and patrol boats to be delivered.)
Reserves: 3,500.
Air Force: 10,000 men; 326 combt aircraft.
Some II–28 lt bombers.
80 MiG–17 day fighter/ground attack aircraft.
30 Su–7 fighter-bombers (some in storage).
200 MiG–21 interceptors (some in storage).
8 II–14 and 3 C–47 transports.
About 50 hel, including 4 Mi–1, 8 Mi–4, and 22 Mi–8.
Para-Military Forces: 9,500: 8,000 Gendarmerie; 1,500 Desert Guard (Frontier Force).

TUNISIA

Population: 5,500,000.
Military service: 1 year (selective).
Total armed forces: 24,000.
Estimated GNP 1972: $2.08 billion.
Defence budget 1972: 13.8 million dinars. ($28.7 million).
0.48 dinars=$1 1 July 1972.
0.386 dinars=$1 1 July 1973.
Army: 20,000.
1 armoured battalion.
5 infantry battalions.
1 commando battalion.
1 Sahara battalion.
1 artillery battalion.
1 engineer battalion.
About 30 AMX–13 and 20 M–41 lt tks; 20 Saladin and some M–8 armd cars; 10 105mm SP and 10 155mm guns; 60mm and 81mm mortars; 40mm Bofors AA guns.
Navy: 2,000.
1 corvette.
3 coastal escorts.
4 patrol boats with SS–12 (M) SSM.
8 patrol boats (less than 100 ton).
Air Force: 2,000; 12 combat aircraft.
1 fighter sqn with 12 F–86.
3 *Flamant* light transports.
8 MB–326, 12 T–6, and 12 SAAB 91D trainers.
6 *Alouette II* and 8 *Alouette III* hel.
Para-Military Forces: 10,000; 5,000 Gendarmerie organized in 6 battalions; 5,000 National Guard.

YEMEN ARAB REPUBLIC (NORTH)

Population: 7,000,000.
Military service: 3 years.
Total regular forces: 20,900.
Estimated GNP 1970: $460 million.
Estimated defence expenditure 1970: 16.3 million riyals=$1 1 July 1970.
1.25 riyal=$1 1 July 1970.
Army: 20,000.
6 infantry brigades.
1 parachute brigade.
1 commando brigade.
2 armoured battalions.
1 Republican Guard battalion.
2 artillery battalions.
1 AA battalion.
30 T–34 med tks; 70 BTR–40 APC; 50 76 mm guns; 50 SU–100 SP guns; 100 AA guns.
Navy: 300.
5 P–4 class FPB (ex-Soviet).
2 landing craft.
Air Force: 600; 28 combat aircraft.
1 fighter sqn with 12 MiG–17.
1 light bomber sqn with 16 II–28.
1 tpt sqn with C–47, II–14.
1 hel sqn with Mi–4.
Para-Military Forces: 20,000 tribal levies.

YEMEN—PEOPLE'S DEMOCRATIC REPUBLIC (SOUTH)

Population: 1,560,000.
Military service: conscription, term unknown.
Total armed forces: 9,500.
Estimated GNP 1970: $140 million.
Estimated defence expenditure 1971: 6.5 million South Yemeni dinar ($15.5 million).
SYD 0.417=$1 1 July 1970.
SYD 0.417=$1 1 July 1971.
Army: 8,800.
6 infantry brigades, each of 3 battalions.
1 armoured battalion.
1 artillery brigade.
1 signals unit.
1 training battalion.
50 T–34, T–54 med tks; some artillery.
Navy: 200 (subordinate to Army).
2 submarine chasers (ex-Soviet *SOI*-class).
2 minesweepers.
3 landing craft (medium).
Air Force: 500; about 20 combat aircraft.
1 fighter-bomber sqn with 15 MiG–17.
1 COIN sqn with 4 BAC–167 and 8 *Jet Provost*.
1 tpt sqn with 4 C–47 and 4 DHC *Beaver*.
1 hel sqn with 6 Bell 47G.
(12 MiG–21 on order.)

ARMED FORCES OF OTHER MIDDLE EAST STATES

County	Estimated population thousands	Estimated GNP millions	Total armed forces	Army: Manpower and formations	Army: Equipment	Navy, manpower and equipment	Air Force, manpower and equipment
Bahrain	233	(1)	1,100	1,100; 1 inf bn; 1 armd car sqn	8 Saladin armd cars; 8 Ferret scout cars; 6 Mobat ATk guns; 6 81 mm mortars.	Some patrol launches (police).	Some hel (police).
Kuwait	957	$3,650	10,000	8,000; 1 armd bde; 2 composite bdes; (armd/inf/arty); 1,500 para-military	50 Vickers and 50 Centurion med tks; 250 Saladin Saracen and Ferret armd cars; 10 25-pdr guns; 20 155mm how.	200 (Coastguard) 8 patrol boats (under 50 tons); 2 landing craft.	2,000 12 Lightning; 8 Hunter; 10 BAC-167; 4 Jet Provost; 2 med and 3 lt tpts; 5 AB-205 hel.
Qatar	89	280 (1971)	2,200	1,600; 1 Guards inf regt; 1 mobile regt.	30 Saladin, 8 Saracen armd cars; 10 Ferret scout cars; 4 25-pdr guns; 81mm mortars.	4 armed launches	4 Hunter; Tigercat SAM.
United Arab emirates:							
Abu Dhabi	48.4	24.2 (1971)	8,000	7,500; 1 armd regt; 2 inf bns; 1 arty regt.	75 Saladin armd cars; 15 Ferret scout cars; 25-pdr guns; Vigilant ATGW.	150; 9 patrol craft (under 50 tons).	350; 12 Hunter FGA; 6 tpts; 8 hel.
Dubai	59	(1)	1,000	1 armd car sqn; 3 inf sqns	Some Saladin/Ferret armd cars, 81mm mortars.		2 AB-206 hel.
Ras Al Khaimah	24.4	(1)	300	Mobile force	6 Ferret scout cars; 81mm mortars.	4 powered dinghies	
Sharjah	32	(1)	250	Inf coy armd car platoon	6 Land Rovers		
Union Defence Force			1,600	5 squadrons	Land Rovers; 81mm mortars.	2 dhows (6 patrol boats on order).	

[1] Not available.

Sub-Saharan Africa

MULTILATERAL AGREEMENTS

The Organization of African Unity (OAU), constituted in May 1963, includes all internationally recognized independent African states except South Africa. It has a Defence Commission responsible for defence and security co-operation, and the defence of the sovereignty, territorial integrity, and independence of its members, but this has rarely met.

There is a regional defence pact between France, Congo (Brazzaville), the Central African Republic, and Chad, and a five-party defence agreement between France, Dahomey, Ivory Coast, Niger, and Upper Volta which has set up the *Conseil de défense de l'Afrique équatoriale.*

BILATERAL AGREEMENTS

The United States has varying types of security assistance agreements and provides significant military aid on either a grant or credit basis to Ethiopia and Zaire. For grant military assistance purposes, Ethiopia, where the United States has a large communications centre, is considered a base rights country.

Though the Soviet Union is not known to have defence agreements with countries in the area, Soviet military assistance has been given to Guinea, Mali, Mauritania, Nigeria, and the Somali Republic.

China has a military assistance agreement with Congo (Brazzaville) and may have formal arrangements covering military assistance and training with Tanzania.

Britain maintains defence agreements with Kenya and Mauritius, and an agreement with South Africa covering the use of the Simonstown naval base. France has defence agreements with Cameroon, Gabon, Malagasy Republic, Senegal, and Togo; technical military assistance agreements with Cameroon, the Central African Republic, Chad, Congo (Brazzaville), Dahomey, Gabon, Ivory Coast, Malagasy Republic, Mauritania, Niger, Senegal, Togo, and Upper Volta; and mutual facilities agreements with Dahomey, Gabon, Ivory Coast, Mauritania, and Niger.

Portugal directly assures the defence of Angola, Mozambique, and Portuguese Guinea, and Spain of Spanish Sahara, Ceuta, and Melilla. All of these are administratively regarded as overseas provinces except Ceuta and Melilla, which are treated as integral parts of Spain.

ETHIOPIA

Population: 26,500,000.
Military service: voluntary.
Total armed forces: 44,570.
Estimated GNP 1972: $US 2.07 billion.
Defence budget 1971–72: $E 93 million: ($US 40.5 million).
$E 2.5=$1 1 July 1971.
$E 2.3=$1 1 July 1972.
Army: 40,940.
4 infantry divisions of 8,000 men each (incl Imperial Guard).
1 tank battalion.
1 airborne infantry battalion.
4 armoured car squadrons.
4 artillery battalions.
5 air defence batteries.
2 engineer battalions.
50 M–41 med tks; 20 M–24 lt tks; about 40 APC; 30 M–9, M–20, and 56 AML–245 armd cars; 146 M–30 4.2-inch mortars; 36 75mm pack how; 52 105mm, 12 155mm guns; 6 Bell UH–1H hel.
Navy: 1,380.
1 coastal minesweeper.
1 training ship (ex-seaplane tender).
5 patrol boats.
4 harbour defence craft (less than 100 tons).
4 landing craft (less than 100 tons).
Air Force: 2,250; 37 combat aircraft.
1 bomber squadron with 4 Canberra B–2.
1 fighter-bomber squadron with 12 F–86F.
1 COIN squadron with 6 T–28A.
1 fighter squadron with 15 F–5A.
1 tpt sqn with 6 C–47, 2 C–54, 5 C–119G, and 3 Dove.
3 trg sqns with 20 Safir, 15 T–28A, and 11 T–33A.
5 Alouette II, 2 Mi–6, 2 Mi–8, and 5 AB–204B helicopters.
Para-Military Forces: 20,400. Territorial Army active strength, 9,200; mobile emergency police force 6,800; frontier guards 1,200; commando force 3,200.

GHANA

Population: 9,086,000.
Military service: voluntary.
Total armed forces: 18,900.
Estimated GNP 1972: $2.97 billion.
Defence budget 1971–72: 39.5 million cedi ($30.4 million).
1.02 cedi equal $1 1 July 1971.
1.3 cedi equal $1 1 July 1972.
Army: 16,000.
2 brigades comprising 7 inf bns and support units.
1 mortar regt.
2 reconnaissance squadrons.
Saladin armd cars; Ferett scout cars; 76mm guns; heavy mortars.
Navy: 1,300.
2 corvettes.
1 coastal minesweeper.
2 inshore minesweepers.
2 seaward defence vessels.
3 P–20 class (Soviet-built) patrol boats (less than 100 tons).
(There is a substantial shortage of spares for all naval craft.)
Air Force: 1,600; 6 combat aircraft.
1 fighter sqn with 6 MB–326.
1 transport squadron with 7 Otter.
1 transport squadron with 8 Caribou and 3 Heron.
1 comms and liaison squadron with 11 Beaver.
1 hel sqn with 5 Whirlwind, 2 Wessex, 3 Sikorsky H–19, and 3 Hughes 269A.
9 Chipmunk trainers.
Para-Military Forces: 3,000; 3 Border Guard bns.

NIGERIA

Population: 59,400,000.
Military service: voluntary.
Total armed forces: 157,000.
Estimated GNP 1972: $7.6 billion.
Defence budget 1971–72: £N 87 million: (0242 million).
£N 0.36 equal $1 1 July 1971.
£N 0.33 equal $1 1 July 1972.
Army: 150,000.
3 infantry divisions, including 3 reconnaissance regiments, 3 artillery regiments, and support units.
Saladin and 20 AML–60/90 armd cars; Ferret scout cars; Saracen APC; 25-pdr, 76mm, 105mm, and 122 mm guns.
Reserves: 100,000.
Navy: 3,000.
1 ASW frigate.
2 corvettes.
5 seaward defence boats.
1 landing craft.
Reserves: 2,000.
Air Force: 4,000; 38 combat aircraft.
Il–28 medium bombers.
2 MiG–17 fighter-bombers.
10 L–29 Delfin and 10 P–140D armed trainers.
2 MiG–15 UTI trainers (20 Bulldog on order).
6 C–47, 6 Fokker Friendship med tpts; 20 Do–27/28 comms aircraft.
8 Whirlwind and Alouette II hel.

RHODESIA

Population: 5,900,000 (260,000 white population.)
Military service: 12 months (white population).
Total armed forces: 4,700.
Estimated GNP 1972: $US 1.57 billion.
Defense budget 1972–73: $R 25,917,000: ($US 32 million).
$R 0.81=$1 1 July 1972.

$R 0.672=$1 1 July 1973.
Army: 3,500 Regular; 10,000 Territorial Force.
2 infantry battalions (one has Ferret scout cars).
2 Special Air Service squadrons.
1 artillery battery.
1 engineer squadron.
20 Ferret scout cars; 25-pdr gun/how, Model 56 105mm pack how.
There is an establishment for three brigades, two based on regular infantry battalions, which would be brought up to strength by mobilizing the Territorial Force.
Air Force: 1,200; 45 combat aircraft.
1 light bomber sqn with 10 Canberra B–2.
1 FGA sqn with 12 Hunter FGA–9.
1 FGA sqn with 11 Vampire FB–9.
1 recce sqn with 12 T–52 Jet Provost.
1 COIN sqn with 7 AL–60F5 and 7 AM–3C.
1 transport sqn with 4 C–47 and 1 Beech 55 Baron.
3 Canberra T–4 trainers.
1 helicopter sqn with 8 Alouette III.
Reserves: 10,000 Territorial Force.
The white population completing conscript service is assigned for three years' part-time training to territorial units, which include active territorial battalions based on the cities and reserve territorial battalions based on country districts.
Army Reserves: eight infantry battalions, one field artillery regiment, and one engineer squadron.
Ground personnel servicing regular Air Force units are reservists or non-white civilians.
Para-Military Forces: The British South African Police (BSAP) 8,000 active; 35,000 reservists. The white population forms only about a third of the active strength but nearly three-quarters of the Police Reserves.

SOMALI DEMOCRATIC REPUBLIC

Population: 3,000,000.
Military service: voluntary.
Total armed forces: 17,300.
Estimated GNP 1970: $182 million.
Defence budget 1971: 81.3 million shillings: ($11.4 million).
7.14 Somali shillings=$1 1 July 1970.
7.14 Somali shillings=$1 1 July 1971.
Army: 15,000.
4 tank battalions.
9 mechanized infantry battalions.
1 commando battalion.
2 field arty battalions.
5 AA arty battalions.
About 150 T–34 med tks; 60 BTR-40 and 250 BTR-152 APC; 76mm and 100mm guns; 122 mm how; 14.5 mm, 37mm, and 100mm AA guns. (Spares are short and not all equipment is serviceable.)
Navy: 300.
4 P–6 and 6 P–4 MTB (ex-Soviet).
(Spares are short and not all equipment is serviceable.)
Air Force: 2,000; 21 combat aircraft.
Some II–28 light bombers.
2 MiG–15 and 19 MiG–17 fighters.
Tpts include 1 C–45, 3 C–47, 3 An-2, and 1 An-24, 2 MiG–15/17, 10 Piaggio P–148, and Yak trainers.
(Spares are short and not all equipment is serviceable.)
Para-Military Forces: 3,500; 500 border guards; 3,000 People's Militia.

SOUTH AFRICA

Population: 23,000,000 (4,000,000 white population).
Military service: 9–12 months in Citizen Force.
Total armed forces: 18,000 regular; 92,000 Citizen Force.
Estimated GNP 1972: $21.4 billion.
Defence budget: 1073–74: 481 million rand: ($716 million).
0.81 rand=$1 1 July 1972.
100 Centurion Mark 5, 20 Comet med tks; 800 AML–60 and AMD–90 and 50 M–3 armed
0.672 rand=$1 1 July 1973.
Army: 10,000 regular.
cars; 50 Ferret scout cars; 250 Saracen APC.
3 batteries of Cactus (Crofale) short-range SAM system may now be operational.
Reserves: 80,000 Citizen Force, in 9 territorial commands.
Navy: 2,500 regular.
3 submarines.
2 destroyers with Wasp ASW helicopters.
6 ASW frigates (3 with Wasp ASW helicopters).
1 escort minesweeper.
10 coastal minesweepers.
5 seaward defence boats.
1 fleet replenishment tanker.
Reserves: 9,000 trained reserves in Citizen Force (with 2 frigates and 7 minesweepers).
Air Force: 5,500 regular; 100 combat aircraft.
1 bomber sqn with 6 Canberra B(1) Mk 12, 3 T Mk 4.
1 lt bomber sqn with 13 Buccaneer S Mk 50.
1 fighter skn with 18 CL–13B Sabre Mk 6 (being replaced by Mirage).
1 fighter sqn with 16 Mirage IIIEZ and 4 IIIDZ.
1 fighter/recce sqn with 16 Mirage IIICZ, 4 IIIBZ, and 4 IIIRZ.
2 MR sqns with 7 Shackleton MR3, 9 Piaggio P–166S Albatross (9 more P–166S on order).
4 tpt sqns with 7 C–130B, 9 Transall C–160Z, 23 C–47, 5 C–54, 1 Viscount 781 medium, and 4 HS–125 Mercurius.
4 hel sqns: two with 20 Alouette III each; one with 20 SA–330 Puma; one with 15 SA–321L Super Frelon. One flight of 5 Wasp (naval-assigned).
1 lt ac sqn (army-assigned) with Cessna 185A/D and A185E (AM–3C will replace).
Trainers incl Harvard; MB–326M Impala (some armed in a COIN role; Vampire FB Mk 6, Mk 9, T Mk 55; C–47 and Alouette II/III.
Reserves: 3,000 Active Citizen Force.
7 sqns with 20 Impala, 100 Harvard IIA, III, T–6G (Texan); 20 Cessna 185A/D, A185E.
12 Air Kommando sqns (private aircraft).
Para-Military Forces: 75,000 Kommandos organized and trained as a Home Guard.

TANZANIA

Population: 14,380,000.
Military service: voluntary.
Total armed forces: 11,600.
Estimated GNP 1972: $1.51 billion.
Defence budget 1973: 361 million shillings: ($51.4 million).
7.1 shillings=$1 1 July 1972.
7.02 shillings=$1 1 July 1973.
Army: 10,000.
3 infantry battalions.
20 Chinese T–59 med tks; 14 Chinese T–62 lt tks; some BTR–40 and –152 APC; Chinese mortars; 6 ex-Soviet 76 mm guns; 8 122mm how.
(Spares are short and not all equipment is serviceable.)
Navy: 600.
6 patrol boats (ex-Chinese P-6 and Swatow-class).
Air Force: 1,000; no combat aircraft.
1 An-2, and 12 DHC-4 Caribou transports.
7 Piaggio P-149D trainers.
(1 sqn of 12 MiG-17 to be delivered in 1973.)
Para-Military Forces: A police marine unit.

UGANDA

Population: 10,750,000.
Military service: voluntary.
Total armed forces: 12,600.
Estimated GNP 1972: $1.44 billion.
Estimated defence expenditure 1971–73: 187,255,000 shillings ($26.4 million).
7.1 shillings=$1 1 July 1972.
7.02 shillings=$1 1 July 1973.
Army: 12,000.
2 brigades each of 3 infantry battalions.
1 border guard battalion.
1 mechanized battalion.
2 parachute/commando battalions.
1 artillery regiment.
12 M-4 med tanks; 15 Ferret scout cars; 20 BTR-40, BTR-152, 36 OT-64B APC (perhaps half are operational).
Air Force: 600; 21 combat aircraft.
1 fighter squadron with 7 MiG-15 and MiG-17.
14 Magister armed trainers.
1 Caribou transport: P–149D and 12 L–29 Delfin trainers; 10 Piper light aircraft.
2 AB-206 and 2 Scout helicopters.

ZAIRE REPUBLIC

Population: 24,400,000.
Military service: voluntary.
Total armed forces: 50,000.
Estimated GNP 1972: $2.3 billion.
Estimated defence expenditure 1970: 42 million zaires ($84 million):
0.5 zaires=$1 1 July 1970.
0.5 zaires=$1 1 July 1972.
Army: 49,000.
1 armoured car regiment.
1 mechanized battalion.
14 infantry battalions.
7 parachute battalions.
4 other battalions.
The above, together with support units, form 1 parachute division and 7 brigade groups.
60 AML armed cars; M-3 and 30 Ferret scout cars (less than half operatinal).
Coast, River, and Lake Guard: 200.
1 river boat.
1 patrol boat.
6 patrol craft.
Air Force: 800; 28 combat aircraft.
1 fighter wing with 15 MB-326GB, 8 AT-6G, and 5 T-28 armed trainers.
1 logistics wing with 9 C-47, 4 C-54, 3 C-130, and some Caribou transports.
1 training wing with 8 T-6 and 12 SF-260MC (12 more SF–260MC on order).
1 helicopter sqn with 7 Bell 47–G, 8 Alouette III, and 7 SA–330 Puma (23 Puma being delivered).
Para-Military Forces: 8 National Guard and 6 Genarmerie battalions.

ARMED FORCES OF OTHER AFRICAN STATES[1]

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army		Navy, manpower and equipment	Air Force, manpower and equipment	Para-military forces
				Manpower and formations	Equipment			
Cameron	6,182	1,357 (1972)	4,450	4,000; 4 inf bns; 1 armd car sqn; 1 para coy engineer and support coys.	8 Ferret scout cars; 57mm, 75mm and 105mm guns; some mortars.	200; 3 patrol boats (less than 100 tons)	250; 3 C-47 med tpts and 4 lt tpts; 2 Alouette II hel	5,000
Chad	3,980	195.3 (1971)	3,700	3,500; 4 inf bns; 1 para coy camel corps.	60mm and 81mm mortars		200; 3 C-47 med tpts and 3 lt tpts; 1 Alouette II hel.	4,000
Congo	1,000	194 (1971)	2,300	2,000; 1 inf bn; a para-cdo bn; 1 recce sqn 1 arty group.	BTR-152 APC; mortars	150 small patrol boats	150; 2 C-47, 2 AN-24 med tpts; 3 lt tpts; 2 hel.	4,800

See footnotes at end of table.

ARMED FORCES OF OTHER AFRICAN STATES [1]—Continued

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army		Navy, manpower and equipment	Air Force, manpower and equipment	Paramilitary forces
				Manpower and formations	Equipment			
Dahomey	2,900	218 (1971)	2,250	2,100; 2 inf bns; 1 para-cdo coy; 1 recce sqn; 1 arty bty.	Some armed cars and APC; 60mm and 81mm mortars; 105mm guns.		150; 1 C-47 med tpt and 3 lt tpts; 1 Alouette II hel.	1,200
Guinea	4,188	717 (1971)	6,000	5,000; 1 armd bn; 4 inf bns; 3 engr coys.	20 T-34 med tks; 20 BTR-152 APC; 85mm and 105-mm guns.	200; 6 P-6 MTB; 2 patrol boats; 2 small landing craft.	800; 8 MiG-17; 4 An-14, 2 Il-18 and 4 Il-14 tpts; 7 Yak-18, L-29 MiG-15 trainers.	7,700
Ivory Coast	4,635	2,000 (1972)	3,500	3,100; 3 inf bns; 1 armd sqn; 1 para coy; 2 arty btys.	5 AMX-13 lt tks; 10 lt armd cars; scout cars; 105mm guns; 40mm AA guns.	100; 2 motor gunboats; 2 landing craft (all less than 100 tons).	300; 2 C-47 med tpts; 9 lt tpts; 4 Alouette II/III and 1 Puma hel.	3,000
Kenya	12,430	1,880 (1972)	6,730	6,000; 4 inf bns; 1 support bn with para coy.	Saladin armd cars; 20 Ferret; 120mm recoilless rifles; 81mm and 120mm mortars.	250; 4 patrol craft	480; 6 BAC-167; 5 Bulldog armed trainers; 10 Beaver lt tpts; 2 Bell 47G hel.	1,800
Liberia	1,675	436 (1972)	5,150	5,000; 1 recce unit; 5 inf bns; 1 engr bn.	M-3A1 scout cars; some field guns; 60mm and 81mm mortars.	150; 2 motor gunboats; 2 patrol boats; small landing craft.	5 lt tpt ac	1,300
Malagasy Republic	7,400 (1971)	1,134 (1972)	4,250	3,700; 2 inf bns; 1 armd sqn; 1 engr bn; 1 para coy; 1 arty bty.	(2)	250; 3 patrol vessels; 1 marine coy.	300; 3 C-47 med and 8 lt tpts; 1 Alouette III hel.	4,000
Mali	5,361	278 (1971)	3,650	3,500; 3 inf bns; 1 para coy; 1 engr coy.	About 10 T-34 med tks; BTR-40 APC; armd cars; 81mm and 100mm guns; 81mm and 120mm mortars.	50 3 patrol craft	150; 6 MiG-17; 2 C-47 and 2 Il-14 med tpts; 2 Mi-4 hel.	1,500
Niger	4,352	489 (1972)	2,100	2,000; 1 recce sqn; 4 mot inf coys; 1 para coy; 1 camel corps.	About 10 M-8 and M-20 armd cars; 60mm and 81mm mortars; 2 patrol boats.		100; 4 Noratlas, 1 C-47 med tpt; 4 lt tpts.	1,400
Rwanda	4,052	233	2,750	2 inf bns; 1 recce sqn	AML-245 armd cars		2 C-47 med tpts; 1 Alouette II hel.	400
Senegal	4,217	860 (1972)	5,900	5,500; 3 inf bns; 1 recce sqn; 2 para coys; 2 cdo coys; 1 arty bty; 1 engr bn.	AML-245 armd cars; lt arty; 81mm mortars.	200; 3 patrol craft (2 less than 100 tons); 2 landing craft.	200; 4 C-47 med tpts; 4 lt tpts; 2 Bell 47 and 1 Alouette III hel.	1,600
Zambia	4,526	1,100 (1972)	6,000	5,000; 1 inf bde; 1 recce sqn; 2 arty btys; 1 SAM bty; 1 engr sqn; 1 sigs sqn.	Ferret scout cars; 105mm guns; Rapier SAM.		1,000; 2 Galeb, 4 Jastreb, 6 MB-326 FGA; 3 med and 10 lt tpts; 3 AB-205, 2 AB-47 and 1 AB-212 hel.	2,000

[1] For many of the developing nations, particularly the smaller ones, maintenance facilities and skills pose problems and spare parts may not be readily available. The amount of military equipment shown may not necessarily be that which can be used.

[2] Not available.

CHINA

Chinese defence policy operates at the two extremes of nuclear deterrence and People's War. The former aims to deter strategic attack and the latter, by mass-mobilization of the country's population, to deter or repel any conventional land invasion.

NUCLEAR WEAPONS

The build-up of the Chinese nuclear force continued during the year. One nuclear test, in the MT range, was carried out in June, the first recorded since March 1972 and the 15th since tests started in 1964. The production of fissionable materials was expanded; there may now be sufficient for more than 200 fusion and fission weapons, and the stockpile could grow rapidly in the next few years. A variety of delivery systems, aircraft and missiles, are available. For tactical missions the F-9 fighter would be suitable and for longer ranges there are some 100 Tu-16 medium bombers with a radius of action of about 1,600 miles. MRBM and IRBM have been deployed operationally in at least four locations at soft sites above ground, though some are reported to be in silos or caves. A multi-stage IRBM with a longer range, perhaps 3,500 miles (sufficient to reach Moscow and most parts of Asia) has been produced and may be ready for operational deployment. A small missile force is now thought to be under the control of the Second Artillery, which appears to be the PLA's missile arm. An ICBM capable of reaching most major targets in the United States is also being developed. Its testing at full range would require impact areas in the Indian or Pacific Oceans and an instrumentation ship which could be used for monitoring such a test has been built. China has one G-class diesel-powered submarine with ballistic missile launching tubes, but does not appear to have missles for it. All the present missiles are liquid-fueled. Work has been going on on the development of solid fuel missiles, but these are unlikely to be available for deployment before 1975.

CONVENTIONAL FORCES

China's 3 million regular forces, the People's Liberation Army (PLA), are generally equipped and trained for the environment of People's War, but increasing effort is being made to arm a proportion of the formations with modern weapons, now becoming available from the growing armament industry. Infantry units account for most of the manpower and 120 of the 150 divisions; there are only 5 armoured divisions. The naval and air elements of the PLA have only about one-seventh of the total manpower compared with only a third for their counterparts in the Soviet Union, but their influence is increasing as more new equipment reaches them. The PLA is essentially a defensive force and lacks the facilities and logistic support for protracted large-scale military operations outside China. It is, however, gradually acquiring greater logistic capacity.

Major weapons systems in series production include the Tu-16 medium bomber, the MiG-19, -21, and F-9 fighters (the latter Chinese designed); type-59 medium, type-62 light, type-60 amphibious tanks and APCs (the last three also being Chinese designed). R-class medium-range diesel submarines in some numbers, together with a new class of submarines, SSM destroyers, and fast patrol boats are being produced for the navy. A nuclear-powered attack submarine (armed with conventional torpedoes) has been under test for two years.

DEPLOYMENT AND COMMAND

The PLA is organized in 11 Military Regions, but is not deployed evenly throughout them. The major concentrations are in the coastal provinces, in the Yangtse and the Yellow River basins, and in the North-East (Peking and Manchuria). Some shift of forces northward toward the Sino-Soviet frontier occurred in 1969–70, following the border incidents, and it is likely that further re-alignment of Chinese forces in the same direction took place in the past year. From 20,000 to 30,000 construction troops and engineers are reported still to be in the northern border regions of Laos and North Vietnam.

Although the PLA continues to have a wide range of administrative and other nonmilitary duties, its active role in provincial government appears to have declined somewhat in the past year. The Public Security System, which came under the PLA during the Cultural Revolution, seems in particular to have re-established some degree of autonomy.

No Defence Minister was officially designated during the year to succeed Lin Piao and the PLA remained without a Chief of Staff or Air Force Commander.

BILATERAL AGREEMENTS

China has a 30-year Treaty of Alliance and Friendship with the Soviet Union, signed in 1950, which contains mutual defence obligations, but this may no longer be in force. There is a mutual defence agreement with North Korea, dating from 1961, and an agreement to provide free military aid. There is probably a well-defined, though unpublicized, defence commitment to North Vietnam, and certainly a long-standing and recently renewed agreement to give military aid. There are non-aggression pacts with Afghanistan, Burma, and Cambodia (though this latter does not apply to the newly-established Khmer Republic; China has given military aid to the forces supporting Prince Sihanouk against the government of Prime Minister Lon Nol). Chinese military equipment and logistic support has been offered to an increasing number of countries, particularly in Africa. Major recipients of arms in recent years have been Albania, Pakistan, and Tanzania.

CHINA

Population: 750–850,000,000.

Military service: Army, 2 years; Air Force, 3 years; Navy, 4 years.

Total regular forces: 2,900,000 (including construction engineer troops).

GNP and defence expenditure—see note on following page.

2.27 yuan equal $1 1 July 1972.

1.88 yuan equal $1 1July 1973.

Strategic Forces

IRBM: 15–20.

MRBM: about 50.

Aircraft: about 100 Tu–16 medium bombers.

Army: 2,500,000 (including construction engr tps).
5 armored divisions.
120 infantry divisions.
3 cavalry divisions.
2 airborne divisions.
About 20 artillery divisions.
These are supported by signals, engineer, railway, and motor transport units.
Heavy equipment consists of Soviet items supplied up to 1960 including JS–2 tks and 152mm and 203mm artillery; Soviet T–34 and T–54, and Chinese T–59 (version of T–54) med tks; T–60 (PT–76 type) amphibious tks; T–62 lt tks and APC; SP arty incl SU–76, SU–100, and JSU–122.

Deployment

China is divided into 11 Military Regions (MR) in turn divided into Military Districts (MD), with usually two or three Districts to a Region.
It is believed that basically one Army is assigned to each MD, with a total of about 30 Armies. An Army generally consists of three infantry divisions, three artillery regiments, and, in some cases three armoured regiments. Of the five armoured divisions in the PLA, two or three are probably kept in the Peking and Shenyang Regions.
The geographical distribution of the divisions (excluding artillery) is believed to be:
North and North-East China (Shenyang * and Peking * MR): 45 divisions.
East and South-East China (Tsinan, Nanking, and Foochow MR): 20 divisions.
South-Central China (Canton, including Hainan Island, and Wuhan MR): 20 divisions.
Mid-West China (Lanchow MR): 15 divisions.
West and South-West China (Sinkiang,* Chengtu,* and Kunming * MR): 30 divisions.
Laos and North Vietnam (northern border regions): Some construction engineer troops and supporting elements, in all 20–30,000 men.
Navy: 180,000 (including Naval Air Force and 28,000 Marines).
1 G-class submarine (with ballistic missile tubes). (China is not known to have any missiles for this boat.)
39 fleet submarines. (Also about 6 older, training vessels.)
3 coastal submarines.
6 SSM destroyers.
9 destroyer escorts.
11 patrol escorts.
20 submarine chasers.
25 Osa- and Komar-type FPB with Styx SAM.
27 minesweepers.
20 landing ships.
45 auxiliary minesweepers.
220 MTB and hydrofoils (less than 100 tons).
320 motor gunboats; 530 landing ship/landing craft—many less than 100 tons.

Deployment

North Sea Fleet: 240 vessels. The main bases are at Tsingtao and Lushun; deployed along the coast from the mouth of the Yalu River in the north to Lienyunkang in the south.
East Sea Fleet: 700 vessels. Bases are at Shanghai and Chou Shan; deployed along the coast from Lienyunkang in the north to Chaoan Wan in the south.
South Sea Fleet: 300 vessels. Bases are at Huangpu and Chanchiang; deployed from Chaoan Wan in the north to the North Vietnam frontier in the south.
Naval Air Force: 25,000, over 500 shore-based combat aircraft, including about 100 II–28 torpedo-carrying and some Tu–2 light bombers and some 400 fighters including MiG–15, MiG–17, and MiG–19. Though under Navy command, the fighters are fully integrated into the air defence system.
Air Force: 220,000 (including strategic forces and 85,000 air defence personnel); about 3,800 combat aircraft.
About 100 Tu–16 and a few Tu–4 medium bombers.
200 II–28 and 100 Tu–2 light bombers.
About 1,700 MiG–15 and MiG–17; at least 1,000 MiG–19. 75 MiG–21, and up to 300 F–9 fighters.
About 400 transport aircraft and 300 helicopters, including some An–2, II–14, and II–18 transports and Mi–4 helicopters (these could be supplemented by about 350 aircraft of the Civil Air Bureau).
There is an air-defence system, initially developed to defend the eastern seaboard of China, and now greatly expanded, based on early warning/control radar, interceptor aircraft, and several hundred SA–2 SAM deployed in up to 50 sites.

Para-Military Forces

About 300,000 security and border troops, including 19 infantry-type divisions and 30 independent regiments stationed in the frontier areas; the public security force and a civilian militia with an effective element of probably not more than 5 million; production and construction corps in a number of Military Regions including those adjoining the northern frontier.

* There are, in addition, two or three divisions of border troops in each of these MR.

Other Asian Countries and Australasia

BILATERAL AGREEMENTS

The United States has bilateral defence treaties with Japan, the Republic of China (Taiwan), the Republic of Korea, and the Philippines. She has a number of military arrangements with other countries of the region. She provides military aid on either a grant or credit basis to Taiwan, the Khmer Republic (Cambodia), Indonesia, the Republic of Korea, Laos, Malaysia, the Philippines, Thailand, and South Vietnam. She sells military equipment to many countries, notably Australia, Taiwan, and Japan. For grant military assistance purposes, the Khmer Republic, the Republic of Korea, and Taiwan are considered forward defence areas. Laos, the Khmer Republic, Thailand, and South Vietnam receive grant military aid assistance direct from the US Department of Defense budget, the only countries in the world to do so. There are military facilities agreements with Australia, Japan, the Republic of Korea, and the Philippines. There is a major base at Guam. A new communications station is being constructed on Diego Garcia Island in the Chagos Archipelago under exchanges of notes signed with Britain in 1966 and 1972.
The Soviet Union has treaties of friendship, co-operation, and mutual assistance with India, Bangladesh, Mongolia, and the Democratic People's Republic of Korea. Military assistance agreements exist with Sri Lanka (Ceylon) and the People's Democratic Republic of Vietnam. Important Soviet military aid is also given to Nepal and Afghanistan.
Australia has supplied a small amount of reference equipment to Malaysia and Singapore and is giving defence equipment and assistance to Indonesia, including the provision of training facilities.

MULTILATERAL AGREEMENTS

In 1954 the United States, Australia, Britain, France, New Zealand, Pakistan, the Philippines, and Thailand signed the South-East Asia Collective Defence Treaty, which came into force in 1955 and brought SEATO into being. They committed themselves to consult with a view to joint defence in the event of direct or indirect aggression against a member country or against the so-called 'protocol states' of Cambodia, Laos, and South Vietnam. However, since 1955 and 1956 respectively, Cambodia and Laos have not accepted the protection of SEATO. The treaty area is the general area of South-East Asia and the South-West Pacific, below latitude 21°30′ North. SEATO has no central command structure and forces remain under national control. In 1969 Britain ceased to declare ground forces to the contingency plans for SEATO. France has no forces declared and has recently announced her intention of withdrawing from all financial commitments by 1974. New Zealand has said that, while she will remain a member, she is phasing down her participation in SEATO activities to a much lower level, particularly on the military side. Australia has recently given indications of taking a similar attitude. Pakistan had already announced her progressive disengagement before the Indo-Pakistan War of December 1971, as a result of which Bangladesh became an independent state, and withdrew from membership in July 1972.
Australia, New Zealand, and the United States are the members of a tripartite treaty known as ANZUS, which was signed in 1951 and is of indefinite duration. Under this treaty each agrees to 'act to meet the common danger' in the event of armed attack on either metropolitan or island territory of any one of them, or on armed forces, public vessels, or aircraft in the Pacific.
Australia, Malaysia, New Zealand, Singapore, and Britain have agreed five-power defence arrangements relating to the defence of Malaysia and Singapore, which came into effect on 1 November 1971. These arrangements, which replaced the Anglo-Malaysian Defence Agreement of 1957, state that, in the event of any armed attack or threat of attack externally organized or supported against Malaysia or Singapore, the five governments would consult together for the purpose of deciding what measures should be taken, jointly or separately. Britain, Australia, and New Zealand maintain land, air, and naval forces in Singapore (the ANZUK force) and Australia air forces in Malaysia (part of the integrated air defence system).

AFGHANISTAN

Population: 18,300,000.
Military service: 2 years.
Total armed forces: 84,000.
Estimated GNP 1970: $1.5 billion.
Estimated defence expenditure 1971: 1,600 million afghanis ($35.5 million). 45 afghanis equal $1.
Army: 78,000.
2 armoured divisions.
4 infantry divisions.
1 infantry brigade group.
200 T–34 and T–54 med tks; PT–76 lt tks; 144 lt and med guns; Snapper ATGW; AA guns.
Reserves: 200,000.
Air Force: 6,000; 112 combat aircraft.
3 light bomber squadrons with 10 II–28.
2 fighter-bomber squadrons with 24 Su–7.
4 fighter-bomber squadrons with 48 Mig–15/17.
3 interceptor squadrons with 30 Mig–21.
2 transport squadrons with Yak 12, An–2, II–14.
1 helicopter squadron with Mi–1 and Mi–4.
SA–2 SAM.
Reserves: 12,000.
Para-Military Forces: 21,000 Gendarmerie; 200,000 tribal levies.

AUSTRALIA

Population: 13,000,000.
Military service: voluntary.
Total armed forces: 73,330.
Estimated GNP 1972: $US 43.46 billion.
Defence budget 1972: $A 1,323 million ($US 1,575 million).
$A 0.84=$US 1 1 July 1972.
$A 0.706=$US 1 1 July 1973.
Army: 33,100.
1 infantry division HQ.
1 tank regiment.
3 cavalry regiments.
9 infantry battalions.

2 battalions of the Pacific Islands Regiment (PIR).
1 Special Air Service (SAS) regiment.
1 medium artillery regiment.
3 field artillery regiments.
1 light anti-aircraft regiment.
1 aviation regiment.
6 signals regiments.
3 field engineer regiments.
7 construction and field survey squadrons.
1 logistic support force.
143 Centurion med tks; 265 Ferret scout cars; 758 M–113 APC; 254 105mm how including M–56 105mm pack how; 47 Sioux and Kiowa hel; 25 light aircraft; 57 watercraft.
Deployment: Singapore: 1 bn gp, 1 sig regt, and logistic units; Papua, New Guinea: 2 PIR bns.
Reserves: 24,500. The Citizen Military Force of 24,000 is intended to form 24 infantry battalions with supporting arms and services; Emergency Reserve 500.
Navy: 17,460.
4 Oberon-class submarines.
1 aircraft carrier.
3 ASW destroyers with Tartar SAM and Ikara ASW msls.
4 destroyers (2 training).
6 destroyer escorts with Ikara.
4 coastal minesweepers.
2 minehunters.
20 patrol boats.
1 fast troop transport (ex-aircraft carrier).
1 destroyer tender.
5 landing craft (3 more on order).
Fleet Air Arm
1 fighter-bomber sqn with A–4G Skyhawk.
1 ASW sqn with S–2E Tracker and C–47 Dakota.
2 ASW helicopter sqns with Wessex 31B.
1 helicopter sqn with Iroquois and Scout.
1 training sqn with Aermacchi MB–326H, TA–4G, and A–4G.
(10 Sea King ASW hel on order.)
Reserves: 6,625. Navy Citizen Military Force: 5,525; Emergency Reserve 1,100.
Air Force: 22,770; 210 combat aircraft.
1 bomber squadron with Canberra B–20.
1 fighter squadron with 6 F–111C (18 more to be delivered by end of 1973).
4 interceptor/FGA squadrons with Mirage IIIO.
1 MR squadron with 10 P–3B Orion and 1 MR squadron with 12 SP–2H Neptune.
80 MB–326 and 41 CA–25 Winjeel trainers.
2 tpt sqns with 24 C–130, 1 tpt sqn with 2 BAC–111, 10 HS–748, and 3 Mystere 20 and 2 tpt sqns with 24 Caribou and 23 Dakota.
2 helicopter squadrons with Iroquois.
Deployment: 2 sqns of Mirage IIIO i Malaysia/Singapore.
Reserves: 1,215. Citizen Air Force 570 Emergency Reserve 645.

BANGLADESH

Population: 76,000,000.
Military service: voluntary.
Total regular forces: 17,900.
Estimated GNP 1972: $3.5 billion.
Defence budget 1973: Taka 470 million ($US 65 million).
Taka 7.3=$1 1 July 1972.
Taka 7.24=$1 1 July 1973.
Army: 17,000.
5 inf bdes with 17 inf bns.
1 artillery brigade.
1 engineer group.
1 signals battalion.
Navy: 500.
3 patrol boats.
1 seaward defence boat.
Air Force: 400; 13 combat aircraft.
1 fighter sqn with 8 MiG–21.
5 F–86 Sabre.
1 DHC–4 Caribou, 1 DC–6, and 2 F–27 tpts.
2 MiG–21 Uti trainers.
3 Alouette III.
(2 Wessex hel on order.)
Para-Military Forces: 13,000 Bangladesh milita/Rakhi Bahini.

BURMA

Population: 29,150,000.
Military service: 2 years.
Total armed forces: 149,000.
Defence budget 1971–72: 490 million kyat ($91 million).
5.4 kyat=$1 1 July 1972.
4.7 kyat=$1 1 July 1973.
Army: 135,000.
6 regional commands comprising approximately 70 infantry battalions.
3 infantry divisions.
The forces as a whole consist of 5 armoured, 112 infantry, 5 artillery, and 1 engineer battalions, and are organized chiefly for counter-insurgency and internal security duties.
Comet med tks; Humber armd cars; Ferret scout cars; 25-pdr guns; 75mm, 105mm, 155mm how.
Navy: 7,000 (including 800 marines).
1 frigate.
1 escort minesweeper.
2 coastal escorts.
5 motor torpedo boats (less than 100 tons).
34 river and patrol gunboats.
7 motor gunboats (less than 100 tons).
About 100 river craft.
Air Force: 7,000; 10 combat aircraft.
2 COIN sqns with 18 AT–33 and 1 Vampire.
18 C–47, 8 Otter, 6 Beech–18, and 5 Cessna tpts.
5 Sioux, 9 Huskie, 6 Alouette III, 10 Shawnee, and 3 KV 107–II helicopters.
Para-Military Forces: 25,000 armed village defence and militia.

CHINA, REPUBLIC OF (TAIWAN)

Population: 15,135,000.
Military service: 2 years.
Total armed forces: 503,000.
Estimated GNP 1972: $9.7 billion.
Estimated defence expenditure 1972–73: 28 billion new Taiwan dollars ($700 million).
$NT 40=$1 1 July 1972.
$NT 38=$1 1 July 1973.
Army: 350,000.
2 armoured divisions.
12 infantry divisions.
6 light divisions.
1 armoured cavalry regiment.
2 airborne brigades.
4 special forces groups.
1 SSM battalion with Honest John.
1 SAM battalion with HAWK.
1 SAM bn and 1 SAM bty with Nike-Hercules.
M–47 and M–48 med tks; 500 M–24 and M–41 lt tks; M–18 tk destroyers; LVT–4 and M–113 APC; 105mm and 155mm guns; AA guns; Honest John SSM; HAWK, Nike SAM; 15 UH–1H, 7 H–34, 2 KH–4 hel (59 UH–1H on order).
Deployment: Quemoy: 60,000; Matsu: 20,000.
Reserves: 750,000.
Navy: 38,000.
1 submarine (training).
14 destroyers.
16 destroyer escorts.
6 torpedo boats.
3 patrol vessels.
1 minelayer.
14 coastal minesweepers.
9 minesweeping launches.
21 tank landing ships.
4 medium landing ships.
21 landing craft.
Reserves: 60,000.
Marines: 35,000.
2 divisions.
Reserves: 65,000.
Air Force: 80,000; 210 combat aircraft.
6 fighter-bomber sqns with 90 F–100A/D.
2 fighter sqns with 30 F–5A (40 F–5E on order).
4 interceptor sqns with 63 F–104A/G.
1 recce sqn with 8 RF–104G and 4 RF–101C.
1 SAR sqn with 9 S–2A and 6 HU–16B.
40 C–46, 30 C–47, 50 C–119, and 10 C–123 tpts.
100 trainers.
6 Hughes 500, 7 UH–19, and 10 Bell 47G hel (24 UH–1H on order).
Reserves: 130,000.
Para-Military Forces: 175,000 militia.

INDIA

Population: 578,000,000.
Military service: voluntary.
Total armed forces: 948,000.
Estimated GNP 1972: $61.53 billion.
Defence budget 1973–74: 17,296 million rupees ($2,386 million).
7.75 rupees=$1 1 July 1972.
7.25 rupees=$1 1 July 1973.
Army: 826,000.
1 armoured division (a second is being formed).
5 independent armoured brigades.
14 infantry divisions.
11 mountain divisions.
6 independent infantry brigades.
1 parachute brigade.
About 20 AA artillery units.
200 Centurion MK 5/7, 1,000 T–54 and T–55, and 500 Vijayanta med tks; 150 PT–76 and 140 AMX–13 lt tks; OT–62 and Mk 2/4A APC; about 3,000 guns, mostly towed and SP 25-pounders, but incl Model 56 105mm pack how, Abbott 105mm SP, and about 350 100mm and 350 130mm guns; RL; SS–11 and Entac ATGW; AA guns; 40 Tigercat SAM.
Reserves: 100,000. Territorial Army 45,000; Reserves 55,000.
Navy: 30,000 (including naval air).
1 16,000-ton aircraft carrier.
4 submarines (ex-Soviet F-class).
2 cruisers.
1 destroyer.
8 destroyer escorts (incl 7 ex-Soviet Petya-class).
9 frigates (2 GP with Seacat SAM, 3 AA, 4 ASW).
8 Osa-class patrol boats with Styx SSM.
9 patrol boats (4 less than 100 tons).
8 minesweepers (4 inshore).
1 landing ship.
3 landing craft.
10 seaward defence boats (6 less than 100 tons).
Naval Air Force: 1,500.
35 Sea Hawk attack, 11 Alizé MR ac; 2 Sea King, 18 Alouette III, 2 Alouette II, and 10 Hughes 269 hel. 10 Sea Hawk, 5 Alizé, and 2 Alouette can be carried in the aircraft carrier at any one time. (17 HS 748 MR ac and 3 Sea King are on order.)
Air Force: 92,000; 842 combat aircraft.
4 light bomber squadrons with 80 Canberra.
6 fighter-bomber squadrons with 96 Su–7.
2 fighter-bomber sqns with 50 HF–24 Marut 1A.
7 fighter-bomber squadrons with 150 Hunter F–56.
2 fighter-bomber squadrons with 30 Mystére IV.
8 interceptor squadrons with 220 MiG–21PFM.
8 interceptor squadrons with 200 Gnat F.1.
1 reconnaissance squadron with 8 Canberra PR–57.
1 maritime recce sqn of 8 L–1049 Super Constellation.
13 tpt sqns with 55 C–47, 60 C–119G, 20 II–14, 34 An–12, 30 Otter, 27 HS–748, and 20 Caribou.
About 12 sqns with Mi–4, Alouette III, 16 Mi–8, SA 315 Cheetah, S–62, and Bell 47 hel.
About 20 SA–2 SAM sites.
Para-Military Forces: About 100,000, in Border Security Force (not on Defence budget).

INDONESIA

Population: 132,400,000.
Military service: selective.
Total armed forces: 322,000.
Estimated GNP 1972: $10.73 billion.

Estimated defence expenditure 1971; 119 billion rupiahs ($286.7 million).
378 rupiahs=$1 1 July 1971.
415 rupiahs=$1 1 July 1972.
Army: 250,000.
15 inf bdes, with over 100 inf bns and some para and armd units.
8 armoured battalions.
1 paracommando regiment (RPKAD).
The Kostrad (strategic Reserve Command) consists of about six bdes and includes paratroops and armour. About one-third of the army is engaged in civil and administrative duties.
Stuart, AMX–13 and PT–76 lt tks; Saladin armd cars; Ferret scout cars; Saracen and BTR–40 APC; artillery includes 76mm, 105 mm, and 25-pdr; Soviet 57mm AA guns and associated radar; Alouette III hel.
Navy: 39,000 (incl naval air and 14,000 Marines). (Only a very small part of the navy is operational.)
10 submarines (ex-Soviet W-class).
1 cruiser (ex-Soviet Sverdlov-class, being sold).
4 destroyers (ex-Soviet Skory-class).
8 frigates (including 4 ex-Soviet Rigaclass).
18 coastal escorts (14 ex-Soviet, 4 ex-USA).
12 Komar-class patrol boats with Styx SSM.
9 patrol boats (8 more being delivered).
21 motor torpedo boats (14 ex-Soviet P–6-class).
6 fleet minesweepers (ex-Soviet T–43-class).
20 coastal minesweepers (6 ex-USA).
18 motor gunboats (ex-Soviet BK-class).
25 seaward defence boats (less than 100 tons).
9 landing ships (8 ex-US LST).
9 landing craft.
2 Marine brigades.
Naval Air Arm:
6 C–47; 3 Alouette III hel (4 MR ac on order).
Air Force: 33,000; 89 combat aircraft. (Most of the Soviet-supplied combat aircraft and the SA–2 have not been used for some years. Few of these aircraft can be regarded as operational.)
22 Tu-16 and 10 11-28 bombers.
5 Z–25 Mitchell and 4 B–26 Invader light bombers.
5 F–51D Mustang fighter-bombers.
16 F–86 Sabre (CA–27) fighters.
4 MiG–15, 8 MiG–17, and 15 MiG–21 interceptors (mostly in storage).
60 tpts, incl 10 11–14, 8 C–130B, C–47, and Skyvan.
3 hel sqns with 16 Mi–4, 6 Mi–6, and 4 Bell 47G, 2 AB–204B and 10 Alouette II/III.
At least 3 SA–2 sites (non-operational).
Para-Military Forces: A police Mobile Brigade of about 20,000; about 100,000 Militia.

JAPAN

Population: 107,000,000.
Military service: voluntary.
Total armed forces: 266,000.
Estimated GNP 1972: $316.8 billion.
Defence budget 1973–74: 935.5 billion yen ($3,530 million).
301 yen=$1 1 July 1972.
265 yen=$1 1 July 1973.
Army: 180,000.
1 mechanized division.
12 infantry divisions (7,000-9,000 men each).
1 airborne brigade.
1 artillery brigade.
1 signal and 5 engineer brigades.
1 helicopter brigade.
1 mixed brigade.
6 SAM groups with HAWK (160 launchers).
520 Type 61 med tks; 30 M-24 and 140 M-41 lt tks; 440 Type 60 APC; 30 M-52 105mm and 10 M-44 155mm SP how; 203mm how; Type 30 SSM; Type 60 twin 106mm SP recoilless rifles; Type 64 ATGW; 120 L-19, LM1, LR1, T-34 lt ac; 230 UH-1B, KV 107, H-19, KH OH-6J, Hughes TA-55J, and H-13KH hel.
Reserves: 39,000.
Navy: 41,400.
13 submarines.
1 SAM destroyer with Tartar.
28 destroyers.
14 destroyer escorts/frigates.
20 submarine chasers.
3 minelayers.
42 coastal minesweepers.
5 motor torpedo boats (2 less than 100 tons).
4 tank landing ships.
1 medium landing ship.
6 landing craft.
42 small landing craft (less than 100 tons).
Naval Air: 110 combat aircraft.
7 MR sqns with P2V-7, P2-J, S2F-1, and PS-1.
60 hel incl S-61A, KV 107A, HSS-1N, and HSS-2.
Reserves: 300.
Air Force: 44,600; 386 combat aircraft.
4 FGA sqns with 120 F–86F (F–4EJ being introduced).
10 interceptor sqns with 150 F–104J, 20 F-4EJ, and 80 F-86F.
1 recce sqn with 16 RF-86F (being replaced by RF-4EJ in 1973; 14 are on order).
(18–25 aircraft in a combat squadron.)
2 transport sqns with 20 C-46 and 10 YS-11.
360 T-1, T-33, T-34, and F-104DJ trainers.
5 SAM bns with Nike-J.
A Base Air Defense Ground Environment with 28 control and warning units.

THE KHMER REPUBLIC (CAMBODIA)

Population: 7,500,000.
Military service: voluntary; conscription authorized, but not yet in force.
Total armed forces: 187,200.
Estimated GNP 1971: $1.5 billion.
Defence budget 1973: 17,800 million riels ($98 million).
55.5 riels=$1 1 July 1971.
182 riels=$1 1 July 1973.
Army: 180,000.
9 static and 3 mobile divs (each of 3 bdes of 4 bns).
300 inf and cdo 'battalions' (companies).
1 tank regiment.
1 armoured car battalion.
3 parachute battalions.
12 field artillery batteries.
20 M–24 and 40 AMX–13 lt tks; 20 M–8 and M–20 armd cars; M–3 scout cars; BTR–40, BTR–152 APC; M–109 105mm SP how and Soviet 76mm and 122mm guns; 40mm, 57mm, 85mm, and 100mm AA guns; Cessna O–1 lt ac.
Navy: 3,400 (including marines).
2 coastal escort vessels.
2 support gunboats.
2 motor torpedo boats (less than 100 tons).
6 patrol boats (less than 100 tons).
3 landing craft.
Air Force: 3,800; 40 combat aircraft.
40 T–28 Trojan ground-attack aircraft.
20 C–47 and 1 C–54 transport aircraft.
2 Alouette II and 30 UH–1 helicopters.
Para-Miliary Forces: 150,000.

KOREA—DEMOCRATIC PEOPLE'S REPUBLIC (NORTH)

Population: 15,000,000.
Military service: Army 3 years, Navy and Air Force 4 years.
Total armed forces: 470,000.
Estimated GNP 1972–73: $3.5 billion.
Defence budget 1973: 1,282 million won ($625 million).
2.05 won=$1.
Army: 408,000.
3 armoured divisions.
21 infantry divisions.
4 independent infantry brigades.
7 independent armoured regiments.
20 SAM battalions with SA–2 (50 sites).
380 T–34, 650 TX54/55 med tks; 150 PT–76 lt tks; 200 BA–64, BTR–40, and BTR–152 APC; 200 SU–76 and SU–100 SP guns; 6,000 guns and mor up to 152mm; 24 FROG–5/7 SSM; 2,000 AA guns, incl ZSU–57; SA–2 SAM.
Reserves: 750,000.
Navy: 17,000.
3 submarines (ex-Soviet W-class).
10 Komar- and 8 Osa-class FPB with Styx SSM.
80 torpedo boats (some less than 100 tons).
2 fleet minesweepers.
35 patrol vessels (some ex-Soviet SO class).
60 motor gunboats.
Samlet SSM (6 sites).
Reserves: 15,000.
Air Force: 45,000; 598 combat aircraft.
70 II–28 light bombers.
28 Su-7 fighter-bombers.
300 MiG-15 and MiG-17 fighter-bombers.
130 MiG-21 ad 50 MiG-19 interceptors.
20 11-28 and MiG-17 recce aircraft.
About 60 An-2, 15 Li-2, II-12, and 4 II-14 tpts.
20 Mi-4 helicopters.
70 Yak-11, Yak-18, MiG-15, and II-28 trainers.
Reserves: 40,000.
Para-Military Forces: 50,000 security forces and border guards; a civilian militia with a claimed strength of 1,450,000.

KOREA—REPUBLIC OF KOREA (SOUTH)

Population: 32,665,000.
Military service: Army/Marines, 2¾ years; Navy and Air Forces, 3 years.
Total armed forces: 633,500.
Estimated GNP 1972: $9.3 billion.
Defence budget 1973: 184.8 billion won ($476 million).
400 won=$1 1 July 1972.
388 won=$1 1 July 1973.
Army: 560,000.
29 infantry divisions (10 cadre only).
2 armoured brigades.
80 artillery battalions.
1 SSM battalion with Honest John.
2 SAM bns with HAWK and 1 with Nike-Hercules.
750 M–47, M–48, and M–60 med tks; Stuart and M-24 lt tks; M-10 and M-36 tk destroyers; M–8 armd cars and M–113 APC; 1,000 guns up to 203mm; Honest John SSM; HAWK and Nike SAM.
Reserves: 1,000,000.
Navy: 18,800.
5 destroyers.
3 destroyer escorts.
4 frigates.
15 coastal escorts.
21 patrol boats.
6 coastal minesweepers.
6 escort transports.
20 landing ships.
Reserves: 30,000.
Marines: 29,600.
Reserves: 60,000.
Air Force: 25,000; 195 combat aircraft.
2 fighter-bomber sqns with 18 F–4D.
5 fighter-bomber sqns with 110 F–86F.
3 fighter-bomber sqns with 37 F–5A (about 40 F–5E on order).
1 AWX sqn with 20 F–86D (with Sidewinder AAM).
1 recce sqn with 10 RF–86F.
35 transports including C–46, C–47, and C–54.
Hel incl 6 H–19, 2 Bell 212, 5 UH–1D, and 2 KH–4.
Reserves: 35,000.
Para-Military Forces: A local defence militia, Homeland Reserve Defence Force, 2,000,000.

LAOS

Population: 3,150,000.
Estimated GNP 1972: $211 million.
500 kip=$1 1 July 1972.
600 kip=$1 1 July 1973.

1. Royal Lao Forces
Military service: conscription, term unknown.
Total strength: 74,200.
Defence budget 1973: 10.29 billion kip ($17 million).
Army: 72,000.
24 mobile infantry battalions.
33 garrison infantry battalions.
1 parachute battalion.
1 artillery regt of 4 bns.
M–24 and PT–76 lt tks; M–8 armd cars; M–3 scout cars; BTR–40 and M–113 APC; 85mm guns and 75mm, 105mm, and 155 mm how.
Navy: about 500.
4 river squadrons consisting of:
22 patrol craft; 26 landing craft/transports (all under 100 tons, most not operational).
Air Force: 1,700; about 73 combat aircraft.
63 T–28A/D light attack aircraft.
10 AC–47 gunships.
20 C–47, 1 Aero Commander transports.
About 18 UH–34D and 6 Alouette II/III hel.
Para-Military Forces and Irregulars: 40,000.
2. Pathet Lao Forces
Total strength about 40,000 men (incl dissident neutralists).
PT–76 lt tks; BTR–40 armd cars; 105mm how.
The Pathet Lao are believed to be integrated with about 60,000 regular North Vietnamese combat and logistics troops and have received arms and ammunition of Soviet and Chinese origin. The Pathet Lao and North Vietnamese control all the eastern half of Laos, and most of the north.

MALAYSIA

Population: 11,500,000.
Military service: voluntary.
Total armed forces: 56,000.
Estimated GNP 1972; $US 4.64 billion.
Defense budget 1973: $M 680.1 million ($US 287 million).
$M 2.78=$US 1 1 July 1972.
$M 2.37=$US 1 1 July 1973.
Army: 46,500.
8 infantry brigades, consisting of:
28 infantry battalions.
3 reconnaissance regiments.
3 artillery regiments.
1 special service unit.
3 signals regiments.
Engineer and administrative units.
Ferret scout cars; 100 Commando APC; 105 mm how; 40mm AA guns.
Reserves: about 50,000.
Navy: 4,800.
1 ASW frigate with Seacat SAM.
1 training frigate.
6 coastal minesweepers.
8 FPB; 4 with SS–11/12 and 4 with Exocet SSM.
24 patrol craft (less than 100 tons).
1 landing ship.
Reserves: 600
Air Force: 4,700; 38 combat aircraft.
2 fighter-bomber sqns with 18 CA–27 Sabre.
2 COIN sqns with 20 CL–41G Tebuan.
4 transport and liaison sqns, incl 12 DHC–4A Caribou, 10 Herald 401, 5 Dove, and 2 Heron.
4 hel sqns with 16 S–61A and 25 Alouette III.
1 training sqn with 16 SA Bulldog.
(16 F–5B and E and 14 DHC–4 on order.)
Para-Military Forces: 54,000; 10 bns field police.

MONGOLIA

Population: 1,300,000.
Military service: 2 years.
Total armed forces: 29,000.
Estimated GNP 1971: $0.84 billion.
Estimated defence expenditure 1971: 170 million tugrik ($42.5 million).
4 tugrik=$1.
Army: 28,000.
2 infantry divisions.
40 T–34 and 100 T–54/55 med tks; 10 SU–100 SP guns; 40 BTR–60 and 50 BTR–152 APC; 100mm and 130mm guns; 152mm gun/how; Snapper ATGW; 37mm and 57mm AA guns.
Reserves: 30,000.
Air Force: 1,000 men; 10 combat aircraft.
1 FGA sqn with 10 MiG–15.
30 An-2, Il–14, and An-24 transports.
Yak-11 and Yak-18 trainers.
10 Mi-1 and Mi-4 helicopters.
1 SAM battalion with SA–2.
Para-Military Forces: about 18,000 frontier guards and security police.

NEW ZEALAND

Population: 2,961,869.
Military service: voluntary, supplemented by Territorial service of 12 weeks for the Army.
Total armed forces: 12,789.
Estimated GNP 1972: $US 8.50 billion.
Defense budget 1973–74: $NZ 132 million ($SUS 175 million).
$NZ 0.84=$US 1 1 July 1972.
$NZ 0.754=$US 1 1 July 1973.
Army: 5,498.
1 infantry battalion.
1 artillery battery.
Regular troops also form the nucleus of a combat brigade group, a logistic group, and a reserve brigade group. These units would be completed by the mobilization of Territorials.
10 M–41 lt tks; 9 Ferret scout cars; 59 M–113 APC; 16 25-pdr guns; 10 5.5-inch med guns; 28 105mm how.
Deployment: Singapore: 1 inf bn (less 1 coy).
Reserves: 6,708 Regular, 3,155 Territorial.
Navy: 2.792.
4 frigates with Seacat SAM (2 with Wasp hel).
8 escort minesweepers.
1 survey ship.
1 research ship.
10 patrol craft (less than 100 tons).
Reserves: 2,191 Regular, 209 Territorial.
Air Force: 4,319; 29 combat aircraft.
1 FB sqn with 10 A–4K and 4 TA–4K Skyhawk.
1 FB sqn with 10 BAC 167.
1 MR sqn with 5 P–3B.
4 med tpt sqns with 5 C–130H, 9 Bristol Freighter, 6 Dakota, and Devon.
13 UH–1D H Iroquois and 11 OH–13H Sioux hel.
Deployment: Singapore: 1 transport squadron (Bristol Freighter tpts and Iroquois hel).

PAKISTAN

Population: 64,800,000.
Military service: 2 years selective.
Total armed forces: 402,000, including some 75,000 military POW (army 55,000).
Estimated GNP 1972: $4.7 million.
Defence budget 1973–74: 4,230 million rupees ($433 million).
11 rupees=$1 1 July 1972.
9.77 rupees=$1 1 July 1973.
Army: 300,000 (including 25,000 Azad Kashmir troops).
2 armoured divisions.
12 infantry divisions.
1 independent armoured brigade.
1 air defence brigade.
3 sqns army aviation.
300 M–47/48; 50 T–55 and 500 T–59 med tks; 140 M–24, 50 M–41, and 20 PT–76 lt tks; 250 M–113 APC; about 900 guns incl 25-pounder, 105mm and 155mm how and 130mm guns; Cobra ATGW; Cessna O–13 it ac; 12 Mi–8, 15 Sioux, and 8 Alouette III hel.
Reserves: 500,000.
Navy: 10,000.
3 submarines.
1 light cruiser/training ship.
4 destroyers.
2 fast frigates.
7 coastal minesweepers.
7 patrol boats.
2 UH-19 SAR hel (6 Sea King on order).
Reserves: 5,000.
Air Force: 17,000; 248 combat aircraft.
2 light bomber squadrons with 10 B–57B.
2 fighter-bomber squadrons with 20 Mirage IIIEP.
6 fighter-bomber/interceptor sqns with 90 F–86.
7 FGA sqns with 112 MiG–19/F–6.
1 interceptor squadron with 6 F–104A/B.
1 recce squadron with 4 RT–33A, 2 RB–57, and 4 F–104B.
Transports include 4 C–130B, 1 C–46, and 1 F–2".
10 Huskie, Alouette III, and UH–19 hel.
Reserves: 8,000.

PHILIPPINES

Population: 40,200,000.
Military service: selective.
Total armed forces: 42,700.
Estimated GNP 1972: $8.2 billion.
Defence budget 1972–73; 648 million pesos ($95 million).
6.8 pesos=$1 1 July 1972.
6.79 pesos=$1 1 July 1973.
Army: 19,300.
2 light infantry divisions (under strength).
5 independent infantry brigades (under strength).
1 artillery group.
13 engineer construction battalions.
1 HAWK battalion.
M–4 med tks; M–24 and M–41 lt tks; M–113 APC; 105mm and 15mm guns; HAWK SAM.
Navy: 12,200 (incl marines and naval engineers).
1 destroyer escort.
11 patrol vessels.
9 patrol gunboats.
4 hydrofoil patrol vessels.
18 patrol boats (less than 100 tons).
2 coastal minesweepers.
9 landing ships.
1 marine brigade.
2 engineer construction battalions.
Air Force: 11,200; 62 combat aircraft.
1 FGA sqn with 16 F–5A/B.
1 fighter sqn with 24 F–86F..
2 COIN sqns with 12 T–28 and 10 T–33.
2 transport sqns with 27 C–47, 8 F–27, and 4 YS–11.
12 UH–1D, 2 MS–62A, and 2 H–34 hel.
(31 SF–260 MX trainers on order.)
Reserves: 218,500.
Para-Military Forces: 27,180 Philippine Constabulary, organized in 7 bns and 1 bn combat group, deployed to 68 provincial centres; 20,000 in armed civilian self-defence units; 37,000 security forces.

SINGAPORE

Population: 2,200,000.
Military service: 24–36 months.
Total armed forces: 20,600.
Estimated GNP 1972: $US 2.64 billion.
Defence budget 1972–73: $S693 million ($US 249.3 million).
$S 2.78=$1 1 July 1972.
$S 2.36=$1 1 July 1973.
Army: 19,000.
1 armoured brigade (3 armoured regiments).
3 infantry bdes, incl 7 infantry, 3 artillery, 3 engineer, and 1 signals bns.
75 AMX–13 tks; V–200 Commando APC 25-pdr guns; 32 106mm recoilless rifles, 120mm mor.
Reserves: 30,000.
Navy: 1,000.
6 fast patrol boats.
1 seaward defence boat.
1 landing ship.
2 landing craft.
(Gabriel SSM on order.)
Air Force: 600; 48 combat aircraft.
1 FGA/recce squadron with 16 Hunter (a further 12 and 40 A–4 Skyhawk on order).
1 COIN sqn with 16 BAC–167 and 16 SF–260.
1 tpt/liaison sqn with 8 Cessna–170 and 2 Airtourer (6 Skyvan, incl 3 SAR, on order).
1 helicopter SAR sqn with 8 Alouette III.

Trainers include Hunter T–7, Provost, 6 WA–7, 4 Airtourer, and 16 SF–260MS.

28 Bloodhound SAM launchers (Rapier on order).

Para-Military Forces: 2 police companies; 9,000 People's Defence Force.

SRI LANKA (CEYLON)

Population: 13,300,000.
Military service: voluntary.
Total armed forces: 12,500.
Estimated GNP 1972: $2.07 billion.
Defence budget 1970–71: 170 million rupees ($29 million).
5.9 rupees=$1 1 July 1970.
6.4 rupees=$1 1 July 1972.
Army: 8,500.
2 brigades, each of 3 battalions.
6 Saladin armed cars; 12 Ferret scout cars.
Reserves: 12,000.
Navy: 2,300.
1 frigate.
29 small patrol craft.
1 hydrofoil.
Air Force: 1,700; 5 combat aircraft.
1 fighter sqn with 5 MiG–17.
1 trg sqn with 1 MiG–15 and 6 Jet Provost.
4 hel sqns with 7 Bell 206, 6 Bell 47G, and 2 KA–26.
Para-Military Forces: 16,000.

THAILAND

Population: 36,714,000.
Military service: 2 years.
Total armed forces: 180,000.
Estimated GNP 1972: $7.3 billion.
Defence budget 1972–73: 6,158.4 million baht ($293 million).
21.1 baht=$1 1 July 1972.
20.48 baht=$1 1 July 1973.
Army: 125,000.
4 infantry divisions (including 4 tank battalions).
1 regimental combat team.
1 SAM battalion with 40 HAWK.
M–24 and M–41 lt tks; M–8 armd cars; M–3A1 scout cars; M–2, M–16, and about 200 M–113 APC; 200 105mm and 155mm how; HAWK SAM; 16 FH–1100, 3 Jet-Ranger, 14 UH–1H, 2 CH–47, and 6 OH–23F hel.
Reserves: 300,000.
Navy: 20,000 (including 6,500 marines).

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4 coastal minesweepers.
2 coastal minelayers.
11 gunboats (1 less than 100 tons).
15 patrol boats.
8 landing ships.
8 landing craft.
1 MR sqn with 2 HU–16B and 5 S–2.
Air Force: 35,000; 160 combat aircraft.
1 fighter-bomber sqn with 11 F–5A and F–5B.
1 fighter sqn with 20 F–86F.
2 RT–33A reconnaissance aircraft.
6 COIN sqns with 55 T–28D, 40 T–6, and 32 OV–10.
2 tpt sqns with 25 C–47 and 13 C–123B.
2 hel sqns with 35 CH–34 and 23 UH–1H.
4 battalions of airfield defence troops.
(30 A–4, 44 COIN ac, and 25 hel on order.)
Para-Military Forces: 10,000 Volunteer Defence Corps; 8,000 Border Police; Village Militia. The Border Police control 45 hel, incl 11 Bell 205, 10 204B, and 13 FH–1100.

VIETNAM—DEMOCRATIC REPUBLIC (NORTH)

Population: 22,000,000.
Military service: 2 years minimum.
Total armed forces: 578,000.
Estimated defense expenditure 1970: 2,150 million dong ($584 million).
3.68 dong=$1 1 July 1970.
3.6 dong=$1 1 July 1972.
Army: 564,750.
15 infantry divisions plus an additional 2 training divisions. (Infantry divisions normally total about 12,000 men, including 3 infantry regiments and 1 support regiment.)
1 artillery division (of 10 regiments).
3 armoured regiments.
About 20 independent infantry regiments.
46 SAM battalions (each with 6 SA-2 launchers).
12 AA artillery regiments.
T–34 and T–54 med tks; PT–76 Type 60 lt tks; BTR–40 APC; SU–73 and JSU–122 SP guns; 75mm, 105mm, 122mm, 175 130mm and 152 mm guns; 57 mm, 75mm, 82mm, and 107mm recoilless rifles; 82mm, 100mm, 107mm, 120mm, and 160mm mortars; 107mm, 122mm, and 140mm RL; Sagger ATGW; 6,000 12.7mm, 14.5mm, 37mm, 57mm, KS-12 85mm, and KS-19 100mm AA guns and ZSU–57–2 SP AA guns; SA–2, SA–3, and SA–7 Strela SAM, Firecan AA radar.
Deployment: About 145,000 in South Vietnam, 60,000 in Laos and 40,000 in Cambodia.
Navy: 3,250.
3 coastal escorts (ex-Soviet SOI type).
28 ex-Chinese motor gunboats (less than 100 tons).
13 motor torpedo boats (1 Chinese P-6, 12 Soviet P-4).
About 12 small patrol boats (less than 100 tons).
Some landing craft.
10 Mi-4 SAR helicopters.
Air Force: 10,000; 178 combat aircraft.
1 light bomber sqn with 8 Il-28.
4 interceptor sqns with 40 MiG–21F/PF with Atoll AAM.
2 interceptor sqns with 30 MiG-19 (ex-Chinese).
7 fighter-bomber sqns with 100 MiG-15/17.
20 An-2, 4 An-24, 12 Il-14, and 20 Li-2 transports.
12 Mi-4 and 5 Mi-6 helicopters.
About 50 training aircraft.
Para-Military Forces: 20,000 Frontier, Coast Security, and People's Armed Security Forces; about 425,000 Regional Armed Militia.

VIETNAM—REPUBLIC OF VIETNAM (SOUTH)

Population: 20,000,000.
Military service: 2 years minimum.
Total armed forces: 572,000.
Estimated GNP 1972: $2.5 billion.
Defence budget 1973: 189.4 billion piastres ($379 million).
420 piastres=$1 1 July 1972.
500 piastres=$1 1 July 1973.
Army: 460,000.
11 infantry divisions.
1 airborne division (3 brigades).
7 independent armoured cavalry regiments.
3 independent infantry regiments.
27 ranger battalions.
1 special forces group.
35 artillery battalions.
450 M–47 and M–48 med tks; M–24, M–41, and AMX–13 lt tks; Commando and Greyhound armd cars; M3 scout cars; M–59 and M–113 APC; 1,500 105mm and 155mm guns; 155mm SP guns; 175mm how; AA guns; TOW ATGW.
Navy: 45,000.
9 frigates (2 radar picket).
9 patrol vessels.
46 patrol gunboats.
2 coastal minesweepers.
21 landing ships.
19 landing craft, utility.
800 riverine craft; inshore patrol, patrol boats, assault support patrol boats, monitors (105mm how), armoured troop carriers, command and control boats, minesweepers, and support ships.
About 250 diesel junks.
Marines: 17,000.
1 division.
Air Force: 50,000; 309 combat aircraft.
1 FGA sqn with 18 F–5A (plus 90 in storage).
7 FB sqns with 168 A–37B (plus 60 in storage).
3 FB skns with 60 A–1H/J.
1 recce sqn with 10 RC–47 and 7 RF–5A.
1 gunship sqn with 16 AC–47.
2 gunship sqns with 30 AC–119G.
8 tpt sqns with 40 C–47, 43 C–119, 56 C–123, and 32 C–130E.
9 lt tpt sqns with 53 C–7, 10 U–6A, and 80 U–17A/B.
8 lt observation sqns with 248– O–1.
18 hel sqns with 625 Bell UH–1 and 60 CH–47.
250 miscellaneous training aircraft.
Para-Military Forces:
Regional Forces—285,000, forming about 1,700 rifle companies, at the disposal of the provincial governors.
Popular Forces—250,000, a home guard of about 7,500 platoons, with light arms.
People's Self Defense Force—1,400,000; part-time village militia.
Police Field Force—35,000, including special internal security units with armoured vehicles and helicopters.

LATIN AMERICA

CONTINENTAL TREATIES AND AGREEMENTS

In March and April 1945, the Act of Chapultepec was signed by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, the United States, Uruguay, and Venezuela. This Act declared that any attack upon a member-party would be considered an attack upon all, and provided for the collective use of armed force to prevent or repel such aggression.

In September 1947 all the parties to the Chapultepec Act—except Ecuador and Nicaragua—signed the Inter-American Treaty of Reciprocal Assistance, otherwise known as the Treaty of Rio (Cuba withdrew from the Treaty in March 1960). This Treaty constrained signatories to the peaceful settlement of disputes between themselves, and provided for collective self-defence should any member-party be subject to external attack.

The Charter of the Organization of American States (OAS), drawn up in 1948, embraced declarations based upon the Treaty of Rio. The member-parties—the signatories to the Act of Chapultepec plus Barbados, El Salvador, Jamaica, and Trinidad and Tobago—are bound to peaceful settlement of internal disputes, and to collective action in the event of external attack upon one or more signatory states. (Legally, Cuba is a member of the OAS, but has been excluded—by a decision of OAS Foreign Ministers—since January 1962. Barbados and Trinidad and Tobago signed the Charter in 1967.)

The United States is also a party to two multilateral defence treaties: the Act of Havana, 1940, signed by representatives of all the then 21 American Republics, which provides for the collective trusteeship, by American nations, of European colonies and possessions in the Americas, should any attempt be made to transfer the sovereignty of these colonies from one non-American power to another; and the Havana Convention, which corresponds with the Act of Havana, signed in 1940 by the same states, with the exception of Bolivia, Chile, Cuba, and Uruguay.

A Treaty for the Prohibition of Nuclear Weapons in Latin America (The Tlatelolco Treaty) was signed in February 1967 by 22 Latin American countries; 20 countries have now ratified or acceded to it. An Agency has been set up by the contracting parties to ensure compliance with the treaty.

OTHER AGREEMENTS

In July 1965, El Salvador, Guatemala, Honduras, and Nicaragua agreed to form a military bloc for the co-ordination of all resistance against possible Communist aggression.

The United States has bilateral military assistance agreements with Argentina, Bolivia, Brazil, Chile, Colombia, the Dominican Republic, El Salvador, Guatemala, Honduras,

Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. She also has a bilateral agreement with Cuba, for jurisdiction and control over Guantanamo Bay. (This agreement was confirmed in 1934. In 1960 the United States stated that it could be modified or abrogated only by agreement between the parties, and that she had no intention of agreeing to modification or abrogation.)

The Soviet Union has no defence agreements with any of the states in this area, although in recent years she has supplied military equipment to Cuba.

Britain assures the defence of Belize, France, of French Guiana, and the Netherlands of Surinam (Dutch Guiana).

ARGENTINA

Population: 24,300,000.
Military service: Army and Air Force, 1 year; Navy, 14 months.
Total armed forces: 135,000.
Estimated GNP 1971: $46.8 billion.
Defence budget 1973: 4.434 billion pesos ($889 million).
5 pesos=$1 1 July 1972.
4.99 pesos=$1 1 July 1973.
Army: 85,000.
2 armoured brigades.
1 horsed cavalry brigade.
2 mechanized infantry brigades.
1 infantry brigade.
3 mountain brigades.
1 airborne brigade.
10 artillery regiments.
5 anti-aircraft artillery regiments.
120 M–4 Sherman medium tks; 120 AMX–13 lt tks; 250 M–113 APC; 105mm and 155mm guns; 105mm pack how and 24 French Mk F3 and 155mm SP how; recoilless rifles; Cobra ATGW; Tigercat SAM; 3 DHC–6 Twin Otter; 7 Bell UH–7H and 7FH–1100 hel.
Reserves: 250,000; 200,000 National Guard and 50,000 Territorial Guard.
Navy: 33,000 (including the Naval Air Force and Marines).
1 aircraft carrier.
4 submarines (2 more under construction).
3 cruisers.
10 destroyers (2 more under construction).
2 patrol vessels.
6 coastal minesweepers/minehunters.
2 torpedo boats.
2 fast patrol boats.
1 landing ship.
4 LST.
Naval Air Force: 3,000; 35 combat, aircraft.
15 A–4Q *Skyhawk* fighter-bombers.
7 MB–326GB armed trainers.
7 S–2A *Tracker*, 6 P–2V5 *Neptune* MR aircraft.
3 HU–16B *Albatross* SAR aircraft.
6 *Alouette III* and 4 *Sea King* ASW/SAR hel.
7 C–47 and C–54 transport aircraft.
32 T–28 *Fennec* trainers.
Some Beech B–80 (*Queen Air*), C–45; HS–125, PC–6, and DHC–6 general purpose aircraft.
(2 Westland *Sea Lynx* on order.)
Marines: 4,800.
4 marine battalions.
1 field artillery battalion (105mm how).
1 AA battalion.
20 LUT P–7 and 15 LARC 5 APC; 105mm, 155mm how; recoilless rifles; *Bantam* ATGW; *Tigercat* SAM; 30mm AA guns.
Air Force 17,000; 91 combat aircraft.
10 B–62 and 2 T.Mk 64 *Canberra* bombers.
47 A–4P *Skyhawk* fighter-bombers.
42 *Mirage IIIE* and *IIIB* fighters.
20 F–86F Sabre fighters.
10 MS–760 and 60 T–34 trainers.
C–130E, 5 DHC–6 *Twin Otter*, 11 F–27 Mk 400/600, 10 C–47, 6 C–45, and 4 DC–6 med tpts; 20 *Dove*, 16 Dinfia *Guarani II*, 15 *Aero Commander*, *Beaver*, and *Huanquero* lt typts.
14 Hughes 500M; 6 mell UH–1H; 4 UH–1D; 6 UH–19 and 4 Bell 47 hel.
(50 1A–58 *Purcará* COIN ac on order.)
Para-Military Forces: 19,000. Gendarmerie: 11,000 men, 10 hel. under Army command, mainly for frontier duties; the National Maritime Prefecture: 8,000, 1 frigate, 8 hel. 5 *Skyvan*, subordinate to the Navy, performs coastguard duties.

BOLIVIA

Population: 5,340,000.
Military service: 12 months' selective.
Total armed forces: 21,800.
Estimated GNP 1972: $1.32 billion.
Defense expenditure 1972: 307 million pesos ($25.8 million).
11.88 pesos=$1 1 July 1972.
Army: 20,000.
12 infantry regiments.
2 motorized regiments.
3 ranger battalions.
1 paratroop regiment.
3 artillery regiments.
5 engineer battalions.
VM–706 and M–113 APC; light mor and arty.
Navy: Some lake patrol craft.
Air Force: 1,800: 29 combat aircraft.
1 fighter sqn with 10 F–51D *Mustang*.
1 COIN sqn with 13 AT–6D and 6 T–28A armed trainers.
20 tpts, incl C–47, 1 C–54, and 6 CV–440.
6 Cessna 172, 7 PT–19, 8 Fokker T–21, and 7 Cessna 185 communication aircraft.
13 T–33A trainers.
12 Hughes 500M and Hiller OH–23C/D helicopters.
Para-Military Forces: About 5,000 armed police and frontier guards.

BRAZIL

Population: 100,760,000.
Military service: 1 year.
Total armed forces: 208,000.
Estimated GNP 1972: $50.4 billion.
Defence budget 1972: 6.517 billion cruzeiros ($1,105 million).
5.9 cruzeiros=$1 1 July 1972.
6.05 cruzeiros=$1 1 July 1973.
Army: 130,000.
1 armoured division.
4 mechanized divisions.
7 infantry divisions.
(Some of these divisions are being reorganized into "independence" brigades.)
1 airborne division.
150 M–4 Sherman and 40 M–47 Patton med tks; M–3 Stuart and 100 M–41 Walker Bulldog lt tks; 120 Veteli Al Cutia APC/armd car; 40 M–113 and M–59 APC; M–7 105mm SP how; HAWK SAM (4 Roland SAM on order).
Navy: 43,000 (including Naval Air Force, Marines, and Auxiliary Corps).
4 submarines (3 more on order).
1 ASW aircraft carrier.
2 cruisers.
12 destroyers (1 with Seacat SAM).
5 destroyer escorts.
10 corvettes (rescue ships).
4 coastal minesweepers.
6 coastal patrol gunboats.
2 river patrol boats (3 more on order).
2 LST.
(6 frigates on order; 2 with twin Exocet SSM, 4 with Ikara ASW).
Naval Air Force:
3 SH–3D, 4 SH–1–5–58 (Sikorsky S–58), 3 UH–2 (Westland Wasp), 4 UH–4 (Hiller FH–1100), UH–5 (Westland Whirlwind), 10 IH–2A (Hughes 200), and 1 IH–2B (Hughes 300).
Air Force: 35,000; 216 combat aircraft.
1 lt bomber sqn with 15 B–26K Invader.
1 interceptor sqn with 16 Mirage IIIEBR.
6 COIN sqns with 90 AT–6G, 460 AT–37C (112 AF–26 Xavante on order) (operate with Army).
13 Tracker, 12 Neptune, 13 Albatross, 8 PBY–5 Catalina, and 9 RC–130E Hercules MR aircraft.
40 L–42 Regente, O–1 Bird Dog, and L–6 Paulistinha observation/liaison aircraft (with Army).
About 180 transports, incl 56 C–47, DC–6B, 4 C–118, 12 C–119F, 10 C–130E, 5 HS–125, 6 HS–748, 2 BAC–111, 24 DHC–5, and 5 Pilatus Porter. (C–45 and C–47 being replaced by 80 C–95 Bandeirante; 12 Fokker F27/F28 on order.)
70 T–23 Uirapuru, 150 T–25 Universal, 63 Cessna T–37C, 7 Magister, and Fokker S–11/12 trainers.
43 H–13J, 16 UH–1D, and 6 OH–4A/5A hel.
(48 F–5E, 30 Gazelle, and 22 UH–1H on order.)
Para-Military Forces: Various public security forces total about 150,000. There are State militias in addition.

CHILE

Population: 9,200,000.
Military service: 1 year.
Total armed forces: 60,000.
Estimated GNP 1972: $7.07 billion.
Defence budget 1973: 8,000 million escudos ($174 million).
28 escudos= $1 1 July 1972.
46 escudos=$1 1 July 1973.
Army: 32,000.
5 divisions incl:
6 cavalry regiments (2 armoured, 4 horsed).
16 infantry regiments (incl 10 motorized).
5 artillery regiments.
Some anti-aircraft and support detachments.
76 M–4 Sherman med tks: 10 M–3 Stuart lt tks; some APC; Model 56 105mm pack how; AA arty.
Reserves: 200,000.
Navy: 18,000.
2 submarines.
3 cruisers.
4 destroyers.
3 destroyer escorts.
4 motor torpedo boats.
1 patrol vessel.
5 landing ships.
(2 Oberon-class submarines and 2 Leander-class frigates with Seacat SAM are on order.)
1 HU–16C Albatross.
5 C–45 and 5 C–47 tpts; 4 JetRanger helicopters.
Air Force: 10,000; 41 combat aircraft.
1 lt bomber sqn with 12 B–26 Invader.
2 fighter sqns with 18 Hunter F–71 and 11 F–80C.
About 90 transports, including 20 C–45, 8 DHC–6 Twin Otter, 9 Beechcraft 99A, 25 C–47, 4 C–118, 4 DC–6, and 2 C–130E Hercules.
5 Twin Bonanza, 10 Cessna 180, 4 Cessna O–1, and 20 T–6 liaison aircraft.
45 T–34, 10 T–37B, 8 T–33A, and 5 Vampire trainers.
30 helicopters, including 7 Bell OH–13H, 2 Sikorsky UH–19, 16 Hiller OH–23G, and 2 Bell UH–1D.
Para-Military Forces: Carabineros 30,000.

COLOMBIA

Population: 23,200,000.
Military service: 1 year.
Total armed forces: 63,200.
Estimated GNP 1972: $7.59 billion.
Estimated defence expenditure 1973: 2,035 million pesos ($92 million). 22 pesos=$1 1 July 1972. 22 pesos=$1 1 July 1973.
Army: 50,000 (300,000 on full mobilization).
8 infantry brigades.
1 Presidential Guard anti-guerilla battalion.
Motorized infantry, artillery, and engineer units.
M–3A1 Stuart light tanks; M–8 armoured cars; 105mm how; mortars.
Reserves: 250,000.
Navy: 7,200.
2 submarines.
5 destroyers.
4 destroyer/transports.
8 coastal patrol vessels.
5 river gunboats.
14 patrol motor launches (less than 100 tons).
Air Force: 6,000; 18 combat aircraft.
14 Mirage V and 4 Mirage IIIR/D. (F–5 on order.)

About 50 transport aircraft incl 2 C–130 C–47, C–54, DHC–2 Beaver, DHC–3 Otter, Aero Commander, 1 Fokker F–28, and 4 HS–748.

About 50 trainers incl 10 A–37, 30 T–41D, some AT–33, and Beech T–34.

16 Bell 47, 12 Hughes OH–6A, 6 Kaman Huskie, 6 TH–55, 1 Bell UH–1B, and 4 Hiller H–23.

Para-Military Forces: 35,000 National Police Force.

CUBA

Population: 8,850,000.
Military service: 3 years.
Total armed forces: 108,500.
Estimated GNP 1970: $4.5 billion.
Estimated defence expenditure 1971: 290 million peso ($290 million). 1 peso=$1 1 July 1970. 1 peso=$1 1 July 1971.
Army: 90,000.
15 infantry 'divisions' (brigades).
2 armoured brigades.
8 independent 'brigades' (battalion groups).
Over 600 tks including hy tks, T–34 and T–54/55 med tks and PT–76 lt tks; 200 BTR–40, BTR–60, and BTR–152 APC; 100 SU–100 assault guns; 122mm and 152mm guns; 30 FROG–4 and 20 Salish SSM; 57 mm, 76mm, and 85 mm ATk guns; Snapper ATGW.
Reserves: 90,000.
Navy: 6,500.
2 frigates (ex-US).
2 escort patrol vessels (ex-US).
18 submarine chasers (ex-Soviet SOI, Kronstadt).
2 Osa- and 18 Komar-class FPB with Styx SSM.
24 MTB (ex-Soviet P–4 and P–6).
18 Mi–4 hel.
50 Samlet coastal defense SSM.
Air Force: 12,000 (including the Air Defence Forces); 215 combat aircraft.
1 fighter-bomber sqn with 20 MiG–15.
5 interceptor sqns with 80 MiG–21.
2 interceptor sqns with 40 MiG–19.
4 interceptor sqns with 75 MiG–17.
About 70 Il–15, An–24, and An–2 tpt ac.
Trainers include 30 MiG 15 UTI and Zlin–326.
About 24 Mi–4 and 30 Mi–1 helicopters.
24 SAM bns with 144 SA–2.
Para-Military Forces: 10,000 State Security troops; 3,000 border guards; 200,000 People's Militia.

DOMINICAN REPUBLIC

Population: 4,400,000.
Military service: selective.
Total armed forces: 15,800.
Estimated GNP 1972: $1.85 billion.
Estimated defence expenditure 1972: 33 million pesos ($33 million).
1 peso=$1 1 July 1972.
1 peso=$1 1 July 1973.
Army: 9,000.
3 infantry brigades.
1 artillery regiment.
1 anti-aircraft regiment.
Reconnaissance, engineer, and signals units.
30 AMX–13 lt tks; some APCs, armd cars, and light artillery.
Navy: 3,800.
3 frigates.
2 corvettes.
2 fleet minesweepers.
3 patrol vessels.
1 landing ship.
2 landing craft.
Air Force: 3,000; 35 combat aircraft.
3 B–26 Invader light bombers.
1 fighter-bomber sqn with 10 Vampire Mark 1.
1 fighter-bomber sqn with 20 F–51D Mustang.
2 PBY–5A Catalina maritime patrol aircraft.
1 tpk sqn with 6 C–46, 6 C–47, 3 DHC–2 Beaver, and 3 Cessna 170.
30 trainers, including T–6 Texan, T–11 Kansan, BT–13 Valiant, and PT–17 Kaydet.
2 Bell OH–13, 2 Sikorsky H–19, 2 Hiller UH–12, 7 Hughes OH–6A, and 3 Alouette II/III hel.
Para-Military Forces: 10,000 Gendarmerie.

ECUADOR

Population: 6,600,000.
Military service: selective for 2 years.
Total armed forces: 22,200.
Estimated GNP 1972: $1.83 billion.
Estimated defence budget 1973: 1,221 million sucres ($49 million).
25 sucres—$1 1 July 1972.
24.71 sucres—$1 1 July 1973.
Army: 15,000.
11 infantry battalions.
1 parachute battalion.
3 reconnaissance squadrons.
4 horsed cavalry squadrons.
10 independent inf coys.
3 artillery groups.
1 anti-aircraft battalion.
2 engineer battalions.
15 M–3 Stuart and M–41 Bulldog and 41 AMX–13 lt tks; Panhard AML–245 armd cars; some APC incl amphibians.
1 Skyvan, 1 Cessna T–41, and 3 Piper Cub.
Navy: 3,700.
3 destroyer escorts.
2 coastal escorts.
2 motor gunboats.
3 motor torpedo boats.
6 patrol craft.
2 landing ships.
Air Force: 3,500 combat aircraft.
5 Canberra bombers.
8 Meteor FR–9 interceptors.
2 PBY–5 Catalina maritime patrol aircraft.
1 tpt skn with 6 C–45, 8 C–47, 4 DC–6B, 1 Skyvan 3M, and 3 HS–748.
25 trainers including T–28, T–33, and 12 T–41.
3 Bell 47G and 1 FH–1100 hel.
(8 BAC–167 fighters and 6 Aloutte III hel on order.)
Para-Military Forces: 5,800.

MEXICO

Population: 53,450,000.
Military service: voluntary, with part-time conscript militia.
Total armed forces: 71,000 regulars; 250,000 conscripts.
Estimated GNP 1972: $39.45 billion.
Defence budget 1973: 4,409 million pesos ($352 million).
12.5 pesos—$1 1 July 1972.
12.52 pesos—$1 1 July 1973.
Army: 54,000, plus 250,000 part-time conscripts.
1 mechanized brigade group (Presidential Guard).
1 infantry brigade group.
1 parachute brigade.
Zonal Garrisons including:
21 independent cavalry regiments.
50 independent infantry battalions.
2 artillery battalions.
Anti-aircraft, engineer, and support units.
M–3 Stuart lt tks; APCs; 100 armd cars; 75 mm and 105mm how.
Navy: 11,000 (including Naval Air Force and Marines).
2 destroyers.
8 frigates.
2 gunboats.
15 escort and fleet minesweepers.
10 patrol boats.
1 troop transport.
Naval Air Force: 336; 5 combat aircraft.
5 PBY–5 Catalina MR; 4 Bell 47G, 1 Bell 47J, and 4 Alouette III hel.
Marines: 1,900 men; organized in 16 companies.
Air Force: 6,000; 27 combat aircraft.
1 fighter-bomber sqn with 12 Vampire.
1 COIN sqn with 15 T–33A.
1 SAR skn with 18 LASA–60 lt ac.
130 trainers, including 4 T–6 Texan, 13 AT–11 Kansan, 32 T–28 Trogan, and 10 T–34 Mentor. (The T–6, AT–11, T–28, and T–34 aircraft can be used for ground support.)
About 50 transports, including 6 C–47, 5 C–54, 20 C–45, 2 C–118 Islander, and 1 Jetstar.
About 30 helicopters; 14 Bell 47, 1 Bell 212, 3 Puma, 5 JetRanger, 6 Alouette III, and 1 Hiller UH–12E. 1 parachute battalion.

PARAGUAY

Population: 2,520,000.
Military service: 2 years.
Total armed forces: 14,900.
Estimated GNP 1972: $708 million.
Defence budget 1973: 2,335.9 billion guaranies ($19 million).
130 guaranies=$1 1 July 1972.
125 guaranies=$1 1 July 1973.
Army: 11,000.
1 cavalry brigade.
6 infantry regiments.
5 motorized engineer battalions.
3 artillery batteries.
9 M–4 Sherman med tks; APCs; 75mm and 105 mm how.
Navy: 1,900 (including marines).
1 support ship (LSM) with 2 UH–13 hel.
2 river gunboats.
3 patrol boats.
2 patrol launches.
3 river patrol boats.
Air Force: 2,000; 6 combat aircraft.
About 20 trainers incl 6 T–6 Texan (some fitted for bombs), PT–17 Kaydet, and MS–760.
1 C–47, C–54, and 1 DHC–6 Twin Otter tpts.
20 helicopters, including 4 Bell 47C, 3 Hiller UH–12E, and 12 Bell UH–13.
Para-Military Forces: 8,500 security forces.

PERU

Population: 14,900,000.
Military service: 2 years.
Total armed forces: 54,000.
Estimated GNP 1972: $7.11 billion.
Defence budget 1973: 10,193 million soles ($240 million). (Peru now uses a biennial defence budget system. This estimate represents the 1973 portion of a total 20,125 million soles budget for 1 Jan. 1972–31 Dec. 1974.)
45. soles=$1 1 July 1972.
42.44 soles=$1, 1 July 1973.
Army: 39,000.
1 armoured brigade.
7 infantry brigades.
1 commando brigade.
Mountain, parachute, artillery, and engineer battalions.
60 M–4 Sherman med tks; 100 AMX–13 lt tks; 50 M–3A1 White scout cars; some 105mm and 155mm guns. 8 Bell 47G hel.
Navy: 8,000.
4 submarines.
3 light cruisers (1 more being delivered).
4 destroyers.
3 destroyer escorts.
2 submarine chasers.
6 fast patrol craft.
2 coastal minesweepers.
3 patrol boats.
4 landing ships.
2 Bell 47G and 2 Alouette III helicopters.
Air Force: 7,000; 85 combat aircraft.
15 Canberra light bombers.
14 Mirage V fighters (more on order).
10 F–86F and 6 Hunter F–52 fighters.
20 T–33A armed trainers.
(The above aircraft form three combat groups of two or three squadrons each.)
1 photo-recce squadron with 10 C–60.
1 maritime recce squadron with 6 PV–2 Harpoon.
4 HU–16A Albatross maritime patrol aircraft.
Tpt and comms aircraft, incl 9 C–130, 4 C–54, 6 DC–6, 19 C–47, 12 DHC–6 Twin Otter, 21 Beech Queen Air, and 16 DHC–5 Buffalo.
Trainers incl 2 Hunter T–62, 2 Mirage IIIB, 8 T–33, 26 T–37B, and 19 Cessna T–41A.
Helicopters include 4 Bell 47G, 10 Alouette III, 4 Mi–8, 2 Bell 212, 13 UH–1H, 9 UH–1D, and 2 Hiller UH–12B.
Para-Military Forces: 20,000 Guardia Civil.

URUGUAY

Population: 3,000,000.
Military service: voluntary.

Total armed forces: 21,000.
Estimated GNP 1972: $2.36 billion.
Defence budget 1972: 43,964 million pesos ($77 million).
570 pesos=$1 1 July 1972.
895 pesos=$1 1 July 1973.
Army: 16,000.
2 armoured regiments.
5 infantry regiments (of 3 battalions each).
9 cavalry sqns.
4 artillery groups.
5 engineer battalions.
8 M–24 lt tks; 10 M–3A1 scout cars; 18 M–113A1 APC; 105mm how.
Reserves: 100,000.
Navy: 3,000.
2 destroyer escorts.
1 corvette (training).
1 escort vessel.
2 patrol vessels.
1 coastal minesweeper.
3 S–2A Tracker maritime patrol aircraft.
2 Bell 47G and 4 UH–12 helicopters.
Air Force: 2,000; 10 combat aircraft.
About 30 trainers incl 20 T–6 Texan and 6 T–33A (some of which are armed).
Tpt ac incl 14 C–47, 2 Fokker F–27, 1 DHC–2 Beaver, 2 Beech Queen Air, and 2 F–227.
2 Bell UH–1H and 2 Hiller UH–12 hel.
Para-Military Forces: 22,000.

VENEZUELA

Population: 11,500,000.
Military service: 2 years.
Total armed forces: 37,500.
Estimated GNP 1972: $11.97 billion.
Defence budget 1973: 1,396 million bolivares ($325 million).
4.4 bolivares equal $1 1 July 1972.
4.30 bolivares equal $1 1 July 1973.
Army: 24,000.
1 armoured brigade.
1 cavalry regiment.
1 tank battalion group.
13 infantry battalions.
11 ranger battalions.
6 artillery groups.
5 engineer and anti-aircraft battalions.
16 AMX–30 med tks; AMX–13 lt tks; M–18 tank destroyers and some armd cars (161 AMX–30 and 20 AMX–155 SP guns on order).
Navy: 7,500 (including 4,000 marines).
3 submarines.
4 destroyers.
6 destroyer escorts.
10 submarine chasers.
4 landing ships.
(6 FPB with Otomat SSM are on order.)
Air Force: 6,000; 129 combat aircraft.
30 B–2 Canberra bombers.
15 B–25 Mitchell light bombers.
18 CF–5A fighters.
50 F–86F/K fighters.
16 OV–10A COIN aircraft.
47 tpt ac incl 12 C–47, 18 C–123B, and 4 C–130H.
38 trainers incl 2 Mirage 111D, T–34 Mentor, T–52 Jet Provost, and HS–748.
24 hel include Alouette III and UH–1D.
(F–5 and 16 Mirage III fighters on order.)
Para-Military Forces: The National Guard, a volunteer force with a total strength of 10,000, employed chiefly on internal security duties.

ARMED FORCES OF OTHER LATIN AMERICAN COUNTRIES [1]

Country	Estimated population (thousands)	Estimated GNP (millions)	Total armed forces	Army: Manpower and formations	Army: Equipment	Navy—manpower and equipment	Air Force—manpower and equipment	Paramilitary forces
El Salvador	3,920	$1,113	5,630	4,500—1 cav regt; 5 inf bns; 2 arty bns; 1 AA bn; 1 para coy.		130—2 patrol boats	1,000—4 F–4U fighters; 6 F–51D FGA; 4 C–47 tpts; 30 trainers.	3,000
Guatemala	5,690	2,130	11,200	10,000—6 inf bns; 1 para bn; 1 engr bn; 1 arty bty; 1 armd car coy.	10 M–4 med tks; 10 M–3A1 lt tks; some M–113 APC; M–8 armd cars; 105mm how.	200—1 gunboat; 6 patrol craft	1,000—4 B–26 lt bbrs; 6 F–51D FGA; 8 A–37B COIN; 4 RT–33A; 11 tpts (4 C–47); 10 hel.	3,000
Guyana	780	283	2,200	2,200—2 inf bns	4 APC; mortars	3 patrol launches	2 BN–2A lt tpts; 2 Helio 269 lt ac (under Army).	2,250
Haiti	5,200	[2] 514	6,550	6,000—1 inf bn; several small combat teams.	9 lt tks; some APC; 37 mm, 75 mm and 105 mm guns; 57 mm ATk guns.	300—4 patrol craft; 1 landing craft.	250—3 C–47, 2 C–45 tpts (6 hel on order).	14,900
Honduras	2,890	781	5,735	4,500—3 inf bns; 20 inf coys; 2 arty btys; engr bn.	Some lt tks; 75 mm how	35—3 patrol craft	1,200—6 F–AU fighters; 3 RT–33A; 4 C–47, 1 C–54 tpts; 3 H–19 hel.	2,500
Nicaragua	2,200	955	7,100	5,400—up to 20 inf coys; mot det; 1 AA bty; 1 engr bn.	Some lt tks; APC; armd cars; lt AA guns; 2 Cessna U–17A; lt ac.	200—(coastguard); 4 patrol vessels.	1,500—4 B–26 lt bbrs; 6 T–33A COIN; 16 tpts (3 C–47); 15 trainers (6 T–28–A); 5 hel.	4,000

[1] Costa Rica and Panama maintain paramilitary forces, numbering 5,000 and 11,000 respectively. Neither has regular armed forces.
[2] 1971.

THE MILITARY BALANCE 1973–74—TABLES OF COMPARATIVE STRENGTHS

NUCLEAR DELIVERY VEHICLES: COMPARATIVE STRENGTHS AND CHARACTERISTICS

(A) UNITED STATES AND SOVIET UNION

(i) MISSILES AND ARTILLERY

Category [1]	United States: Type	Maximum range [2] (statute miles)	Estimated warhead yield [3]	First deployed	Number deployed (July 1973)	Soviet Union: Type [4]	Maximum range [2] (statute miles)	Estimated warhead yield [3]	First deployed	Number deployed (July 1973)
Land-based missiles:										
ICBM	LGM–25C Titan 2	7,250	5–10 MT	1962	54	SS–7 Saddler	6,900	5 MT	1961	209
	LGM–30B Minuteman 1	7,500	1 MT	1962	140	SS–8 Sasin	6,900	5 MT	1963	
	LGM–30F Minuteman 2	8,000	1–2 MT	1966	510	SS–9 Scarp	7,500	20–25 MT [5]	1965	[6] 288
	LGM–30G Minuteman 3	8,000	3×200 KT	1970	350	SS–11 [7]	6,500	1–2 MT [8]	1966	[9] 970
						SS–13 Savage [7]	5,000	1 MT	1968	60
IRBM						SS–5 Skean [10]	2,300	1 MT	1961	100
MRBM						SS–4 Sandal [11]	1,200	1 MT	1959	500
SRBM	MGM–29A Sergeant [12 13]	85	KT range	1962	(500)	SS–1b Scud A [12]	50	KT range	1957	
	MGM–31A Pershing	450	do	1962	(250)	SS–1c Scud B [12]	185	do	1965	(300)
						SS–12 Scaleboard	500	do	1969	
Long-range cruise missiles						SS–N–3 Shaddock	450	KT range	1962	(100)
Unguided rockets	MGR–1B Honest John [12 13]	25	KT range	1953	NA	FROG 1–7 [13]	10–45	do	1957–65	(600)
Sea-based missile:										
SLBM (nuclear subs)	UGM–27B Polaris A2	1,750	800 KT	1962	336	SS–N–5 Serb	750	MT range	1964	30
	UGM–27C Polaris A3 [14]	2,880	1 MT or 3 × 200 KT.	1964		SS–N–6	1,750	do	1969	496
	UGM–73A Poseidon	2,880	10 × 50 KT	1971	320	SS–N–8	4,000	do	1972	36
SLBM (diesel subs)						SS–N–4 Sark	350	do	1961	36
						SS–N–5 Serb	750	do	1964	30
Long-range cruise missiles (subs)						SS–N–3 Shaddock	450	KT range	1962	338
Long-range cruise missiles (surface vessels)						do	450	do	1962	48
Artillery:										
Self-propelled	M–110 203mm (8 in) how [15]	10	KT range	1962	102					
	M–109 155mm how [13]	10	2KT	1964	306					
Towed	M–115 203mm (8 in) how [15]	10	KT range	1950	NA	M–55 203 mm gun/how. [12]	18	KT range	1950	NA

Footnotes at end of table.

(ii) AIRCRAFT [16]

Category [16]	United States Type	Max. range [17] (statute miles)	Max. speed (Mach no.) [18]	Max. weapons load (pound)	First deployed	Number deployed (July 1973)	Soviet Union Type [19]	Max. range [17] (statute miles)	Max. speed (Mach no.) [18]	Max. weapons load (pound)	First deployed	Number deployed (July 1973)
Long-range bombers	B–52 D–F	11,500	0.95	60,000	1956	[20] 442	Tu–95 Bear	7,800	0.78	40,000	1956	100
	B–52 G/H	12,500	.95	75,000	1959		Mya–4 Bison	6,050	.87	20,000	1956	[21] 40
Medium-range bombers	FB–111A	3,800	2.5	37,500	1969	[20] 74	Tu–16 Badger	4,000	.8	20,000	1955	[22] 800
Strike aircraft (incl short-range bombers): land-based.	F–105D	2,100	2.25	16,500	1960		Il–28 Beagle	2,500	.81	4,850	1950	
	F–4	2,300	2.4	16,000	1962		Su–7 Fitter	900	1.7	4,500	1959	
	F–111 A/E	3,800	2.2/2.5	25,000	1967	[23] (1,300)	Tu–22 Blinder	1,400	1.5	12,000	1962	
	A–7D	3,400	.9	15,000	1968		Yak–28 Brewer	1,750	1.1	4,400	1962	[23] (1300)
							Mig–21 MF Fishbed J	1,150	2.2	2,000	1970	
							Mig–23 Flogger	1,800	2.5	N.A.	1971	
Strike aircraft: carrier-based	A–4	2,055	.9	10,000	1956							
	A–6A	3,225	.9	18,000	1963							
	A–7A/B/E	3,400	.9	15,000	1966	[23] (1,300)						
	F–4	1,997	2.4	1,600	1962							

(III) HISTORICAL CHANGES OF STRENGTHS, 1963–73 (MID-YEARS)

	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973
United States:											
ICBM	424	834	854	904	1,054	1,054	1,054	1,054	1,054	1,054	1,054
SLBM	224	416	496	592	656	656	656	656	656	656	656
Long-range bombers [6]	630	630	630	630	600	545	560	550	505	455	522
U.S.S.R.:											
ICBM	100	200	270	300	460	800	1,050	1,300	[8] 1,510	[8] 1,527	[8] 1,527
SLBM	100	120	120	125	130	130	160	280	440	560	628
Long-range bombers [6]	190	190	190	200	210	150	150	150	140	140	140

[1] ICBM=inter-continental ballistic missile (range 4,000 + miles); IRBM=intermediate-range ballistic missile (range 1,500–4,000 miles); MRBM=medium-range ballistic missile (range 500–1,500 miles); SRBM=short-range ballistic missile (range under 500 miles); SLBM=submarine-launched ballistic missile. Long-range cruise missile=range over 250 miles.

[2] Operation range depends upon the payload carried; use of maximum payload may reduce missile range by up to 25 per cent.

[3] MT=megaton=million tons of TNT equivalent (MT range=1 MT or over); KT=kiloton=thousand tons of TNT equivalent (KT range=less than 1 MT); figures given are estimated maxima.

[4] Numerical designations of Soviet missiles (e.g. SS–7) are of US origin; names (e.g. Saddler) are of NATO origin.

[5] SS–9 missiles have also been tested with (i) three warheads of 4–5 MT each, (ii) a modified payload for use as a depressed trajectory ICBM (DICBM) or fractional orbit bombardment system (FOBS).

[6] There are also 25 large silos under construction, possibly to receive SS–18 missiles, an improved version of the SS–9, fitted with MRV.

[7] There are also 66 smaller silos under construction, which are expected to receive SS–16 missiles, an improved version of the SS–13; or SS–17 missiles, an improved version of the SS–11, with MRV.

[8] SS–11 missiles have also been tested with three smaller warheads.

[9] Including those deployed within IRBM/MRBM fields.

[10] A mobile IRBM (SS–XZ Scrooge) has been displayed and tested but is not known to be deployed operationally.

[11] A mobile missile (SS–14 Scapegoat), apparently with MRBM range, has been displayed and tested but is not known to be deployed operationally.

[12] Dual capable (i.e., capable of delivering conventional explosives or nuclear warheads).

[13] To be replaced by Lance, an SRBM with a maximum range of 70 miles and a warhead in the KT range.

[14] Most Polaris A3 missiles have been modified to carry three warheads.

[15] All aircraft listed are dual-capable and many, especially in the categories of strike aircraft, would be more likely to carry conventional than nuclear weapons.

[16] Long-range bomber=maximum range over 6,000 miles; medium-range bomber=maximum range 3,500–6,000 miles, primarily designed for bombing missions.

[17] Theoretical maximum range, with internal fuel only, at optimum altitude and speed. Ranges for strike aircraft assume no weapons load. Especially in the case of strike aircraft, therefore, range falls sharply for flights at lower altitute, at higher speed or with full weapons load (e.g., the combat radius of A–7 at operational height and speed, with typical weapons load, is approximately 620 miles).

[18] Mach 1 (M=1.0=speed of sound).

[19] Names of Soviet aircraft (e.g., Bear) are of NATO origin.

[20] Including approximately 8 FB–111A and 45 B–52 aircraft in active storage.

[21] Excluding approximately 50 Mya–4 aircraft configured as tankers.

[22] Including approximately 300 Tu–16 aircraft in the Naval Air Force, configured for attacks on shipping, which could, in theory, deliver nuclear weapons.

[23] These aircraft are nuclear-capable but may not necessarily have a nuclear role.

Note: NA—Not available.

(B) OTHER NATO AND WARSAW PACT COUNTRIES

(i) MISSILES AND ARTILLERY

Category [1]	NATO (excluding United States) Type [2]	Operated by [3]	Maximum range [4] (statute miles)	Estimated warhead yield [5]	First deployed	Number deployed (July 1973)	Warsaw Pact (excluding U.S.S.R.) Type [6]	Operated by [3]	Maximum range [4] (statute miles)	Estimated warhead yield [5]	First deployed	Number deployed (July 1973)
Land-based missiles:												
IRBM	SSBS S–2	FR	1,875	150 KT	1971	18						
SRBM	MGM–29A Sergeant [7]	GE	85	LT range	1962	19	SS–1b Scud A [8]	BU, CZ	50	KT range	1957	NA
	MGM–31A Pershing [7]	GE	450	do	1962	72	SS–1c Scud B [8]	EG, PO	185	do	1965	NA
Unguided rockets	MGR–1B Honest John.	(9)	25	do	1953	(150)	FROG 1–7 [8]	All	10–45	do	1957–65	NA
SLBM	UMG–27C Polaris A3	BR	2,880	3×200 KT	1967	64						
	MSBS M–1	FR	1,380	500 KT	1972	32						
Artillery:												
Self-propelled	M–110 203mm (8 in) how.	(10)	10	KT range	1962	NA						
	M–109 155mm how	(11)	10	2 KT	1964	NA						
Towed	M–115 203mm (8 in) how.	(10)	10	KT range	1950	NA						

[1] IRBM=intermediate-range ballistic missile (range 1,500–4,000 miles); SRBM=short-range ballistic missile (range under 500 miles); SLBM=submarine-launched ballistic missile.

[2] All NATO vehicles are of American origin, with the exception of the SSBS IRBM and the MSBS, SLBM, which are of French origin.

[3] BR=Britain, FR=France, GE=West Germany, BU=Bulgaria, CZ=Czechoslovakia, EG= East Germany, PO=Poland.

[4] Operational range depends upon the payload carried; use of maximum payload may reduce missile range by up to 25 per cent.

[5] KT=kiloton=thousand tons of TNT equivalent (KT range=less than 1 MT); figures given are estimated maxima.

[6] All Warsaw Pact vehicles are of Soviet origin. Numerical designations (e.g., SS–1b) are of American origin; names (e.g., Scud A) are of NATO origin.

[7] These SRBM are operated by West Germany but the nuclear warheads from them are in American custody. Sergeant is dual-capable (i.e., capable of delivering conventional or nuclear weapons).

[8] These dual-capable systems are operated by the countries shown but nuclear warheads for them are in Soviet custody.

[9] Honest John is dual-capable and is operated by Belgium, Britain, Denmark, West Germany, Greece, Italy, the Netherlands and Turkey, but with the nuclear warheads held in American custody. In the case of Denmark, there are no nuclear warheads held on Danish soil. France also operates Honest John but the nuclear warheads for it were withdrawn in 1966 and its nuclear role is to be taken over by the French SRBM Pluton, which will have a French nuclear warhead.

[10] The 203mm how is dual-capable and is operated by Belgium, Britain, Denmark, West Germany, the Netherlands, Italy and Turkey but any nuclear warheads for it are in American custody.

[11] The 155 mm how is primarily a conventional artillery weapon but is dual-capable. It is operated by Belgium, Britain, Canada, Denmark, West Germany, Greece, Italy, the Netherlands, Norway, and Turkey but in very few cases is it likely to have a nuclear role, certainly not in the case of Canada. Any nuclear warheads would be in American custody, none on Danish or Norwegian soil.

(B) OTHER NATO AND WARSAW PACT COUNTRIES—Continued

(ii) AIRCRAFT [1]

	NATO (excluding United States)							Warsaw Pact (excluding USSR)						
Category [2]	Type [3]	Operated by [4]	Maximum [5] range (statute miles)	Maximum speed (Mach no.) [6]	Maximum weapons load (lb)	First deployed	No. deployed (July 1973)	Type [7]	Operated by [4]	Maximum range (statute miles)	Maximum speed (Mach no.) [6]	Maximum weapons load (lb)	First deployed	No. deployed (July 1973)
Medium-range bombers.	Vulcan B2	BR	4,000	0.95	21,000	1960	56							
Strike aircraft (incl short-range bombers).	F-104	(8)	1,300	2.2	4,000	1958	[9] NA	Il-28 Beagle [10]	BU, PO, RU	2,500	0.81	4,850	1950	[9] NA
	F-4	BR, GE	1,600	2.4	16,000	1962	[9] NA	Su-7 Fitter [10]	CZ, PO	900	1.7	4,500	1959	[9] NA
	Buccaneer S2	BR	2,000	.95	8,000	1962	[9] NA							
	Mirage IVA	FR	2,000	2.2	8,000	1964	58							

[1] All aircraft listed are dual-capable and many would be more likely to carry conventional than nuclear weapons.
[2] Medium-range bomber=maximum range 3,500-6,000 miles, primarily designed for bombing missions.
[3] Vulcan and Buccaneer are of British origin; F-104 and F-4 are of American origin; Mirage is of French origin.
[4] BR=Britain, FR=France, GE=West Germany, BU=Bulgaria, CZ=Czechoslovakia, PO=Poland, RU=Rumania.
[5] Theoretical maximum range, with internal fuel only, at optimum altitude and speed. Ranges for strike aircraft assume no weapons load. Especially in the case of strike aircraft, therefore, range falls sharply for flights at lower altitude, at higher speed or with full weapons load (e.g., combat radius of F-104, at operational height and speed, with typical weapons load, is approximately 420 miles).
[6] Mach 1 (M=1.0=speed of sound).
[7] All Warsaw Pact aircraft are of Soviet origin. Names (e.g., Beagle) are of NATO origin.
[8] The dual-capable F-104 is operated by Belgium, Canada, Denmark, West Germany, Greece, Italy, the Netherlands, Norway and Turkey, but the Canadian aircraft no longer have a nuclear role. The warheads of these aircraft are held in American custody.
[9] The absence of figures here reflects the uncertainty as to how many of these nuclear-capable aircraft actually have a nuclear role.
[10] Nuclear warheads for these dual-capable aircraft are held in Soviet custody.

2. DEFENSE EXPENDITURE AND NATIONAL ECONOMIES

Country	GNP,[1] 1970 (billions)	Defense Expenditure or Budget: 1972 (millions)	1973 (millions)	Per capita, 1972	As a percentage of GNP [2]: 1969	1970	1971	1972
United States	$976.4	$83,400	$85,165	$399	8.4	7.4	7.5	7.2
Soviet Union [3]	402.6	32,970	33,580	132	8.4	7.9	7.6	7.5
Warsaw pact:								
Bulgaria	9.7	(4)	301	(4)	2.2	2.4	(4)	(4)
Czechoslovakia	30.5	1,274	1,336	87	3.7	3.6	3.8	4.1
Germany, East	33.5	1,854	2,031	116	5.0	5.1	5.2	5.3
Hungary	14.3	419	695	40	2.5	2.7	2.7	2.7
Poland	39.4	1,770	1,799	54	3.9	4.1	4.1	4.0
Romania	22.4	453	528	22	1.8	2.1	2.0	1.7
NATO:								
Belgium	26.1	723	990	74	2.8	2.6	2.1	2.0
Britain	121.5	6,968	8,673	125	5.0	4.9	4.5	4.6
Canada	82.6	1,966	2,141	90	2.4	2.4	2.0	1.9
Denmark	15.4	441	568	88	2.5	2.4	2.4	2.2
France	148.6	6,238	8,488	121	3.5	3.3	3.2	3.1
Germany, West [5]	188.8	7,668	11,083	124	3.5	3.3	2.9	2.9
Greece	9.5	495	580	56	4.9	4.7	3.1	4.1
Italy	92.6	3,251	3,964	60	2.9	2.8	2.6	2.7
Luxembourg	1.0	10	15	29	.9	.8	.9	.8
Netherlands	31.4	1,568	2,102	117	3.8	3.5	3.5	3.5
Norway	11.3	462	665	118	3.8	3.3	3.3	3.2
Portugal	6.4	425	(4)	47	5.9	5.6	5.4	5.1
Turkey	15.5	568	812	15	3.6	3.6	3.7	3.6
Other European Countries:								
Austria	14.4	201	291	27	1.1	1.1	1.0	1.0
Finland	10.3	193	231	39	1.4	1.4	1.4	1.5
Spain	32.3	851	1,132	25	2.0	1.8	1.9	1.8
Sweden	32.7	1,505	1,883	184	3.8	3.4	3.4	3.6
Switzerland	20.6	557	799	87	2.2	2.0	1.9	1.8
Yugoslavia	10.7	654	826	32	6.0	6.2	5.1	5.3
Middle East and the Mediterranean:								
Algeria	4.4	100	(4)	15	4.4	(4)	2.3	2.0
Egypt	6.7	1,493	1,737	43	13.2	18.9	21.4	20.2
Iran	10.6	926	2,010	30	5.4	7.4	8.0	6.2
Iraq	$2.9	$310	(4)	$31	10.4	8.3	(4)	8.8
Israel	5.4	1,262	$1,474	404	18.0	19.9	22.3	18.2
Jordan	.6	119	(4)	49	19.4	18.6	13.6	17.4
Libya	3.1	120	145	59	1.5	(4)	2.3	2.6
Morocco	3.4	124	(4)	8	2.9	2.8	2.6	2.8
Sudan	1.9	(4)	(4)	(4)	5.2	7.6	7.9	(4)
Syria	1.7	251	216	38	12.3	10.4	(4)	11.5
Africa:								
Ethiopia	1.8	(4)	(4)	(4)	2.2	1.9	2.0	(4)
Rhodesia	1.5	32	(4)	5	.8	1.7	(4)	2.0
South Africa	16.5	358	716	21	2.5	2.2	2.4	2.5
Asia and Australasia:								
Australia	32.8	1,575	(4)	121	4.2	3.9	3.9	3.6
China (Taiwan)	5.4	700	(4)	48	9.2	8.8	9.8	7.2
India	52.4	1,813	2,386	3	3.0	3.0	3.4	3.0
Indonesia	8.4	(4)	(4)	(4)	3.1	3.2	3.4	(4)
Japan	197.9	2,728	3,530	26	.8	.8	.9	.9
Korea, South	8.2	428	476	13	4.0	4.0	4.2	4.6
Malaysia	3.8	306	287	28	3.7	6.9	4.7	6.8
New Zealand	6.1	153	175	53	1.9	1.8	1.8	1.8
Pakistan [6]	16.1	405	433	7	3.3	3.6	7.9	8.6
Philippines	6.6	95	(4)	2	1.4	1.7	1.8	1.2
Singapore	[7] 1.8	249	(4)	113	5.6	5.8	7.5	9.4
Thailand	6.5	293	(4)	8	3.3	3.6	3.6	4.0
Vietnam, South	5.6	446	379	23	9.9	20.0	18.6	17.4
Latin America:								
Argentina	23.5	834	889	35	(4)	1.9	1.9	1.8
Brazil	38.0	1,105	(4)	11	(4)	1.5	2.8	2.2
Chile	6.5	324	174	36	2.9	1.8	4.4	4.6
Colombia	6.9	98	92	4	1.3	1.3	(4)	1.3
Mexico	32.7	281	352	5	(4)	.6	(4)	.7
Peru	5.4	208	240	14	3.0	3.2	3.6	3.2
Uruguay	2.4	77	(4)	26	1.9	2.1	3.0	3.3
Venezuela	9.8	284	325	25	2.5	2.8	(4)	2.4

[1] GNP figures are given for 1970, since this is the latest year in which there is wide coverage of official standardized statistics, permitting comparison of the size of national economies.
[2] Percentages have been calculated in local currency. Where official figures for GNP are not available estimates have been made.
[3] For the Soviet Union net material product (NMP) is used instead of GNP. Defense expenditures have been derived by adding 75 percent of the all-union science budget to the defense budget; they are then expressed as a percentage of NMP. Conversion of NMP and defense expenditure into dollars is at a constant rate of 0.72 roubles equals $1. This method of calculation and conversion is used here simply to enable a trend to be discerned; for a note on Soviet defense expenditure see box in the US-USSR section elsewhere in this issue.
[4] Not available.
[5] Excluding financial assistance to West Berlin which, included, would make the entry read: 188.8, 4.0; 9,531, 3.8; 13,758, 3.4; 154, 3.6.
[6] Percentages for 1969 and 1970 include the former East Pakistan.
[7] Gross domestic product at factor cost, not GNP.

3. COMPARISONS OF MILITARY MANPOWER 1973[1]

Country	Total Armed Forces (regulars and conscripts)	Paramilitary forces	Estimated number of trained Reservists	Estimated total men of military age (i.e. 18–45)	Percentage of total Armed Forces to men of military age
Europe:					
Belgium	89,600	15,000	15,600	1,900,000	4.7
Bulgaria	152,000	17,000	280,000	1,800,000	8.4
Britain	361,500	----------	435,000	10,800,000	3.3
Czechoslovakia	190,000	35,000	350,000	3,000,000	6.3
Denmark	39,800	----------	91,000	1,000,000	4.1
France	503,600	85,000	540,000	10,000,000	5.0
Germany, East	132,000	80,000	250,000	3,200,000	4.1
Germany, West	475,000	20,000	625,000	11,900,000	4.0
Greece	160,000	99,000	205,000	1,800,000	8.9
Hungary	103,000	27,000	163,000	2,100,000	4.9
Italy	427,500	80,700	545,000	11,000,000	3.9
Netherlands	112,200	3,200	340,000	2,700,000	4.2
Norway	35,900	----------	179,600	700,000	5.1
Poland	280,000	73,000	600,000	7,100,000	3.9
Portugal	204,000	9,700	318,000	1,800,000	12.1
Romania	170,000	40,000	285,000	4,300,000	4.0
Sweden	93,100	----------	[2] 557,000	1,600,000	5.8
Turkey	455,000	75,000	800,000	7,700,000	5.9
Soviet Union	3,425,000	300,000	3,000,000	50,100,000	6.8
Middle East:					
Egypt	298,000	100,000	534,000	7,000,000	4.3
Iran	211,500	70,000	315,000	5,400,000	3.9
Israel	115,000	9,000	[3] 180,000	600,000	18.3
Asia and Australasia:					
Australia	73,330	----------	32,300	2,600,000	2.8
China	2,900,000	300,000	NA	170,000,000	1.7
India	948,000	100,000	NA	116,500,000	.8
Indonesia	322,000	120,000	NA	20,600,000	1.6
Japan	266,000	----------	39,300	24,900,000	1.1
Africa: South Africa	17,300	75,000	92,000	[4] 800,000	2.2
Latin America:					
Argentina	135,000	19,000	250,000	5,200,000	2.6
Brazil	208,000	150,000	NA	17,200,000	1.2
Mexico	71,000	----------	NA	9,200,000	.8
North America:					
Canada	83,000	----------	23,200	4,500,000	1.8
United States	2,252,900	----------	927,400	38,700,000	5.8

[1] Figures are not comparable between countries mainly because reserve structures are not the same.
[2] Total mobilizable strength; 750,000.
[3] Total mobilizable strength, 300,000.
[4] White population only.

4. COMPARATIVE DEFENSE EXPENDITURE, GROSS NATIONAL PRODUCT, AND MANPOWER FIGURES, 1952–72—DEFENSE EXPENDITURES[1]

[In millions]

Year	USA[2] Dollars	Japan Yen	Japan Dollars	West Germany[2] Marks	West Germany[2] Dollars	France[2] Dollars	France[2] Pounds	USSR[3] Dollars	USSR[3] Rubles
1952	47,598	183	508	----------		12,531	3,580	1,561	4,387	11,330
1953	49,377	126	350	6,195	1,475	13,865	3,961	1,681	4,727	11,270
1954	42,786	135	375	6,287	1,497	11,710	3,346	1,571	4,376	11,250
1955	40,371	135	375	7,383	1,752	11,020	3,149	1,567	4,365	11,320
1956	41,513	143	397	7,211	1,717	14,690	4,197	1,615	4,499	10,470
1957	44,159	144	400	8,962	2,133	15,600	3,184	1,574	4,423	10,520
1958	45,096	149	414	6,853	1,640	16,569	3,381	1,591	4,460	10,670
1959	45,833	156	433	11,087	2,654	17,926	3,658	1,589	4,472	10,900
1960	45,380	160	444	12,115	2,905	18,940	3,865	1,655	4,641	11,060
1961	47,807	184	511	13,175	3,297	19,932	4,068	1,709	4,800	13,610
1962	52,381	214	594	17,233	4,310	21,460	4,380	1,814	5,085	14,860
1963	52,295	248	689	19,924	5,012	22,849	4,663	1,870	5,231	16,500
1964	51,213	281	781	19,553	4,917	24,280	4,955	2,000	5,581	16,280
1965	51,827	305	847	19,915	4,975	25,300	5,163	2,091	5,839	16,000
1966	63,572	345	958	20,254	5,093	26,732	5,456	2,153	6,007	16,780
1967	75,448	387	1,075	21,408	5,353	28,912	5,900	2,276	5,462	18,180
1968	80,732	422	1,172	19,310	4,828	30,200	6,163	2,332	5,560	20,840
1969	81,443	495	1,375	21,577	5,847	31,700	5,703	2,303	5,529	22,110
1970	77,854	590	1,639	22,573	6,617	33,200	6,014	2,444	5,850	22,810
1971	74,862	694	1,928	25,450	7,278	35,000	6,342	2,810	6,799	23,170
1972	79,528	821	2,718	28,987	9,185	36,800	7,357	3,079	7,525	23,740

[1] Expenditure figures are presented in local currency, so as to permit a comparison over time, and then in dollars at the exchange rates ruling in each year (except for U.S.S.R.), to permit a comparison between countries.
[2] NATO definition of defence expenditure. NATO forecasts for 1972.
[3] Soviet expenditure is derived in this table by adding 75 percent of the "All-Union Science" budget to the defence budget and has not been converted to dollars because of the difficulty of establishing a suitable conversion rate. This method of arriving at defence expenditure is adopted here purely for the purpose of showing a trend. For a fuller discussion of the problems of establishing a figure for Soviet defence expenditure and the dollar equivalent see box in U.S.–U.S.S.R. section.

TOTAL ARMED FORCES

[In thousands]

Year	U.S.A.	Japan	West Germany	France	Britain[1]	U.S.S.R.
1952	3,550	[2] 114	—	645	890	4,600
1953	3,480	[2] 119	—	695	902	4,750
1954	3,350	[4] 146	15	600	840	4,750
1955	3,049	178	20	568	800	5,000
1956	2,857	188	66	785	760	4,500
1957	2,800	202	122	836	700	4,200
1958	2,637	214	175	797	615	4,000
1959	2,552	215	249	770	565	3,900
1960	2,514	206	270	781	520	3,623
1961	2,572	209	325	778	455	3,800
1962	2,827	216	389	742	445	3,600
1963	2,737	213	403	632	430	3,300
1964	2,687	216	435	555	425	3,300
1965	2,723	225	441	510	424	3,150
1966	3,123	227	455	500	418	3,165
1967	3,446	231	452	500	417	3,220
1968	3,547	235	440	505	405	3,220
1969	3,454	236	465	503	383	3,300
1970	3,066	259	466	506	373	3,305
1971	2,699	259	467	502	365	3,375
1972	2,253	266	475	503	352	3,425

[1] Excluding forces enlisted outside Britain.
[2] National police reserve.
[3] Security force.
[4] Self-defence forces.

GROSS NATIONAL PRODUCTS, AT CURRENT MARKET PRICES AND EXCHANGE RATES

[In billions of dollars]

Year	U.S.A.	Japan	West Germany	France	Britain	U.S.S.R.[1]
1952	350	16	32	29	44	113
1953	370	19	35	31	48	119
1954	365	20	37	32	50	128
1955	399	23	43	35	54	136
1956	420	25	47	39	58	145
1957	444	28	51	43	62	156
1958	455	32	56	50	65	178
1959	484	33	60	54	67	189
1960	511	39	71	60	72	201
1961	520	51	81	65	77	213
1962	560	59	89	74	81	229
1963	590	68	94	83	86	235
1964	632	80	103	93	93	251
1965	685	88	115	99	100	269
1966	748	102	123	108	107	288
1967	794	120	124	116	110	314
1968	865	142	135	127	103	339
1969	931	166	151	142	110	364
1970	976	198	189	149	121	403
1971	1,050	221	217	164	135	422
1972	1,152	317	259	202	151	439

[1] The U.N. accounts definition of net material product (NMP), converted at a constant exchange rate of 0.72 rubles equals $1, has been used. This consists of: individual and collective consumption, net fixed capital formation and net exports of goods and productive services.

STRENGTH OF MILITARY FORMATIONS

Country	Division (in men)			Mechanized brigade (in men)	Squadron (in aircraft)		
	Mechanized	Armoured	Airborne		Bomber/fighter-bomber	Fighter	Transport
United States	[1] 15,400	15,400	15,000	4–5,000	12–18	18–24	16
Soviet Union	10,750	9,000	7,000	[2] 2,000	9–12	12	8–10
China	12–14,000	10,000	6,000	[2] 3,000	9–10	10–12	8–10
Britain	12,500	12,500	----------	4–5,000	8–12	12	9–12
France	17,000	---------	14,000	5,000	4–12	12–15	16
Germany (West)	15,500	14,500	8–9,000	4–5,000	15–21	15–21	12–18
India	17,500	12,000	----------	4,500	12–15	20	12
Israel	----------	----------	----------	3,500	10–12	20–24	12
UAR (Egypt)	11,800	11,200	----------	3,500	10–12	20	8–10
Vietnam (South)	10,000	7,000	7,000	3,000	12–18	18–24	16

[1] Army divisions only; a Marine Corps division has 19,000 men.
[2] Strength of a regiment, which is the equivalent formation in the Soviet and Chinese command structure. (The term "regiment" is however often employed, particularly in West European countries, to describe a battalion-size unit, and it is so used in The Military Balance.)

MONTHLY LIST OF GAO REPORTS

Mr. METCALF. Mr. President, in a report entitled "Usefulness to the Congress of Reports Submitted by the Executive Branch," GAO says that 54 of these reports can be eliminated. A copy of the full report can be obtained from GAO by telephoned request.

A summary of the report is found in the November list of GAO reports, which contains six pages of material from reports published or released in October. The list is provided to the Congress by the Comptroller General, as directed in Public Law 91–510, the Legislative Reorganization Act of 1970. I request that the full list be printed in the RECORD.

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

MONTHLY LIST OF GAO REPORTS

(Comptroller General of the United States—Vol. 7, No. 10, November 1973)

"Railroad Reservation, Information and Ticketing Services Being Improved by AMTRAK." National Railroad Passenger Corporation. B–175155 of August 22, released October 1 by the Chairman, Subcommittee on Transportation and Aeronautics, House Committee on Interstate and Foreign Commerce.

Third in a series of GAO reviews focusing on operations of AMTRAK.

At two of AMTRAK's major reservation offices (Chicago and New York), 30 percent of customers' telephone calls during an 8-week period in 1972 were not completed because of insufficient telephone equipment and personnel.

By July 1973 staffs of the major reservation offices had been transferred from the hands of railroads to AMTRAK, which planned to have a systemwide automated reservation service in operation by the end of 1974.

"Railroad Relocation at the R. D. Bailey Project, Justice, West Virginia." Corps of Engineers (Civil Functions), Army. B–177092 of September 12, released October 3 by Congressman Ken Hechler.

GAO reviewed the contract with the Norfolk and Western Railway for relocating its right-of-way at the R. D. Bailey project in Justice, W. Va. The original estimated completion date for the project of 1969 has been revised to June 1976.

The initial cost estimate for the project was $76.6 million, of which $38.1 million was for relocating about 25 miles of railroad right-of-way and some adjacent highways.

As of January 1973 the estimated project cost had increased to $123.4 million. Of this $46.8 million increase, about $11.1 million represented increases in the cost of the railroad relocation.

EDUCATION AND MANPOWER

"Review of Selected Activities of the Equal Employment Opportunity Commission District Office in Memphis." B–175042 of September 28, released October 17 by Representative Dan H. Kuykendall.

GAO examined adequacy of initial investigations, accuracy of caseload data, consolidation of cases against the same employer, and cooperation between the Memphis office and community organizations and employers.

Few cases had been returned to the Memphis office by EEOC headquarters for reinvestigation. Initial investigations in most cases were reasonably adequate. Errors generally were the type that corrected themselves in the next reporting period or involved an improper categorization of the status of charges.

GENERAL GOVERNMENT

"Review of Vending Operations on Federally Controlled Property." B–176886 of September 27, released October 10 by the Chairman, Subcommittee on the Handicapped, Senate Committee on Labor and Public Welfare.

Over the last 20 years blind-vendor stands on Federal and non-Federal property have increased from 1,543 to 3,229, gross sales have risen from $20.6 million to $109.8 million, and average annual net earnings have grown from $2,209 to $6,996 for each stand.

In 1972, 3,583 blind persons were in the program; HEW estimated that 7,000 could be in the program by 1980.

However, before the blind-vendor program in federally controlled buildings can be expanded, priorities among present competing interests—the blind, minority enterprises, employee associations, and cafeteria operators—must be established.

"Usefulness to the Congress of Reports. Submitted by the Executive Branch. B–115398 of October 26, released October 29 by the Chairman, House Committee on Government Operations.

GAO was asked to study and recommend modifications or elimination of the recurring reports submitted to the Congress by executive departments and agencies.

The reports were discussed with 36 congressional committees which identified 54 reports they considered could be eliminated; 30 of these are required by law; 24 are nonstatutory.

Unverified yearly preparation costs provided by the agencies for 39 reports totaled about $222,000; cost information was not provided for 15 reports.

The committees suggested improvements for 25 reports, including changes in frequency of submission of 8, eliminating portions of 5, consolidating 11 reports into 5, and changing the format of 1.

INTERNATIONAL AFFAIRS AND FINANCE

"Selection and Use of SS Manhattan as a Floating Silo during the Bangladesh Food Crisis." Department of State, Agency for International Development. B–177521 of October 17, released October 26 by Senator William Proxmire.

AID chartered the Manhattan to transport about 66,000 tons of wheat and to serve as a floating silo off the Bangladesh coast because it was the only ship offered that was in position to load wheat at gulf coast ports, was offered at the lowest cost per deadweight ton, and was a U.S.-flag ship.

GAO noted indications which might have provided a basis for judging that the charter should have been terminated in mid-September. Charter costs between mid-September and November 12, 1972, AID's specified termination date, were about $925,000.

"U.S. Assistance to the Khmer Republic (Cambodia)." Departments of State and Defense, Agency for International Development. B–169832 of October 10.

Objectives of U.S. economic and military assistance in Cambodia have been related to the military effort in Indochina: $516 million in military and $216 million in economic assistance during FY 1970–73, not including cost of combat air operations.

Problems were found concerning (1) compliance with the congressional restrictions and (2) management deficiencies impairing effectiveness and efficiency of U.S. assistance.

U.S. and Cambodian officials acknowledge that payments were made for as many as 100,000 phantom Cambodian troops. As of June 1973, the problem has not been eliminated and its extent is unknown. Phantom troop pay for January 1973 was estimated the equivalent of nearly $1 million.

"U.S. Embassy Service Contracts in Laos." Department of State. (To the Chairman, Foreign Operations and Government Information Subcommittee, House Committee on Government Operations.) B–178299 of October 30.

Contractual arrangements including the hiring of 1,000 local personnel were entered into because of the limited authority placed on the U.S. Embassy by the Department of State. The Embassy had authority to hire up to 84 local employees.

U.S. Embassy personnel did not comply with State Department regulations because they directly supervised the contractor personnel and retained the right to hire and fire individual employees.

Embassy officials told GAO the services were required and wartime conditions prevailing in Laos made it necessary to obtain the services in this way.

It is clear the contractual arrangements did not constitute arms-length transactions. GAO believes the contracts should be terminated and alternative arrangements made.

NATIONAL DEFENSE

"Financial Status of Selected Major Weapon Systems." Department of Defense. B–163058 of October 2.

This is GAO's first semiannual report on the financial status of the 45 systems on the Selected Acquisition Reports (SAR) at Dec. 31, 1972. Estimated costs for these 45 systems increased $585.7 million between June 30, 1972 and Dec. 31, 1972.

Tracking and analyzing of major weapon systems are extremely important not only to learn from experiences of the past but also to maintain a constant surveillance over current events.

Increases were due to revised estimates, quantity changes, engineering changes schedule revisions, provisions for increased costs due to inflation and related causes.

"Study of Military Temporary Lodging Facilities and the Availability of Commercial Motels." Department of Defense. B–169926

of September 27, released October 16 by the Chairman, Subcommittee on Small Business Problems in Smaller Towns and Uban Areas, House Select Committee on Small Business.

Surveys used to support military requests to build temporary lodging facilities (TLFs) did not explore adequately capabilities of nearby communities to provide suitable commercial facilities through leasing arrangements.

In December 1972 DoD issued a directive on TLFs for the guidance of the military services. The directive provided for information on capabilities of the local communities to meet TLF needs and for close liaison on the subject with those communities.

The services used various types of information to allocate TLF projects. The Army considered the availability of suitable commercial facilities but the Navy and Air Force, initially, did not.

"Mobilization Planning for Ammunition in the Department of Defense." (Unclassified digest of a classified report to the Chairman, House Committee on Appropriations.) B–172707 of October 12.

Because of the billions of dollars required for modernization and the war reserve stockpile, the Army and the Navy should reexamine ammunition needs and the validity of assumptions used in their plans.

The Army and the Navy have long-range programs to modernize ammunition plants at a cost of over $4 billion. Research on new weapons and rounds has a direct impact on the type of ammunition needed in the future.

For proper mobilization planning, the services need to know what weapons they intend to use, how many they need, and what firing rates to expect.

"Improvements Have Been Made But Problems Still Exist in Claims Operations at Army Finance Support Agency." Department of the Army. (To the Secretary of the Army.) B–117604(16) of October 11.

This report evaluates the agency's compliance with GAO's Policy and Procedures Manual for Guidance of Federal Agencies and the Joint Standards issued under the Federal Claims Collection Act of 1966.

Since the law was enacted, GAO periodically has reviewed debt claims procedures and operations at the Agency in Indianapolis.

"Use of Government-Owned Equipment by Certain Large Contractors on Commercial and Defense Work." Department of Defense. B–140389 of June 1, 1972, released October 23 by the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee.

Industry representatives cited 14 examples in which contracts had been awarded to large defense contractors that used Government-owned industrial plant equipment to perform tooling and production work which the representatives said could have been done more economically by small tool contractors if truly competitive conditions had prevailed.

GAO could not determine whether use of Government-owned equipment gave contractors a competitive advantage because regulations did not require, nor did contractors maintain, machine-use records. Without these records GAO could not determine costs of renting equipment from the Government and thus could not compare costs of renting with costs of private ownership.

GAO believes that a contractor with large amounts of Government-owned equipment often benefits in that it can solicit defense and commercial work without the need for additional capital investment.

"Incremental Programming: A Further Look. B–167034 of April 18. Incremental Programming: A Further Look (Supplemental Data—Fiscal Year 1974 Budget Requests)." B–167034 of May 15, released October 16 by the Chairman, Senate Committee on Armed Services.

The Senate Committee on Armed Services directed DoD to apply, beginning with, the Committee's incremental programming principles in budgeting for and executing its research, development, test, and evaluation (RDT&E) programs.

Incremental programming sets forth the period, generally 12 months, during which work supported by an annual RDT&E appropriation can be performed.

DoD has made progress in implementing the Committee's principles in awarding contracts and issuing work orders to further the 190 major weapon systems GAO reviewed.

However, several suggestions for further consideration are presented here without endorsement by GAO because any benefits that might accrue have not been weighed against the additional effort and expense that might be entailed.

NATURAL RESOURCES AND ENVIRONMENT

"More Usable Dead or Damaged Trees Should Be Salvaged To Help Meet Timber Demand." Departments of Agriculture and Interior. B–125053 of October 5.

Although Forest Service and the Bureau of Land Management policies place high priority on minimizing avoidable waste by harvesting usable dead and damaged timber, both agencies could use salvageable timber on their land more effectively.

The agencies could use timber sale preparation, contracting, and contract administration procedures tailored especially for promptly salvaging scattered timber which otherwise would be left to deteriorate.

According to Forest Service data, about 6 billion board feet of timber suitable for manufacturing lumber and plywood die each year.

BLM estimated about 280 million board feet of timber was killed each year in western Oregon—where about 90 percent of its harvesting activities occur—and that, as of 1969, about 2.2 billion board feet of usable dead timber had accumulated.

"Problems Caused by Coal Mining Near Federal Reservoir Projects." Corps of Engineers (Civil Functions), Army. B–177092 of October 2, released October 21 by the Chairman, Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

GAO reviewed eight Federal water resources projects of the Corps of Engineers in Kentucky and West Virginia to determine problems resulting from coal mining near those projects.

GAO concluded that extensive coal mining within drainage basins of water resource projects adversely affected the projects' purposes and their environments.

Major problems noted were sediment in streams and nearby bodies of water, deterioration of water quality by acid mine drainage, and degradation of the projects' esthetic aspects and surrounding environments.

LETTER REPORTS

To Congressman Les Aspin, comparing two estimates of the cost of the F–15 aircraft program. B–168664 of October 2, released October 15.

To Congressman Les Aspin, concerning violations of the Antideficiency Act by the Army during FY 1970. B–132900 of September 28, released October 8.

To Congressman Bob Price, concerning U.S. participation in the foreign assistance program for Indonesia. B–172450 of June 15, 1972, released October 1.

To Senator Clifford P. Case, on sales of real property at Raritan Arsenal, New Jersey, to private interests. B–165190 of July 11, 1969, released October 17.

To the Chairman, Subcommittee on Conservation and Natural Resources, House Committee on Government Operations, On money held in trust for Indians by the Bureau of Indian Affairs. *B–114868 of October 10, 1968, released October 2.*

To Congressman Edward Mezvinsky, reviewing the Law Enforcement Assistance Administration's audit of the Iowa Crime Commission. *B–171019 of October 16, released October 23.*

To the Chairman, Subcommittee on Foreign Operations, Senate Committee on Appropriations, verifying the correctness of certain military assistance data provided by the Department of Defense. *B–163582 of July 5, 1972, released October 2.*

To the Chairman, Subcommittee on Foreign Operations Senate Committee on Appropriations, concerning interest rates charged by the Inter-American Development Bank. *B–161470 of September 13, 1971, released October 2.*

To the Senator Adlai E. Stevenson III, on the length of time to fill orders from the Government Printing Office. *B–114829 of August 16, released October 29.*

To Senator Mike Gravel, concerning the quality of mail service in Alaska. *B–114874 of October 26, released October 29.*

To the Secretary of the Navy, concerning use of fiscal year 1971 operations and maintenance funds to pay FY 1972 obligations. *B–133170 of October 17.*

To the Secretary of Defense, on possible savings by establishing the Military Traffic Management and Terminal Service (MTMTS) as sole manager of military air export cargo. *B–133025 of October 18.*

To the Board of Directors, Overseas Private Investment Corporation, reviewing financial statements of OPIC for the fiscal year ending June 30, 1973. *B–173240 of September 18.*

OFFICE OF FEDERAL ELECTIONS REPORTS

Five reports concerning apparent violations of the Federal Election Campaign Act were issued as follows:

Oct. 10—failure of eighteen political committees to submit reports of receipts and expenditures, referred to the Attorney General.

Oct. 12—failure of the Committee for the Nomination of Hubert Humphrey to disclose receipts and expenditures, apparent contributions by corporations, and contributions from individuals which might be subject to gift tax, referred to the Attorney General and the Internal Revenue Service.

Oct. 17—recordkeeping and reporting violations by the Massachusetts McGovern for President Committee, referred to the Attorney General.

Oct. 30—corporate contribution to the presidential campaign of George Wallace, referred to the Attorney General.

Oct. 31—political contribution made by a local union with nonvoluntary treasury funds to the United Furniture Workers of America-Committee on Political Education, referred to the Attorney General.

The Office of Federal Elections also released a list of political committees whose audits disclosed no violations of Federal laws warranting referral to the Department of Justice.

LEGISLATIVE RECOMMENDATIONS—FISCAL YEAR 1974

GAO recommends that the Congress consider the following:

Joint funding legislation to permit State employment security agencies to obligate administrative expenses against a single allocation of funds. B–115349 of July 23.

H.R. 982 to prohibit the employment of illegal aliens. B–125051 of July 31.

Whether it is appropriate for the Government to continue funding the cost of transportation procured specifically for armed forces exchange goods. B–169972 of August 6.

Legislation providing for approval by the Congress of long-term leasing of such assets as shops. B–174839 of August 15.

Clarifying the Webb-Pomerene Export Trade Act of 1918 so that it will be more effective in inducing companies to form associations to compete in foreign markets. B–172255 of August 22.

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room

6427, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386-3784.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members, and students. The price to the general public is $1.00 a copy, except as noted. There is no charge for copies of letter reports.

When ordering a GAO report, please use the B-number, date and title to expedite filling the order. Orders should be accompanied by check or money order. Please do not send cash.

INTERNATIONAL ECONOMIC POLICY

Mr. TAFT. Mr. President, I recently received a letter from a constituent of mine, Mr. Roland E. Hauber, who I understand works as a machinist at Procter & Gamble in Cincinnati. This extremely perceptive letter charges that our international economic policy initiatives have all too often been "piecemeal" and "after the fact." Mr. Hauber calls for a new agency to undertake necessary long-term international economic planning.

While I am not convinced that an entirely new agency is the answer to this problem. I agree completely that there is a need to insure better foresight and more timely application regarding our international economic policy. The ramifications of the Russian wheat deal, the recent crosscutting of soybean export contracts which outraged some of our allies, and now the Arab oil embargo, clearly underline our deficiencies in this area.

The Banking, Housing and Urban Affairs Committee now has legislation before it which would require closer surveillance of the export situation for items which may eventually require export controls. I hope that as we review this legislation, we will study the entire economic policymaking apparatus to determine how it can be made more responsive to our long-term needs.

I ask unanimous consent that Mr. Hauber's letter be printed in the RECORD.

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

ROLAND E. HAUBER,
Cincinnati, Ohio.

Hon. ROBERT TAFT, Jr.,
Cincinnati, Ohio.

DEAR SENATOR TAFT: May I take a few minutes of your time to express concern over our country's long term international economic picture, and suggest possible steps to protect internal economic stability. It seems to me our government has been following a "knee-jerk" response to a succession of crises while what is needed is a careful appraisal of the total situation, and setting up of machinery to meet the problem on a long term basis.

Momentarily our balance of payments is looking better (at the price of severe dollar devaluation), but it would be euphoric to think the improvement is other than temporary, and unthinkable to consider further dollar devaluations as the continuing answer. As the energy crisis is clearly showing us, we are increasingly going to be living in a situation where our imperative imports will be priced at "what the traffic will bear", or will be tied to international political situations. To date we seem to drift along with piecemeal and after-the-fact reactions to problems as they develop, letting other societies or external forces determine the situation while we scramble to cope with it.

A better response would be to establish a continuing, long term basis under which we can continue to exist as a democratic and capitalistic society in a rapidly changing world in which the simpler laws of supply-demand and free competition may not be completely operative. As I see it, we had better draw up a balance sheet of the absolute necessities we need to import (oil, gas, manganese, chromium, etc.), and those items the outside world absolutely needs from us (food, forest products, cotton), and devise a system to make them balance out financially. In this system we should allow outsiders to bid and buy in our markets without completely upsetting our domestic price structure. Probably a new Federal agency will be required, with powers comparable to FAA, ICC, Federal Reserve, etc.

The agency's field would be international trade, their directive to keep balance of payments in reasonable balance, and prevent serious dislocations in domestic markets by foreign governments. (I doubt that foreign, free enterprise buyers would be a serious problem.) In any case, whether governments or individuals are involved, foreign purchases beyond a sizable figure (in dollars or percent of annual production) should require a permit which would become public knowledge, so dealers, traders, growers and manufacturers would be equally aware of the intended purchases, and word being played against each other as apparently occurred in the 1972 Russian grain deal. These foreign purchasing agencies should then be allowed to operate freely in our markets, but the sales would be subject to a variable export duty, tied to our own balance of payments. This duty should not become part of general funds, but should be reserved for adjusting balance of payments. I am not conversant enough in international finance to know just how a duty is used to reduce a negative balance of payments. Some possible mechanisms would be to use it for foreign aid, upkeep of foreign based military, foreign State Department upkeep, and other expenditures outside the U.S.A. that add to our balance of payment problem.

The above is not a complete package, of course, and may not be entirely sound economically, or politically, and I hold no briefs for the specifics. However, I have no doubt that we desperately need a strong, competent, non-political Federal agency that will undertake long term, comprehensive planning for the country's international economic welfare, and have the power and directives to help maintain our international fiscal responsibility.

Thank you for any consideration you think this letter is worth.

Sincerely,

ROLAND HAUBER.

FUEL ALLOCATIONS AND THE GENERAL AVIATION INDUSTRY

Mr. HOLLINGS. Mr. President, last week I joined with Senator DOLE in cosponsoring an amendment which would have provided for equity for all segments of American industry with regard to fuel allocation. The amendment was not reported by the conference committee when the daylight saving time bill was acted upon.

The general aviation industry has been severely affected by the reductions in fuel proposed. If the administration's proposals to cut fuel allocations to general aviation aircraft are enacted the general aviation industry could be severely crippled.

The recommended reduction in fuel consumption proposed by the President are probably due to misconceptions as to the scope of the general aviation industry and its effect on our Nation's economy.

To many people, the term general aviation brings to mind the wealthy banker who can afford to fly from New York to the Bahamas for a weekend of golf or the swinging, young jetsetter flying off for a party on the Riviera. General aviation is much more than this. The general aviation industry affects the lives of nearly every American.

The term general aviation refers to all civil aviation activity except that of scheduled airlines. Ninety-eight percent of all the airplanes in the United States are both nonairline and nonmilitary. To a large degree air transportation in this country is dependent upon the general aviation industry.

Seventy percent of all general aviation flying is for business or commercial purposes. In the past few years, the industry in this country has demonstrated a tendency to spread out away from the large metropolitan areas. A recent survey shows that 90 percent of the new plant construction has located outside of the major hub areas which possess half of all scheduled airline flights. Industrial firms in recent years have recognized the usefulness of the airplane as a business tool. Unfair restrictions on air transportation would greatly impair the ability of our business leaders to aid in the development of our rural areas.

According to the President's proposal large commercial airlines are to receive a 16-percent reduction in fuel consumption where as general aviation is to be cut by up to 35 percent. I feel that this action is grossly unfair in light of the fact that 95 percent of our Nation's airports have no scheduled air service. One air passenger out of every three on intercity travel uses general aviation. Out of these fully 60 percent fly from airports not served by airlines. General aviation is an essential part of our Nation's general transportation system. Without it, people in a large number of our communities would not be able to connect to a scheduled airline.

General aviation aids our Nation's farmers. Aerial application of pesticides and fertilizers has helped the farmer to efficiently improve his productivity. If agricultural flying were to be reduced severely it would mean an increase in the fuel consumed—up to 10 times as much fuel per acre—should surface application be used as a substitute. In this day of higher food costs we want the farmer to be able to use the most economical of means to raise his crops. An increase in the cost to farmers will be passed on to the consumer in the form of higher prices.

In times of emergency, general aviation aircraft have been employed to save time and lives. Whether combating forest fires, dropping supplies to the stranded victims of a flood or in traffic patrol, these general aviation aircraft have been flexible enough to respond to the needs of the American citizen in trouble.

In addition to these functions, general aviation provides many small, rural communities with a link to the rest of the

country. The postal service's use of general aviation increased more than 25 percent between 1971 and 1972. Also between 1971 and 1972 the amount of cargo carried by general aviation aircraft increased by 46 percent. General aviation helps guarantee that every American has a right to the same kinds of goods and services.

In addition to these very vital services provided by general aviation, we can not overlook the serious economic ramifications which would result from the severe restriction on the use of these aircraft.

Three days after the President presented his energy message, Cessna, the largest producer of private planes announced the layoff of 2,400 employees in Wichita, Kans. The loss of these workers could very well cause the unemployment of 100,000 persons in allied industries.

At the present time general aviation employs 120,000 persons and its projected economic impact by 1980 is estimated at $18 billion per year. A loss of revenues estimated as high as $1.2 billion could result from the proposed fuel reductions.

Nearly $1 billion worth of aircraft has been exported abroad since 1965. 85 percent of the total number of general aviation aircraft in the world were made in the United States.

Mr. President, general aviation is not merely a play thing of the rich and powerful. It is not just a frill or a luxury in the large majority of cases. In today's fast moving and rapidly changing society, general aviation has been proven to be a highly adaptable medium of transportation, one well suited to fit the needs of the average citizen.

The general aviation industry is not asking for preferential treatment in regards to fuel allocation. This industry recognizes that in this time of crisis all Americans and all American industry must sacrifice. What the general aviation industry is asking for is fair and equitable treatment.

It seems incredible to me that this industry which offers so much in terms of job creation, facilitation of business interactions, disaster relief, the fast and efficient shipment of cargo and mail, an industry which aids in the industrial development of our rural areas and which is a consistent contributor to a favorable balance of trade, can be dealt with so sharply while other modes of transportation are only lightly affected in comparison.

Let me point out also that while the general aviation industry provides these many services to our Nation its consumption of fuel is relatively small. The General Aviation Manufacturers Association has reported that general aviation consumes only seven-tenths of 1 percent of all the fuel used in transportation. What then, would a reduction in fuel consumption of the magnitude proposed by the administration achieve?

Certainly we all must tighten our belts, but let us all tighten our belts to the same degree. During the energy crisis reductions in fuel consumption are necessary, but these reductions should be made fairly and equitably. We should make sure that in our haste to deal with this energy shortage we do not cripple our country by severely crippling one of our Nation's most important transportation industries.

MOUNT SINAI—ELMHURST OUTSTANDING CENTERS

Mr. JAVITS. Mr. President, in the Social Security Amendments of 1972, it was agreed that the recent medical miracle procedures—kidney dialysis and kidney transplants—would be translated into patient care as quickly as possible. The most effective geographical distribution of the dialysis and treatment centers necessary for the delivery of such care would be assured through regulations promulgated by the Social Security Administration.

In the State of New York, the Mount Sinai Medical Center and the Elmhurst General Hospital have evolved an excellent program for transplant/dialysis. Indeed, the Mount Sinai-Elmhurst program is the only major one serving the 2 million people of Queens.

I understand this combined program accounts for the third largest number of patients treated by such centers in the Nation and it has the capacity to perform 50 kidney transplants a year. Unfortunately, this has not been possible because of the unavailability of donor kidneys, and because of financial difficulties. Additionally, with the facilities of a Queens satellite clinic, a 24-hour program currently provides dialysis treatments for 230 patients with plans to expand in a year to 350. The program is supported by a large staff, and an intensive training program which has been in progress for over 15 years.

Considerable concern has been expressed whether this excellent program will be phased out, because of the complexity of the standards upon which a decision will be based as to the number and location of such centers and I have communicated to the Secretary of Health, Education, and Welfare my interest in this matter.

I ask unanimous consent to have printed in the RECORD a copy of an article prepared for publication in the Mount Sinai News, which I have forwarded to the Secretary, outlining the work of these two medical institutions on behalf of patients afflicted with renal disease.

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

MOUNT SINAI-ELMHURST OUTSTANDING CENTERS

Jaime Velasquez runs and jumps. He is generally about as active and lively as one might expect a 12-year-old to be, except that he is not permitted to engage in contact sports. He is still small for his age, but making good progress. Back in March of this year he was about the size of a six-year-old; since then he has grown ¾ of an inch. He is also a bit behind in his schoolwork. He is in fifth grade at P.S. 89 in Queens and is being tutored so that he can catch up. For a youngster who was out of school for five years, this indeed is progress.

When he came into the world, Jaime had multiple congenital problems. The most threatening of them, kidney malfunction, progressed to the point of virtually complete failure by the time he was nine years old.

There were only three possibilities open to Jaime: 1. Hemodialysis, through the use of an artificial kidney—an acceptable temporary remedy for children of Jaime's age, but one that is very costly. 2. A kidney transplant, a much more desirable solution, but far more difficult to arrange because donor kidneys are rarely available and hospitals qualified to do transplants are few. 3. Death.

Jaime was fortunate. In 1970, he was brought to the New York City Hospital Center at Elmhurst, an affiliate of Mount Sinai School of Medicine and one of the major kidney dialysis centers in the metropolitan area. Here he was able to get the treatment he so desperately needed.

But, while his life had been spared, it wasn't an easy one. He was doomed to being tied periodically to a machine and being severely restricted in his activity, with serious retardation in his physical development.

Again luck was with Jaime. Early this year, word came to his doctors from the New York Blood Center that the kidneys of an infant, whose tissue type was found to match Jaime's, were available for transplantation. The infant was a microcephalic (the head and the brain were about half normal size), which had died as the result of breathing difficulty.

Jaime and the infant's kidneys were rushed to The Mount Sinai Hospital for transplantation surgery by Dr. Lewis Burrows and Dr. Moishe Haimov. The case presented unusual difficulties. First, the infant's kidneys were so small that the normal procedure of transplanting one kidney would not suffice for Jaime's needs. Therefore, in an unusual surgical procedure, both kidneys were transplanted along with the infant's aorta and vena cava, in order to assure their proper functioning.

Within a few weeks Jaime was back in school and within a few months he was making fine progress in his physical growth. Only a handful of patients receiving infant kidneys have survived and thrived as he has.

Jamie is one of many patients—at all age levels—who have been helped dramatically, who have been restored to happy and useful lives by the dialysis-transplant program conducted jointly by Mount Sinai and Elmhurst. Over the past six years some 80 kidney transplants have been done, as part of this comprehensive, integrated program of treatment for renal diseases.

While it is one of several centers serving Manhattan, the Mount Sinai-Elmhurst program is the only major one serving the 2,000,000 people of Queens. It has the additional capacity to serve Nassau and Suffolk counties, as well.

In order to be able to carry out the full capabilities of the program, Mount Sinai and Elmhurst have applied to the Department of Health, Education and Welfare for designation as a dialysis-transplant center serving Queens, under an amendment to the Social Security Act which became effective in July of this year.

The amendment provides for coverage for treatment of kidney diseases and kidney transplants, for anyone eligible under Social Security, regardless of age. This marks the first time that a chronic illness in persons under 65 has been covered by Social Security.

The Mount Sinai-Elmhurst program is unusually well qualified by structure and experience to function as a center for dialysis, transplantation, and research in kidney diseases.

A joint effort of the departments of Medicine, Surgery, and Urology, the program involves a closely integrated group of 15 physicians, as well as trainees in renal diseases and fellows in transplant surgery.

The combined dialysis program of the two affiliated institutions accounts for the third largest number of patients in the nation. To-

gether with the facilities of a satellite clinic in Queens under the direction of Dr. Eugene Schupak, a former member of the Elmhurst staff, the 24-hours-a-day service currently provides dialysis treatment for 230 patients, with plans to expand within a year to 350. The program also has the capacity for performing 50 kidney transplants per year, but has been unable to achieve this level. Financial problems are one of the major handicaps.

Under the direction of Dr. Marvin Levitt, head of the Division of Renal Diseases in the Department of Medicine, an intensive training program has been in progress for more than 15 years.

The dialysis program, directed by Dr. Sheldon Glabman at Mount Sinai and Dr. Martin Neff and Dr. Robert Slifkin at Elmhurst, also includes an active training program, as does the transplant program under Dr. Burrows and Dr. Haimov.

A research program, with strong clinical and basic science representation, is directed by Dr. Robert Taub, head of the transplantation immunology laboratory, and Dr. Louis Aledort, who works closely with the transplantation service as head of the platelet laboratory. The research teams closely study all transplant patients both before and after surgery.

The present effort to obtain designation as an approved center under the new legislation is based on the very real danger that only such centers will have the financial support needed to assure survival. Without such support, the highly integrated and successful Mount Sinai-Elmhurst program would probably have to be drastically curtailed and could ultimately face the threat of extinction.

GENOCIDE CONVENTION: TIME TO SIGN

Mr. PROXMIRE. Mr. President, this week we are celebrating the 25th anniversary of the United Nations' Declaration on Human Rights. This document of the United Nations set forth the high ideals of the international community. It recognized that peace and human rights were closely interlocked and that progress toward a better world required a recognition that men possess certain inalienable rights.

This document was followed by a series of treaties which sought to spell out these rights and give them the force of international law. One such treaty was the Genocide Convention. This treaty, which was sent to the Senate for ratification by President Truman in 1949, but not yet been acted upon.

I believe it is crucial that we ratify this treaty as soon as possible. The case for ratification was eloquently presented by William Korey, director of B'nai B'rith's United Nations office, in an article which appeared on the New York Time's Op-Ed page on December 8, 1973. I urge my colleagues to read it and join with me in seeking ratification before the end of the current Congress. I ask unanimous consent to have the article printed in the RECORD.

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

THE GENOCIDE CONVENTION: TIME TO SIGN

(By William Korey)

The Genocide Convention was adopted unanimously by the General Assembly on Dec. 9, 1948. Opposition to ratification in the United States has since been marked by remarkable irony. Extremist critics of ratification have endowed the convention with enormous powers that would somehow be wielded by the international community at the expense of sovereign states.

The international community and contracting parties to the convention have, in fact, been reluctant to use the U.N. machinery at all, even under the most pressing and tragic of circumstances.

It is not surprising that the International Court of Justice has never grappled with the issue of genocide even though, under Article IX, "disputes" between contracting parties "relating to the interpretation, application or fulfillment" of the treaty could be submitted to the court by a party to the dispute. At least a dozen contracting parties have inserted reservations stating that they would not be bound by Article IX.

No United Nations organ has even taken upon itself the task of investigating a possible case of genocide, despite the fact that Article VIII provides that "any Contracting Party may call upon the competent organs" of the U.N. "to take such actions under the charter . . . as they consider appropriate for the prevention and suppression of acts of genocide."

If genocide increasingly became an item on the "agenda" of the world's conscience in the nineteen-sixties, it was not reflected in the chambers of the United Nations.

Perhaps the classic case of U.N. indifference was offered in the spring of 1971. Tens of thousands of Bengalis in East Pakistan, particularly the educated elite, were summarily shot by Pakistani Government troops. But even as the carnage was a subject of passionate discussion in the mass media everywhere, not a word about the Bengali plight was sounded in the U.N. Commission on Human Rights.

That the holocaust of the Nazi era which had prompted the adoption of the convention was no longer regarded in some quarters as a vital moral concern was manifested in the fall of 1972. President Idi Amin of Uganda sent a telegram to U.N. Secretary General Kurt Waldheim, which justified Hitler's program of burning Jews "alive with gas in the soil of Germany." If the Ugandan chief of state had already displayed a racist view by his announced plan to expel all Asians, the apologia for genocide was nonetheless startling.

During May-July 1972, a massive form of "selective genocide" was conducted by the Burundi Government against Hutu tribesmen leading to the deaths of as many as a quarter-million persons. A recent study published by the Carnegie Endowment for International Peace documents the almost total indifference of governments including those comprising the Organization of African Unity to the tragedy. While Secretary General Waldheim felt moved to dispatch two observer missions to the area and, later, to report the staggering bloodbath statistics in a press conference, no "audible reaction" occurred elsewhere.

To cope with the threat of genocidal acts, an Indian expert on the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities, Arcot Krishnaswami, proposed a few years ago the creation of an international body "which would endeavor to prevent the crime of genocide before it actually occurred on a massive scale. Such a body should be able to investigate and assess allegations of genocide, and to take the steps necessary to halt at its outset the deliberate destruction of a national, racial, religious or ethnic group."

The fact that at least a beginning has been made to consider international methods for dealing with genocidal threats makes it all the more essential that the U.S. Senate—on the occasion of the 25th anniversary of the convention—provide its consent to treaty ratification. At the cost of considerable diplomatic embarrassment, the United States has not been a contracting party to the genocide convention.

CORPORATE GIANTISM AND HIGH FOOD PRICES: A FAMILY FARMER'S VIEW

Mr. McGOVERN. Mr. President, I commend to my colleagues in the Congress a thoughtful statement entitled "Corporate Giantism and High Food Prices: A Family Farmer's View," by Adam Seidel, vice president of the South Dakota Farmers Union. Mr. Seidel, a highly respected South Dakota farmer, testified today before the Select Committee on Small Business, chaired by the Senator from Wisconsin (Mr. NELSON), anl presided over today by my colleague from South Dakota (Mr. ABOUREZK).

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

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

CORPORATE GIANTISM AND HIGH FOOD PRICES: A FAMILY FARMER'S VIEW

(By Adam Seidel)

Mr. Chairman, my name is Adam Seidel. I am vice president of the South Dakota Farmers Union, my state's largest farm organization. My wife and I operate a 400-acre diversified family farm in Hutchinson County, South Dakota. My address is Menno, South Dakota.

I appreciate this opportunity to represent the family farmers in my home state and to bring the feelings of the Farmers Union to our nation's capital.

We in the Farmers Union believe this committee and its distinguished chairman should be congratulated for recognizing the importance of the food conglomerate issue. We also appreciate the efforts of our outstanding junior Senator from South Dakota, Senator Jim Abourezk, as well as our friend, Senator George McGovern.

I have farmed all of my adult life, and my wife and I have raised our two children on the farm. We have found it to be a good life—not in terms of financial reward but in terms of the quality of life.

In my testimony here, I want to point out what rising costs and the various shortages are doing to food producers, and I want to point out the effect of a poor transportation system on farmers.

Obviously, all consumers have been hard hit by an inflationary economy that has run wild. Since 1970, farm production costs have increased about 30 per cent, interest has jumped 35 per cent, and taxes have gone up 25 per cent. These are national averages, but I can give you localized figures for my home area.

I think that the sky-rocketing interest rates are particularly important in terms of farmers. I think everybody understands that a farmer is heavily dependent upon borrowed capital.

According to USDA statistics, the farm debt now totals nearly $70 billion. We are paying interest charges of over nine per cent! That has a long-term effect on food producers, and certainly high interest rates put farmers in a difficult position.

Then there's the fact that all consumers, including farmers, must pay concealed interest charges on all the products they buy. Nearly every industry depends on borrowed money, and those interest charges are included in the retail prices all of us pay.

Unfortunately, the farmer has no way to pass on his expenses.

We farmers are caught in a double bind. Our costs keep going up, but our prices fluc-

tuate, and right now our income is dropping steadily.

Parity stood at over 100 per cent a matter of weeks ago. Farmers benefitted from the increase in income, but now the parity ratio is about 89 per cent. Every day we see our costs go up. Parts, machinery, petroleum products, livestock feed—all of our inputs are becoming more expensive, with no relation to our income.

Since August 15 of this year, cattle prices have dropped 23 per cent; hog prices are down 29 per cent, and soybean prices are off 43 per cent.

On October 25, the Cost of Living Council removed controls from fertilizer prices. Within a two-week period following this action (October 25 to November 29) the average retail price of fertilizer jumped. The price of ammonia went up 40 per cent; superphosphate went up 28 per cent; potash went up 15 per cent, and mixed fertilizer went up 23 per cent.

But the end of fertilizer price increases is not even in sight!

Farmers are very dependent upon petroleum to plant and harvest crops and to raise livestock. We are all scared to death about the fuel situation.

We're being asked to plant more acres next spring because of the changes made by USDA, but nobody's telling us we're going to have the fuel to plant this record crop.

And if we get these millions of new acres planted, will we have the fuel for the harvest? Food producers are not even a priority yet.

Propane prices in my area have gone up from 13 cents a gallon a few months ago to about 31 cents a gallon now. Gasoline is edging its way up toward 50 cents a gallon—the pump price went up four cents just last week.

At the same time farmers are seeing their income dwindle and their costs go up, we have had difficulty just getting our crops to market this year.

First, our elevators can't get grain cars from the railroad corporations. Of course, we've learned to expect that boxcar shortages, have been a problem since the late 1800's.

But this year, USDA called up four years of Commodity Credit Corporation grain all at once. We would have been short of boxcars anyway—we always are—but that call-up brought the situation to preposterous proportions!

For example, an elevator that needs 20 or more grain cars a week may be lucky to get two or three a month.

America cannot expect to move her food with that kind of inefficiency.

But our railroad problem is much, much more serious than just a boxcar shortage.

The railroad corporations, which I understand decided long ago to invest their profits in other businesses rather than to upgrade their service, are abandoning rural branch lines as quickly as they can.

South Dakota has lost nearly 600 miles of rail service since 1965. One abandonment is now pending and others are expected within a few months. Nationally, 22,000 miles have been lost since 1950.

The rail lines—even the more heavily used lines—are deteriorating rapidly. In 1960, trains could move along at 40 miles an hour on virtually all of the track in the state.

Today, a major portion of the track is so bad that the trains must creep along at five or 10 miles an hour. Also, the dilapidated track bed is so weak that much of it cannot accommodate the new grain hopper cars that can haul about twice as much as a conventional boxcar and seven times as much as a large truck.

The fact that farmers cannot depend upon good rail transportation is costing money, too. Urban people think farmers are making a killing when they read about higher grain prices, which, incidentally, are dropping rapidly now. But we aren't, and I'll tell you why.

If I hear the market news on radio or television, and the corn price is good, I can't necessarily rush a load into my local elevator. I can't do that because the local elevator is without boxcars, and it can't get enough trucks to move away the grain. And the fuel shortage is holding back the trucks.

So a farmer must nervously wait until his elevator can buy his grain, and by that time, the price is apt to have dropped.

But there's more to the transportation problem than that.

We are being forced to rely on trucks because of the railroad situation. All the big grain terminals are equipped to very efficiently handle grain cars. It's expensive for a terminal to have to unload four trucks instead of one boxcar, or seven trucks instead of one hopper car.

Consequently, the farmer must pay the penalty for inefficient transportation. A wheat farmer gets 25 to 40 cents a bushel more if his wheat is shipped by rail. The spread is about 13 cents a bushel on corn and about 10 cents on oats.

It's a ridiculous situation for farmers, for local elevators, and for the regional terminals. It costs the farmer money, but it's a sad commentary on our food production system.

It doesn't help America much to have abundant food production on her family farms, if we can't move the grain.

In passing, I do want to say that I feel railroads are a prime example of corporate irresponsibility. They have neglected their customers, and they have invested their money in a wild effort to become conglomerates.

It's the same for the private fertilizer producing corporations. They put profit above the needs of our nation. They have slipped thousands of tons of American fertilizer overseas to get a $35-a-ton premium.

Now the Cost of Living Council has given the fertilizer corporations a blank check for more profit. These conglomerates are hiking up their prices in this country, so they can make the windfall profits they were getting from their foreign customers.

That has to be corporate irresponsibility and a disservice to our country.

Add to all of this the fact that corporate conglomerates are taking over the entire food industry. Out-of-state corporations owns about 250,000 acres of good farm land in South Dakota.

Conglomerates and wealthy individuals seeking tax write-offs have their "paper cattle" grazing in rural America.

The South Dakota Farmers Union is now doing extensive research to determine more accurately the role of the big corporations in our state's agriculture.

I know that expert witnesses already have or will be dealing with the conglomerate issue. It concerns family farmers very much, and I hope that this committee will take meaningful action.

The future of our nation's family farm system rests with the Congress and what is done about corporate administered inflation and the increasing corporate involvement in agriculture.

I want to say in closing that family farmers are fortunate to have their cooperatives. Many of us can buy our petroleum from our own co-op, and some of us can sell our grain to our co-ops. Co-ops put our nation's needs first, and they care about people rather than profit.

But the cooperatives are so badly outnumbered by the corporate grain trade (Cargill is bigger than all of the co-op elevators lumped together) and the corporate-dominated energy industry, that we are indeed at the mercy of decisions made in the board rooms of conglomerates bent on making high profits with no concern for people.

I appreciate this opportunity to testify before this outstanding committee, and I pray that this committee can help save family farm agriculture.

RAIL ABANDONMENT AMENDMENTS

Mr. SCHWEIKER. Mr. President, the adoption by the Senate of the amendments to the Rail Services Act, S. 2767, offered by the Senators from Minnesota (Messrs. MONDALE and HUMPHREY) which I am pleased to cosponsor, will incorporate into the legislation essential provisions to deal with the problem of rail abandonment.

The amendments would expand the duties of the Rail Emergency Planning Office to include an evaluation of the Secretary of Transportation's report on essential rail services within the Nation. The office would focus on the problem of abandonment and would provide full opportunity for public comment in the preparation of their report. In addition, local rail service assistance under title VI of the bill would be extended to include abandoned lines in States outside the rail emergency regions with funds provided to the States on a matching basis, subsidies to continue operations along necessary lines otherwise abandoned, and loans and loan guarantees available to States, local or regional transportation authorization to purchase and restore abandoned rail lines.

Further, Mr. President, the amendments halt for a period of 2 years the abandonment of rail lines and rail services where opposition to such abandonments exists outside the region covered by the provisions of the bill.

The Interstate Commerce Commission is required to submit to Congress within 90 days a comprehensive report on the anticipated effect, including the environmental impact, of abandonment in States outside the region.

Mr. President, on November 12, 1973, the Supreme Court affirmed certain rules published by the Interstate Commerce Commission on June 18, 1972. These rules would require the ICC to authorize abandonment of rail lines where the railroad involved alleges that the line transported fewer than 34 carloads of traffic per mile during the 12 months preceding the proposed abandonment, unless those who oppose the abandonment can prove that the public convenience and necessity require the continued operation of the line.

Over a year ago as a result of the ICC order, I introduced a resolution urging the Commission to not authorize the abandonment of any line of railroad prior to June 30, 1973. At that time I stated that the ICC order usurped the prerogatives. Inasmuch as the Congress at the time was considering legislation which would have changed the abandonment application procedure. The intent of Congress at that time was uncertain and I felt the Commission had acted prematurely. The intent of the Congress is now more certain with the adoption of these amendments.

Mr. President, the effect of the ICC order, now affirmed by the Supreme Court will be the wholesale abandonment of lines which in my judgment should

not be abandoned. The order deprives shippers and their employees of the opportunity to have their views properly weighed on the scale of public convenience and necessity. The order places shippers at a disadvantage which they will find difficult to overcome, since it modifies the criteria for determining public convenience and necessity.

Mr. President, although railroads contend that abandonment of a portion of their rail lines is absolutely necessary in order to avoid financial difficulty, there has been insufficient intention given to the plight of the farmer and the businessman, large and small. Rural America is being neglected. Small towns and regions struggling to promote industrial development and avoid economic depression are being dealt a near fatal blow.

Many businessmen located outside the urban center rely on the existing branches and spur lines. Many have substantial investments in facilities to handle their shipments. Numerous companies have located new facilities and plants in previously depressed areas because they felt that they could be served by the rail lines in the area. Industrial development authorities feel that the loss of rail lines will cripple their efforts to attract new employers. It is not an overstatement to say that large regions of the country are wholly dependent on the existence of railroads and the freight transport service they provide.

America's agriculture needs railroads. Agribusinessmen, large and small, must have the capacity to receive quantities of grain, feed, and fertilizer ingredients which only railroads can provide. In the process these businessmen are able to serve rural America with fertilizer and feed at competitive prices which in turn benefits the farmer and our agricultural economy—not just the local feed or flour mill or fertilizer plant. For the farmer his only access ultimately to the market is by railroad. Trucks cannot fill the void if rail service was to disappear. A farmer's organization stated:

> While there are several other alternatives in passenger transportation in many communities across rural America, there is no present alternative transport service, at reasonable cost, for the bulky or heavy commodities generally transported on rail cars.

Mr. President, the ICC should be required to consider and evaluate the economic and social impact of eliminating rail service to the communities affected—since abandonment is the final and irrevocable step. Abandonment is not an easy subject to rail users and it should not be made easy for the carrier.

Mr. President, the adoption of these amendments will, hopefully, provide a means to resolve this difficult problem. It is vital to the rural areas of this Nation that we establish a clear national transportation policy concerning maintenance or abandonment of the Nation's railroad lines.

THE LEGAL STATUS OF THE ATTORNEY GENERAL

Mr. PROXMIRE. Mr. President, on Monday President Nixon nominated Senator WILLIAM SAXBE as his next Attorney General. The office of Attorney General has been vacant since October 20, 1973, when Elliot Richardson resigned. Since October 20, Solicitor General Robert Bork has been serving as Acting Attorney General.

Mr. Bork, however, has been serving under a legal cloud. Last week, I went to court to challenge Mr. Bork's authority to continue as Acting Attorney General. And Monday, prior to the submission of Mr. SAXBE's name, I filed a motion for preliminary injunction against Mr. Bork's continuing to serve until a nominee had been submitted.

Mr. President, the United States Code imposes a flat limit of 30 days for temporary appointments to positions which are subject to Senate confirmation. The Attorney General is subject to Senate confirmation. And, Mr. Bork, who has been serving as Acting Attorney General since October 20, has been in that post for more than 50 days.

These are the relevant sections of the United States Code:

Section 3345 of title 5 provides:

> When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant . . . shall perform the duties of the office until a successor is appointed. . . .

Section 3348 of title 5 provides:

> A vacancy caused by death or resignation may be filled temporarily under section 3345 . . . for not more than 30 days.

Section 508 of title 28 provides:

> In the case of a vacancy in the office of Attorney General . . . the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.
>
> When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

The Justice Department suggests that Mr. Bork is entitled to serve more than 30 days as Acting Attorney General because the succession act for the Justice Department was enacted subsequent to the vacancy statutes quoted above. But we have carefully checked the legislative history of all relevant statutes, and we can find nothing which suggests that Congress intended to repeal the 30-day limitation when it passed the Justice Department's Succession Act. And as long as Congress failed to repeal the 30-day limit, it applies in full force to Mr. Bork.

Accordingly, I filed suit last week in U.S. District Court in the District of Columbia seeking two types of relief: first a declaration by the court that actions taken in the name of the Attorney General by Mr. Bork since November 19—the expiration of the 30 days—were without authority and therefore unlawful; and second, an injunction against Mr. Bork's continuing to serve as Acting Attorney General pending the submission of a nominee for that post to the U.S. Senate.

Mr. President, Monday President Nixon satisfied the second of these conditions when he nominated WILLIAM SAXBE to be his Attorney General. I am delighted that he has done so, and hope the Senate will proceed to consider the Saxbe nomination promptly. Accordingly, yesterday I withdrew my request for injunctive relief before the U.S. district court.

I am, however, pursuing the remedy for declaratory relief—that is, the request that the court declare that all acts taken in the name of the Attorney General by Mr. Bork between November 19 and December 10 are without legal authority.

I am pursuing this remedy for two reasons. First, the Attorney General is the Nation's No. 1 law enforcement officer. It is essential that the Nation know where he stands—not only as to future acts, but also as to acts taken in the past. A legal cloud now stands over every action taken by Mr. Bork during the November 19 to December 10 period. Only a declaratory judgment one way or the other by the court can remove that cloud.

Second, this issue has been raised repeatedly in recent months. Mr. L. Patrick Gray was appointed Acting Director of the Federal Bureau of Investigation last year after J. Edgar Hoover died. I wrote to the U.S. Comptroller General seeking an opinion on whether the 30-day rule applied to that office, and the Comptroller General held that it did. But Mr. Gray served more than 8 months in that post.

Subsequently, Mr. William Ruckelshaus was made Acting FBI Director. As his service neared 30 days, without a nominee having been submitted, I wrote to the White House, calling attention to the 30-day rule and the Comptroller General's ruling in the Gray case. But Mr. Ruckelshaus continued to serve, in excess of 30 days.

At the Office of Economic Opportunity, Mr. Howard Phillips served as Acting Director for more than 4 months. The OEO Director is subject to Senate confirmation, and the U.S. district court was asked by Senator HARRISON WILLIAMS to rule that Mr. Phillips could not serve legally beyond 30 days. This past spring the court handed down a ruling that Mr. Phillips was in office illegally, and could not continue to serve. As a result of that ruling, Mr. Phillips was forced to leave office, and the name of Alvin J. Arnett was submitted by the President and confirmed by the Senate.

Mr. President, this is an extremely important issue. For if officers may continue to serve temporarily for an indefinite period despite the requirement of Senate confirmation, the advise and consent process may be completely thwarted. It is essential that we have a definitive ruling from the courts on the legality of temporary appointments, and that is why I am continuing my lawsuit against Mr. Bork.

Mr. President, I ask unanimous consent that a copy of my complaint against Mr. Bork and a memorandum in support of my motion be printed in the RECORD, with the understanding that they will be modified to delete the request for injunctive relief.

There being no objection, the com-

plaint and memorandum were ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 2148–73]

SENATOR WILLIAM PROXMIRE, PLAINTIFF, VERSUS ROBERT H. BORK, SOLICITOR GENERAL OF THE UNITED STATES, DEFENDANT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action which seeks to enjoin the defendant Robert H. Bork, preliminarily and permanently, from continuing to act as Attorney General of the United States and to enjoin him from performing any duties of that Office until a nomination for that Office is submitted to the United States Senate.

2. The value of the matter in controversy exceeds $10,000.

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331.

4. On October 20, 1973, pursuant to the provisions of 28 U.S.C. § 508(b), 5 U.S.C. § 3345, and 28 C.F.R. § 0.132(a), the defendant, who is the Solicitor General of the United States, became the Acting Attorney General of the United States.

5. Section 3348 of Title 5, United States Code, limits the term of any person who temporarily fills a vacancy in the office of the head of an Executive Department, which includes the position of Attorney General, to a period of thirty days.

6. Although the Senate has remained in session for more than thirty days since the defendant began serving as Acting Attorney General, neither his name nor that of any other person has been sent to the Senate for its advice and consent.

7. On November 20, 1973, plaintiff, who is a United States Senator, wrote the President stating that in his opinion the defendant had been unlawfully acting as Attorney General since the thirty days expired on November 19, 1973, and requested the President to take action in accordance with the law.

8. On November 27, 1973, Leonard Garment, counsel to the President, replied by letter to plaintiff's letter of November 20, 1973. That reply denied the applicability of the thirty day period of 5 U.S.C. § 3348 to a person serving as Acting Attorney General.

9. The failure to submit the name of any person to the Senate for its advice and consent has deprived plaintiff of his rights guaranteed by 28 U.S.C. § 503 and Article II, Section 2 of the United States Constitution to advise on, and consent to all appointments to the Office of Attorney General.

10. Unless the defendant is enjoined from continuing to act as Attorney General, he will continue to perform the functions of that Office in contravention of law, and his continuation in his present office will continue to violate the rights of plaintiff. Moreover, the continued performance by defendant of any acts required by law to be taken in the name of the Attorney General may cause grave damage to the interests of the United States if such actions are challenged as unlawful by persons affected by them.

Wherefore plaintiff prays for an order (1) declaring that defendant is, and has been since November 19, 1973, unlawfully performing the functions of the Office of the Attorney General of the United States; (2) preliminarily and permanently enjoining him from performing any of the functions of that Office until a nomination for that Office has been submitted to the United States Senate; (3) awarding plaintiff his costs and disbursements in this action; and (4) granting such other and further relief as may be just and proper.

Dated: Washington, D.C., December 6, 1973.

ALAN B. MORRISON,
Attorney for the Plaintiff.

[U.S. District Court for the District of Columbia, Civil Action No. 2148–73]

SENATOR WILLIAM PROXMIRE, PLAINTIFF, VERSUS ROBERT H. BORK, SOLICITOR GENERAL OF THE UNITED STATES, DEFENDANT

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

This is an action which seeks declaratory and injunctive relief against the defendant Robert H. Bork who is the duly confirmed Solicitor General of the United States and who since October 20, 1973, has also been performing the duties of Attorney General of the United States. The basic premise of this action is that the provisions of 5 U.S.C. § 3348 preclude the defendant from continuing to act as Attorney General after 30 days have expired from his accession to the position of Acting Attorney General. Since the 30-day period has expired and no nomination for the position of Attorney General has been sent to the Senate for its advice and consent, the defendant may not lawfully continue to discharge any of the functions required to be performed by the Attorney General.

STATEMENT OF FACTS

The facts in this case, we believe, are not in dispute. They are set forth in the complaint which is incorporated in the affidavit of the plaintiff Senator William Proxmire. On October 20, 1973, after the resignation of the then Attorney General and the then Deputy Attorney General, the defendant Robert H. Bork, who was then and is today the Solicitor General of the United States, acceded by operation of law to the position of Acting Attorney General pursuant to 28 U.S.C. § 508(b), 5 U.S.C. § 3345, and 28 C.F.R. § 0.132(a) (1973). It is now more than 50 days since the defendant began to act as Attorney General and to perform the functions of that Office, but no nomination has been sent to the Senate to fill the vacancy in the Office of Attorney General.

On November 20, 1973, the plaintiff, who is a member of the United States Senate which must consent to the appointment of the Attorney General, wrote the President to advise him that in his opinion the Vacancies Act, 5 U.S.C. §§ 3345 and 3348, precluded the defendant from continuing to serve more than 30 days as Acting Attorney General and to request that the President take appropriate action. (See Exhibit 1 to plaintiff's affidavit). On November 27, 1973, the Counsel to the President, Leonard Garment, replied to plaintiff's letter of November 20th and stated that it was his opinion, as well as the opinion of the Office of the Legal Counsel of the Department of Justice, that the Vacancies Act did not apply because subsequent to the enactment of the Vacancies Act the statute creating the Department of Justice and providing for a successor to the Attorney General was enacted, and that statute superseded the Vacancies Act. A copy of that reply plus the Statement of the Office of Legal Counsel annexed to that reply is attached to plaintiff's affidavit as Exhibit 2. Thus, it is clear that plaintiff and defendant sharply disagree on the effect of the relevant statutes and that defendant will continue to act as Attorney General and perform the functions of that Office unless this Court enjoins him from doing so.

ARGUMENT: I. PLAINTIFF IS LIKELY TO PREVAIL ON THE MERITS OF THE CONTROVERSY

We begin the discussion of the legal issue with Article 2, Section 2, Clause 2 of the Constitution which provides that the President shall appoint with the advice and consent of the Senate officers in the Executive branch unless Congress provides otherwise, which it has not done in this case. See 28 U.S.C. § 503. Very early in our history it was realized that some provision had to be made for the appointment of an interim successor during temporary vacancies in the office of a person whose appointment required Senate confirmation. Thus, in 1792 Congress passed a law which permitted the temporary filling of vacancies in the heads of the departments of State, Treasury, and War. Although other departments were created subsequent to that date, no amendments were made in the vacancies laws until 1863 when Congress passed a comprehensive statute covering all executive departments and permitting the filling of vacancies for periods of up to 6 months.[3]

Five years later the matter came up for congressional consideration again, largely because of alleged abuses of then President Andrew Johnson in the filling of vacancies. The result was a statute which has come to be known as the Vacancies Act, and which applied to all executive departments, and which limited the filling of any vacancy to a period of 10 days.[3] When the Revised Statutes were compiled and published in 1878, the Vacancies Act appeared as sections 177–181. The Revised Statutes also contained a definition of executive departments (the phrase used in the Vacancies Act) and included as item "Fourth," the Department of Justice. These provisions were carried forth substantively unchanged into Title 5, with section 1 again defining "executive departments" to include the Department of Justice and with sections 4–8 containing the provisions of the Vacancies Act. See 5 U.S.C. (1964). When Title 5 was codified in 1966 the definition of executive departments was placed in section 101, where today the fourth listed department is the Department of Justice. As for the Vacancies Act, it was redesignated as sections 3345–3349 of Title 5 in virtually identical language as in the prior version of Title 5 and in the Revised Statutes of 1878.

Section 3345 provides that when the head of an executive department resigns his first assistant shall perform the duties of the office until a successor is appointed, unless the President otherwise directs under section 3347. In the case of the Department of Justice, the first assistant is the Deputy Attorney General pursuant to 28 U.S.C. § 508 (a). In the event of a vacancy in the positions of both the Deputy and the Attorney General, section 508(b) of Title 28 provides for further successions in accordance with a designation by the Attorney General. Since the Attorney General had designated the Solicitor General as the next in line,[4] the defendant succeeded to the position of Acting Attorney General on October 20 by operation of these provisions of law. However, section 3348 specifically provides that a vacancy filled temporarily under section 3345 (as it was in this case) shall not be filled for more than 30 days. It is this provision which operates to preclude the defendant from acting as Attorney General beyond the 30-day period which expired on November 19, 1973.

The reply of the Justice Department to all of this is that a statute which was enacted in 1870,[5] two years after the Vacancies Act, superseded the inclusive provisions of the Vacancies Act and made the ?0-day time limit in section 3348 inapplicable. The text of the statute in its original form, and in all of its subsequent enactments, nowhere provides for any repeal of the Vacancies Act, nor is there any language that directly conflicts with the statute enacted two years earlier. Thus, the Justice Department is left with the position that the 1870 statute impliedly repealed the earlier provision in spite of the well-known statutory construction maxim that implied repealers are not favored.[6] Quite apart from any rules of statutory construction, however, there is ample internal evidence in the relevant statutes to refute this contention.

The literal language of all of the relevant

Footnotes at end of article.

statutes leaves no doubt that the Justice Department's interpretation is in error.

The 30-day limitation of section 3348 applies to the filling of vacancies under section 3345, which includes a vacancy where there is a resignation in the "head of an Executive department." Under both section 101 of Title 5 and section 501 of Title 28,[7] the Department of Justice is specifically defined to be an Executive department. And if there was still any question, section 3349, which has been part of the Vacancies Act since 1868, specifies that the temporary filing of an appointment under section 3345 or 3346 "may not be made otherwise than as provided by those sections, except to fill a vacancy occurring during a recess of the Senate." Therefore, there can be no question that the Vacancies Act and its 30-day limitation apply to successions in the Office of Attorney General which are filled under section 3345.

The inclusion of the Justice Department under the Vacancies Act has been the clear pattern since the Revised Statutes of 1878 when the first possibility of a conflict with the 1870 arose. Section 158 of the Revised Statutes included the Department of Justice as an executive department to which the provisions of Title IV, which included the Vacancies Act in sections 177–181, applied. Section 158 became 5 U.S.C. § 1, and the provisions of the Vacancies Act became 5 U.S.C. §§ 4–8 prior to the 1966 codification which did no more than restate and rearrange this provision. Finally, there is nothing in the legislative history of the Vacancies Act or in the 1870 statute relied upon by the Justice Department that in any way suggests that anyone considered, let alone affirmatively decided, that the Department of Justice was to be exempt from the Vacancies Act.[8]

As we understand the Justice Department's position, it is not merely that the 30-day limitation of section 3348 is inapplicable, but that the entire Vacancies Act does not apply because of the 1870 statute. One major difficulty with this approach is that it leaves unexplained the designation of the Deputy Attorney General in the statute relied upon by the government [section 508 (a)] as the first assistant to the Attorney General ". . . for the purposes of section 3345 of title 5 . . . ." That designation is wholly unnecessary unless the Vacancies Act applies to the Justice Department in the first instance. Even more persuasive evidence of the applicability of the Vacancies Act as a whole is contained in section 3347, which provides for the detailing of the head of one executive or military department to fill the vacancy in another such department if the President so chooses. There is contained in that section a specific exclusion so that the section "does not apply to a vacancy in the Office of Attorney General." Obviously, if the Vacancies Act as a whole did not apply to the Office of Attorney General, there would be no need to make a specific exception for section 3347. It is also noteworthy that this same exclusion appeared in the Revised Statutes of 1878 in section 179, albeit by means of a parenthetical clause rather than a separate sentence. Thus, a nearly contemporaneous interpretation of the applicability of the 1870 statute and the Vacancies Act clearly supports the plaintiff's position that the Congressional enactment of 1870 did not eliminate the Justice Department entirely from the coverage of the Vacancies Act.

The logic of the Government's position here would require that every department created after 1868 be automatically excluded from the operation of the Vacancies Act.[9] The Department's statement (Exhibit 2, enclosure p. 2) suggests that the "Departments of Health, Education and Welfare, Treasury, Commerce, Labor, the Navy, and the Air Force also have special provisions which supersede the limitations of the Vacancy Act." The argument is particularly difficult to comprehend as to the Secretaries of Treasury and Navy since both of those departments were in existence prior to 1868. Moreover, virtually all of the other departments listed in section 101 of Title 5 would no longer be subject to the Vacancies Act since the only executive departments which were included in section 158 of the revised statutes and which are still in existence today are Treasury, State and Interior. Thus, the Departments of Transportation, Defense, Labor, Health, Education and Welfare, and Housing and Urban Development all would be excluded from the operation of the Vacancies Act under defendant's theory.

Finally, no rational purpose has been suggested for the exclusion of the Department of Justice or any other executive department from the operation of the Vacancies Act. We simply do not understand why the Office of Attorney General should be permitted to be filled without any time limits whatsoever, given the major role played by the Department of Justice in the United States. The plain meaning of the statutes leaves no room for disputing the applicability of the 30-day limitation to the position of Acting Attorney General, and every purpose of which we are aware supports the applicability of that limitation to the Department of Justice.[10]

The authorities make it clear that the language in the Vacancies Act is not merely precatory, but that it affects legal rights. Two opinions of the Attorney General[11] have concluded that once the period of the Vacancies Act is over, the person filling that vacancy is no longer entitled to perform the acts of the vacant office. In the latter case the advice was given that "you should not take action in any case out of which legal rights might arise which would be subject to review by the courts." *Id.* at 141.[12] Moreover, this Court has recently had occasion to invoke similar statutes to preclude a person from acting as Director of the Office of Economic Opportunity absent the required Senate confirmation. See *Williams v. Phillips*, 360 F. Supp. 1363 (D. D.C.), *stay denied*, 482 F. 2d 669 (D.C. Cir. 1973). While the defendant is and continues to lawfully serve as the Solicitor General, he no longer has the right to exercise the authorities of Attorney General, and hence the proper remedy is to enjoin him from continuing to do so in violation of law.

II. A PRELIMINARY INJUNCTION SHOULD BE PROMPTLY ISSUED

The Court of Appeals for this Circuit established the criteria for the issuance of a preliminary injunction in *Virginia Petroleum Jobbers Ass'n. v. FPC*, 131 U.S. App. D.C. 106, 110, 259 F. 2d 921, 925 (1958). Under that decision, this Court is required to consider the probability of success on the merits, to balance the equities between the parties, and to assess where the public interest lies. Moreover, the Court made it clear that a far lesser showing of irreparable harm to the plaintiff is required as the probability of success increases. *Id.* As we have demonstrated above, there is a very strong likelihood that Mr. Bork is unlawfully performing the functions of the Attorney General and has been since November 19, 1973. Thus, the showing of harm to plaintiff can be met without proof of the kind of irreparable harm present in other situations where a plaintiff's case on the merits is not so strong.

As a United States Senator, plaintiff is entitled under the Constitution and relevant statutes to vote on the confirmation of the person performing the duties of Attorney General, save in those limited instances in which the Vacancies Act provides otherwise. Each day that passes produces a further violation of plaintiff's right to supervise, via the process of advice and consent, the activities of the Justice Department. Plaintiff's rights will continue to be violated, and plaintiff will continue to suffer irreparable harm from those violations until corrective action is taken. Moreover, it is clear that while the statutes and constitutional provisions relied on are of particular applicability to plaintiff as a United States Senator, they were also intended to protect all of the people, and hence their rights are also being violated by this non-compliance with the law.

The public interest will also be served by the granting of a preliminary injunction to preclude the defendant from taking actions which may later be declared to be unlawful as in excess of his authority. Thus, under provisions such as 18 U.S.C. § § 2514 and 6004, the Attorney General must act in order for the grants of immunity to be lawful.[13] Similarly, 42 U.S.C. § 2000(a)–5(a) requires that the Attorney General himself (or an Acting Attorney General) sign the civil rights complaints described in that section. See also 42 U.S.C. § 2000b. Furthermore, the delegated authorities to compromise claims of the United States set out in Subpart Y to 28 C.F.R. in some cases require the specific approval of the Attorney General before the settlement is binding. See §§ 0.160; 0.164.

It would seem advisable for the Government not to enter any such settlements during this period in view of the uncertainty of the legality of the defendant acting in the capacity of Attorney General, since at a later date those settlements might be overturned by a party who had a change of heart. Since the defendant is no longer lawfully serving as Acting Attorney General, it is our view that any actions taken by him pursuant to those provisions would be unlawful and that he should be enjoined from taking actions in the name of the Attorney General on which the government must rely, in order to insure that at some later date they are not subject to court challenge. These problems of "unscrambling the eggs" at a later date would create enormous difficulties, and the public interest requires that the defendant take no action that would create such problems in the future.

While the relief sought would preclude the defendant from performing acts as Attorney General, it would in no way interfere with the vast majority of actions taken by the Justice Department itself and by the United States Attorneys throughout the country. All of those persons who were lawfully delegated functions either while a duly confirmed Attorney General was in office or while the defendant was properly acting as Attorney General during the 30 days following his accession to the position of Acting Attorney General, could go forward without any legal impediment. Defendant could, of course, continue to serve as Solicitor General, a position for which he was duly confirmed by the Senate. Thus, it is only those matters that require the personal attention of the Attorney General and which may be subject to court review, that should not be undertaken during the period of continuing illegality.

CONCLUSION

Plaintiff has clearly established that defendant is in violation of the Vacancies Act in continuing to perform duties of the Attorney General beyond the 30 days provided in section 3348. Because of the serious possibility of harm to the public should he continue to perform such acts in violation of law, a preliminary injunction should be issued forthwith to arrest this illegality.

Dated: Washington, D.C., December 10, 1973.

Respectfully submitted.

ALAN B. MORRISON,
Attorney for Plaintiff.

FOOTNOTES

[1] 1 Stat. 281, Ch. 37, § 8.

[2] 12 Stat. 656, Ch. 45.

[3] 15 Stat. 168, Ch. 227, changed to 30 days in 1891. 26 Stat. 733, Ch. 113.

[4] 28 C.F.R. § 0.132(a).

[5] 16 Stat. 162, Ch. 150.

[6] See *e.g., United States v. Hess,* 127 F. 2d 233, 237–238 (3rd Cir. 1942), *reversed on other grounds,* 317 U.S. 537 (1943).

[7] Prior to the 1966 codification, this provision appeared as Section 291 of Title 5.

[8] The 1870 statute appears to have been enacted for purposes wholly unrelated to the question before this Court. Its sponsors were concerned about the absence of a central place from which opinions of law could be provided and collected, and about the extraordinary expenses incurred by the Justice Department to pay outside attorneys rather than employing their own attorneys to handle Government cases. See Congressional Globe, April 7, 1870, pp. 3034–3036 (remarks of Rep. Jenckes); p. 3065 (Remarks of Rep. Logan).

[9] There is considerable doubt that the Justice Department was "created" in 1870 as defendant claims. In 1789 Congress provided for the appointment of an attorney general to represent the United States in the Supreme Court and to render opinions on questions of law. E Stat. 92, ch. 21, § 35. Moreover, the sponsor of the 1870 legislation, Representative Jenckes, explained his bill to the House as one which does not propose to create a new department in the Government, but simply to transfer to an existing Department some things properly belonging to it, but which are now scattered through other Departments. Cong. Globe, April 27, 1870, pp. 3034–3035.

[10] Even where the Vacancies Act has been found not literally to apply, it has been construed to reach situations within its purpose. Thus, the Attorney General was called upon to construe the Vacancies Act in 19 Opin. A.G. 500 (1890) to determine whether it applied when a vacancy occurred as a result of a retirement rather than a "death, resignation, absence, or sickness . . ." as the statute specifies. Although finding the words used in the statute not to include retirement if read literally, the Vacancies Act was nonetheless held applicable since the intent of it was to cover similar situations including retirement.

[11] 20 Opin. A.G. 8 (1891) and 32 Opin. A.G. 139 (1920).

[12] That same opinion suggests that the 30-day limitation continues to apply even after the nomination has been sent to the Senate, a view with which we disagree. There is no rational reason to suppose that Congress would have wanted to impose any kind of restriction on the operation of any of the executive departments when the Senate had it within its exclusive control to confirm a nomination which had been properly forwarded to it by the President. For example, the 1972 nomination of Richard G. Kleindienst to be Attorney General was pending before the Senate for three full months during which time Mr. Kleindienst as Deputy Attorney General acted as Attorney General, and in our view that was entirely proper under the Vacancies Act. There is support for this position in the legislative history. Senator Trumbull, the principal sponsor of the bill which became the Vacancies Act, stated that ". . . the President is authorized to detail some other officer for ten days in case of a vacancy, and during those 10 days it will be his duty to *nominate* to the Senate . . . some person for the office." Congressional Globe, February 14, 1968, p. 1164 (emphasis added).

[13] Under 18 U.S.C. § 2516, the Attorney General "or any Assistant Attorney General specially designated by the Attorney General" may authorize a court application for a wiretap order. Our research in 28 C.F.R. discloses no such designation although it is possible that one has been made but not yet included in 28 C.F.R.

THE ENERGY RESEARCH AND DEVELOPMENT POLICY ACT

Mr. HANSEN. Mr. President, last Friday during the debate on S. 1283, I referred to several amendments that had been proposed to that bill, the Energy Research and Development Policy Act of 1973.

The four amendments, copies of which had been furnished to the minority staff of the Interior Committee were new titles to the bill as follows:

Title IV, Federal Petroleum Corporation.

Title V, Intrastate Natural Gas Regulation.

Title VI, Natural Gas Conservation.

Title VII, Excess Profits Tax.

These amendments were, according to the copies I was furnished, intended to be proposed by Mr. JACKSON (for himself and Mr. MAGNUSON.)

I wanted to be perfectly clear that these were not my amendments. I only wanted all Senators to be aware of the nature of the amendments.

It is my understanding that they were drafted and would be introduced and called up for consideration unless the Buckley amendment pertaining to deregulation of new natural gas were withdrawn.

THE PRESIDENT'S TAX RETURNS AND TAX REFORM

Mr. KENNEDY. Mr. President, whatever the immediate outcome of the current Joint Congressional Committee investigation of President Nixon's income tax returns, one of the most significant long-run lessons of the recent disclosures in the President's tax data is that tax reform must move back to center stage as an issue for Congress and the American people.

The picture that emerges from the voluminous disclosures is not a pretty one, because it demonstrates the extraordinary ease with which wealthy individuals maneuver their financial affairs to avoid their fair share of taxes under our loophole-ridden revenue laws.

Someone has to pay for these tax-avoidance schemes. The Nation's revenues have to come from somewhere, and it is the ordinary citizen who foots the bill—the average hard-pressed taxpayer whose taxes are too high because so many others pay too little.

Just as Watergate helped to generate important new legislative momentum in Congress for comprehensive reform of the Nation's election laws, including public financing of elections, so the President's tax disclosures should generate a similar momentum in Congress for comprehensive reform of the Nation's tax laws. Tax reform belongs at the top of our congressional agenda for 1974. The country needed a spark to ignite the fire of tax reform, and these new disclosures have provided it.

Perhaps the most serious result of the disclosures is the drastic impact they may have on the greatest single virtue of our Federal revenue system—the reservoir of trust and confidence that millions of citizens have in the tax laws and their basic fairness. The bedrock of the U.S. income tax is the system of voluntary compliance by which the average taxpayer now abides. Once his trust and confidence is eroded, it will be extremely difficult to recover. America cannot afford to find itself in the deplorable situation of many foreign countries, where tax avoidance and tax evasion are national pastimes and accepted ways of life.

And so our first priority is to work to shore up the Nation's newly shattered confidence in the fairness of the tax laws. And the only effective way to do so is through a pledge by Congress to the American people that tax reform is on the way.

At least three specific areas of the President's tax returns—capital gains, the minimum tax, and the interest deduction—are obvious areas where reform is needed now to insure that wealthy citizens pay their fair share of taxes, and that the tax provisions now used by citizens in low- and middle-income groups work more fairly for their benefit.

And these reforms are only the tip of the iceberg. In countless other areas, the Revenue Code is a landscape dotted with special benefits for those of special wealth. What we need is comprehensive reform, a bill to make all our income tax laws fair again.

I do not underestimate the difficulty of achieving such reform. In the long run, truly comprehensive tax reform may well be tied to election reform and public financing of campaigns for public office. In large measure, the tax benefits of the present laws flow directly to the wealthiest contributors to political campaigns, so that in a real sense, under the present system of financing campaigns, tax reform puts Congress and the administration in the position of biting the hands that feed them.

At the moment, with the Christmas tree bill now on the Senate Calendar, Congress seems to be heading in the wrong direction once again, as it prepares to hand out new special tax benefits to the special interests. But, as a result of the adverse publicity such measures always now receive, and, above all, as a result of the momentum provided by the President's disclosures, we have a good chance to turn the tide, so that 1974 may yet be the year in which Congress at last brings tax justice to the Nation.

S. 1745—THE SUDDEN INFANT DEATH SYNDROME ACT OF 1973

Mr. BEALL. Mr. President, yesterday the Senate passed legislation, S. 1745, dealing with a subject brought to the attention of the Subcommittee on Children and Youth during the last Congress.

Sudden infant death, more commonly called crib death, claims the lives of 10,000 to 15,000 babies each year. This disease, as the name denotes, strikes suddenly and unexpectedly and in light of present medical knowledge there is

no known way to prevent it. Research has begun and theories advanced—among the more recently suggested are viruses, closure of windpipe, immature nervous system, erratic heart behavior, and incompetence of the blood to provide natural protection against infection. The last theory is the subject of a project in Baltimore in the office of Maryland's chief medical examiner, Dr. Russell S. Fisher, which indicates in a preliminary study that approximately 88 percent of sudden infant death victims lacked proper antibodies in their blood, which were found present in other infants dying from other causes.

In many instances, no autopsy is performed on the victim, and often the cause of death is listed as "unexplained." Under these circumstances, the parents are burdened with an overwhelming sense of guilt and responsibility.

The guild has developed a unique arrangement with the chief medical examiner of Maryland, Dr. Russell Fisher, whereby upon confirmation of a crib death, a letter is sent from his office to the parents explaining the nature of the child's death and telling them of the existence of the guild. At the same time a copy of the letter is sent to the guild so that contact may be established. This is quite important, first, in educating parents about sudden infant death syndrome, and second, as we noted earlier, among the States there is no standard or accepted description of the problem. In fact, according to a survey conducted by the guild, 16 different phrases are used to identify sudden infant death. Maryland is quite fortunate in this regard, however, many States are not as fortunate and the fact remains that a greater concentration of efforts must be made if we are to discover more about this mysterious killer.

Although an increasing emphasis has been placed on sudden infant death syndrome by the National Institute of Child Health and Human Development, progress has been slowed by the fact that there is no classification for the disease in the international classification of diseases, thereby making the gathering of data an exceedingly difficult task. In addition, there have been few satisfactory applications dealing with sudden infant death that have been submitted to NICHD for consideration.

One of the volunteer agencies which has been set up to counsel and assist families affected by SIDS is the International Guild for Infant Survival. The guild, dedicated to solving the mysteries of sudden infant death, is based in Baltimore, Md., and was started in 1964 by Mr. and Mrs. Saul Goldberg. This organization and its members have been most active and effective in bringing a focus to this disease.

I certainly commend the distinguished chairman of the subcommittee, Senator MONDALE, first, for bringing this matter to the attention of the Senate, and second, for his efforts to enact legislation in this area. During the last Congress, the Senate passed legislation which I cosponsored, Senate Joint Resolution 206, which directed the Secretary of Health, Education, and Welfare to designate SIDS of highest priority in intramural research and in awarding research and training grants. The Secretary was also directed to develop educational programs to inform the public concerning sudden infant death syndrome and to develop statistical procedures as well as designating sudden infant death as a cause of death in the International Classification of Diseases. Unfortunately, no action was taken by the House of Representatives on the proposal.

The Senate once again had before it a measure to deal with this disease. I was pleased to support S. 1745, "The Sudden Infant Death Syndrome Act of 1973," which will provide financial assistance to identify the causes and preventative measures to eliminate sudden infant death syndrome. In addition, the proposal would also provide information and counseling services to families affected by sudden infant death syndrome and to personnel involved with this disease. These programs would be in the form of grants to public and nonprofit private entities through the Secretary of Health, Education, and Welfare for the establishment of regional centers.

CARLOS ANDRES PEREZ ELECTED PRESIDENT OF VENEZUELA

Mr. CHILES. Mr. President, with military regimes being very much in fashion these days in Latin America, it is most heartening to see democracy work as well as it has in Venezuela. Yesterday, Carlos Andres Perez was elected President of Venezuela by a significant margin over the ruling party's candidate in an election where everyone was predicting a close outcome and no one would predict the winner.

I met with Carlos Andres Perez while I was in Venezuela in August on a fact-finding trip to four countries in Latin America and I was most impressed with him and the orientation of his campaign. Unlike many politicians today, "Carlos Andres," as he is known in Venezuela, seemed to have a clear sense of the need to get out to his people and be in touch with them, giving the people the feeling that he is accessible and will hear them. I think this is the great need today. In democratic countries there is a deep yearning by the people for political leadership which is close to the people. Carlos Andres convinced the Venezuelan people of his sincerity by "walking" in cities, small towns and villages throughout the country. Having walked myself, I am very pleased to see again how this does convey the style and thrus' a candidate wants to give.

It could well have happened in Venezuela that differences between parties and candidates would blur in the campaign, that the people would feel that their vote did not matter—that there was no choice—and that they would vent their frustration by abstention of voting for an extremist candidate from the right or left. Growing frustration in Latin America with the slow pace of structural change under democratic leadership has led in many countries to the intervention of the military either to cut off and control the growing pressure for change or to pick up where democratic efforts at change left off and carry it further. This is a very worrisome trend.

The inability of democratically elected candidates to generate a significant mandate to enable them to govern effectively and implement a program of reform has weakened the roots of democracy in Latin America to a lamentable extent. Whereas I support the notion that we should treat governments in Latin America evenhandedly and take them as they are, I cannot help but think that the fact that Carlos Andres Perez has won a significant mandate in yesterday's election in Venezuela does give him an important opportunity and a tremendous responsibility to prove to his people that democracy can really function for them and produce the results that they want. This is a great challenge and an awesome political task. To decide on a definite course, to have a purposeful program and to try to implement it while at the same time having democratic opposition and a free press is a task which not many political leaders in Latin America are willing to take upon themselves these days. It is enormously difficult. Many have failed in the effort. I wish Carlos Andres Perez well.

In this era of petroleum scarcity, we should be further heartened by the fact that Mr. Perez is a friend of the United States. Thirty percent of our petroleum imports come from Venezuela. So Venezuela is crucial to us in the energy crisis we face. In his statements yesterday it is clear that Mr. Perez will put the interests of his own nation first as is natural but he has a strong interest in good relations with us. In a press conference yesterday, Mr. Perez said:

> Venezuela will fight to have good relations with all countries of the world, above all with the United States.

He added:

> I will not join in any effort to breed hate against the United States. But I will ask for its respect and better treatment in economic policies.

As I have said many times the era of the nonpolicy, the no profile and "benign neglect" toward Latin America is doing us dirt. This is clearly no time to disappoint and frustrate the kind of leadership that Mr. Perez appears to want to give. I urge my colleagues in the Congress, the President, the Secretary of State and other responsible authorities to take heed and give Venezuela and our other neighbors in Latin America the attention they deserve in light of our own national interest.

For the interest of my colleagues I ask unanimous consent to have printed in the RECORD a telegram I am sending today to Mr. Perez, his letter to me in September after my trip to Latin America and the article in today's Washington Post on the Venezuelan election.

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

CARACAS,
September 1973.

Hon. Senator LAWTON CHILES,
Senate of the United States,
Washington, D.C.

DEAR SENATOR CHILES: It was a pleasure having the opportunity to meet you. I am sure that your visit has been interesting as a contribution to the understanding that we should encourage between the two Americas in order to solidify good relations in the future which are so deteriorated today.

I hope to see you again in the future and wish you success in the Senate of the United States where Latin America always needs good and comprehending friends.

(Signed) CARLOS ANDRES PEREZ.

DECEMBER 12, 1973.

CARLOS ANDRES PEREZ,
Edificio Torre Lincoln,
Caracas, Venezuela,

CARLOS ANRES PEREZ: Warmest congratulations on your impressive victory yesterday. I am very pleased to see the results of the election for I think they show that the people orientation of your campaign took hold and made the public aware of the difference it would make to elect you President of Venezuela. The margin of your victory is a tribute to the spirit, style and substance of your campaign and express the confidence and hope the people of Venezuela have in you. As we are seeing for ourselves everyday here in the United States, the challenge for you now will be to keep the public trust.

I wish you the very best on your Presidency and hope you let me know when you come to the United States. The walking Senator would be most pleased to meet with the walking President of Venezuela: Saludos,

LAWTON CHILES,
U.S. Senate.

[From the Washington Post, Dec. 12, 1973]

PEREZ, OF OPPOSITION, WINS VENEZUELA VOTE

CARACAS, Dec. 11.—Carlos Andres Perez of the center-left Democratic Action Party today held a widening lead in returns from Sunday's election and was the unofficial winner of the Venezuelan presidency.

In a press conference, Perez said he would use Venezuelan oil as a weapon to extract economic benefits for his country and for Latin America.

"I will not join in any effort to breed hate against the United States," he said. "But I will ask for its respect and better treatment in economic policies."

Perez, 51, said he would never impose an oil embargo like that of Venezuela's Arab associates in the Organization of Petroleum Exporting Countries.

"Our oil policy will be a great instrument to break down trade barriers—it will be a Latin American weapon against the totalitarian trade policies of the industrialized nations against the developing countries," he said.

"Venezuela will fight to have good relations with all countries in the world, above all with the United States," he added. "Whether we like it or not, the U.S. is the main customer for our oil."

The third largest oil exporter, Venezuela ships 1.5 million barrels daily to the United States.

Perez's main opponent was Lorenzo Fernandez of the ruling Copei, a Christian democratic party. Although the national electoral board was not expected to finish counting votes until Wednesday or Thursday, Perez claimed victory by 450,000 votes on the basis of tabulations by his own party. They showed he had won 2 million of the slightly more than 4 million votes cast, which would give him the greatest victory in the four presidential elections since the overthrow of the dictatorship of Gen. Marcos Perez Jiminez in 1958. Democrat Action was the winner in 1958 and 1964.

The lastest official returns gave Perez 305,465 and Fernandez 238,003.

Perez and Fernandez were given an unprecedented 85 per cent of the votes between them at the expense of both the far left and far right. Two leftists, Jose Vicente Rangel and Jesus A. Paz Galarraga, trailed in third and fourth place.

Perez said his government would speed implementation of a law by which foreign oil concessions would begin to revert to the state in 1983. But he declared that Venezuela would need the help of foreign technologists to explore and exploit new oil fields, particularly the heavy oil in the Orinoco River basin. Deposits there have been estimated at 700 billion barrels, but the means of extracting it are still unknown.

President Nixon's trade policy, he said, "has not been a happy one for Latin American nations and we have reason to be bothered and resentful over this policy."

Perez said he would not oppose a renewal of diplomatic relations with Cuba, "but this is Cuba's problem and not Venezuela's because we were the offended party," he said.

Venezuela broke relations in 1964 accusing Fidel Castro's government of organizing leftwing guerrilla activity here.

FUEL ALLOCATION AND THE CONSTRUCTION INDUSTRY

Mr. GRAVEL. Mr. President, the energy crisis is now being experienced by almost every segment of our population. I do not know of anyone who has not felt the effects of the shortage or at least been inconvenienced by measures taken to conserve fuel.

But the effects of the shortage become more severe when the inconvenience stage is surpassed, and the lack of energy shows up as lower production and higher unemployment. Unfortunately, this stage has already been reached in some industries.

One good example is the construction industry which, according to the president of the Associated General Contractors, Mr. Nello L. Teer, Jr., has already suffered a loss in activity of 20 percent. I ask unanimous consent, Mr. President, to have printed in the RECORD two newspaper articles, one from the New York Times and the other from the Washington Star-News, regarding this problem.

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

[From the New York Times, Nov. 27, 1973]

BUILDERS ALARMED OVER FUEL QUOTA

WASHINGTON.—Federal fuel allocation based on the amount of fuel used last year threatens to have a catastrophic economic effect on the construction industry, a construction association official warned today.

Comments from contracting groups around the nation, contained in a survey by the Associated General Contractors of America, indicate that industry officials anticipate severe problems under the present allocation system.

Citing the survey of the association's members, who perform 80 per cent of all contract construction, the association's president, Nello L. Teer, Jr., said: "Construction activity in this country is already down 20 per cent."

"If present fuel allocation programs are not altered quickly, the economic impact on the construction industry may reach catastrophic proportions before the end of winter," he said. "Our survey indicates that thousands of construction workers are now out of work and the situation is worsening daily."

[From the Washington Star-News, Nov. 27, 1973]

CONSTRUCTION GROUP WARNS OF "STANDSTILL"

The nation's construction industry is in danger of coming to a standstill, warns Nello L. Teer, Jr., president of Associated General Contractors of America.

Teer, citing a nationwide survey conducted by the association, said construction activity is "already down 20 percent," and warned that "if present fuel allocation programs are not altered quickly, the economic impact on the construction industry may reach catastrophic proportions . . ."

Teer said the allocating of fuel on the basis of fuel consumed last year has "no validity" for the construction industry because the fuel requirements on different jobs "may be vastly different."

Teer said he had asked White House energy adviser John A. Love to allocate fuel "on a project basis so that each job will be assured adequate fuel before it is advertised for bid."

Mr. GRAVEL. Mr. President, I believe that Mr. Teer's point regarding construction project allocations is a very good one.

Having worked in the construction industry, I can certainly substantiate his statements regarding the cyclical and seasonal nature of activity and its resultant effect on energy demand. All construction firms should be able to get a share of our energy products for construction projects. Basing allocations on a firm's previous consumption for a base period would result in an inequitable situation such that projects could be constructed only by those firms working on projects of sufficient size in the base period.

I strongly urge that this inequity be removed.

ENERGY CONSERVATION AND ACCIDENT RATES

Mr. STEVENSON. Mr. President, on December 3, 1973, the Journal of Commerce printed an article about actions which may be taken by one of the country's largest insurers of private automobiles.

During the recent debate in the Senate on daylight saving time, several points were raised about the effects of energy conservation on the frequency and severity of automobile accidents.

During the recent Thanksgiving holiday period, the rate of fatal accidents was 20 percent below the statistical predictions for that period. This may prove to be the forerunner of more substantial and permanent reductions in serious and fatal accidents on our Nation's highways. It seems quite possible that yearround daylight saving time, reduced gasoline supplies, limitations on Sunday driving, and lowered speed limits, will have some beneficial results. If accidents are reduced, insurance companies will have fewer benefits to pay. If that occurs insurance company savings should no confer windfall profits on those companies, but should be shared with the purchasers of insurance in the form of refunds and lower premiums.

I am pleased to learn through this Journal of Commerce article that All-

state Insurance Co., the country's second largest automobile insurer, has acknowledged this changing picture and anticipated its possible impact on the insurance industry. Allstate says that if energy conservation measures do result in savings, the company will amend existing policies to permit the company to pay dividends to policyholders. In this way, the consumer may reap some economic benefits from the energy crisis.

Allstate does not predict when, or even if, any savings will be realized. What it has done is to voluntarily take a positive step in the interest of the consumer—their own policyholders. I hope the Government will not have to become involved in this effort and that other insurance companies will quickly follow this lead.

Mr. President, I ask unanimous consent that the Journal of Commerce article be printed in the RECORD.

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

REFUNDS IN VIEW: ALLSTATE TO COMPENSATE FOR "GAS" CURB GAINS

(By Robert M. Lewin)

CHICAGO.—Allstate Insurance Co. has said that it would make refunds to automobile insurance policyholders if there are "significant decreases" in accidents and payments as a result of the gasoline shortage.

The company added that, if restrictions on the sale of gasoline and automobile speed reduce the number of accidents under the energy conservation program, policies will be amended to permit dividend payments.

Approval of state insurance departments will be sought where required.

DIFFERENCES CONSIDERED

Archie R. Boe, Allstate chairman, who explained the plan, said that under the company's current rating structure and merit rating system, it takes into account differences in car usage, annual mileage and accident involvement.

"Lower premiums are charged for less exposure to accidents, as well as for less involvement in accidents," he added.

Allstate, which claims to be the nation's second largest automobile insurer, has coverage on more than 9 million cars.

Mr. Boe said that if President Nixon and Congress decide on a stringent gasoline limitation program, the impact would be different from World War Two.

He observed:

Now there are about 100 million passenger automoblies; in 1943, there were 26 million.

Highway speed in the early 1940s was 35 miles an hour; under the proposed gasoline conservation program, it would be 50 miles an hour.

Mr. Boe said that a study of accident data shows that most accidents occur at a speed of less than 50 miles an hour.

SPEED DISPARITY EYED

He also said that the safety effects of allowing trucks and buses to go 55 miles an hour, with cars limited to 50, are unclear, as noted by the National Safety Council.

There now are more young drivers than in the early 1940s, since millions of young men were in service then. Young drivers are more likely to get involved in accidents.

There now is no shortage of new automobiles and tires, as in World War Two. Motorists drove carefully because, they feared, an accident would "leave them without transportation."

A greater percentage of the public used mass transportation in the early 1940s than now.

Mr. Boe said that was due largely to the decline of mass transit facilities and because more industries, businesses and homes now are in suburban areas and can be reached only by automobile.

He added that inflation now is an important factor because it affects hospital, medical and auto repair costs "which are part of the price of auto insurance, with the result that in a number of states present automobile insurance rates are inadequate."

Mr. Boe said that Allstate's offices and employees are cooperating with the move to conserve energy. The company has 3,500 cars, more than 230 of them equipped with air bags for safety. Mr. Boe said that employe car pools are being formed.

OKLAHOMA'S SELMON BROTHERS

Mr. BELLMON. Mr. President, the University of Oklahoma has just completed one of its most successful football seasons, and a key to the team's success is a 5-foot 11-inch, 236-pound middle guard named Lucious Selmon. Two other keys are his brothers, Dewey and LeRoy, who play tackle on either side of him in the Oklahoma line.

The Selmon brothers, described in one national magazine as "18 feet and 737 pounds of Oklahoma defense," are believed by many to be the greatest defensive line ever to come out of one bassinette.

The story is told that an Iowa State quarterback kept the ball on one play and Lucious Selmon lunged at him, but veered off at the last minute while brother LeRoy made the stop. Lucious later explained, "He was my brother's keeper."

Oklahomans are justly proud of the Selmon brothers, and I am especially pleased at their accomplishments, because they come from a small rural community in eastern Oklahoma. On Saturday, December 15, the folks of Eufaula, Okla., will honor their hometown heroes, the Selmon brothers, and their parents. Lucious Selmon will receive special recognition, because he is a senior and this was his last season at Oklahoma, where he was named to the Associated Press All-America team.

Mr. President, seldom has a family contributed more to the great American sport of football than has the Selmons of Eufaula, Okla. In recognition of this I wish to call the attention of Members of the Senate to this outstanding family. I ask unanimous consent that a UPI story from the Oklahoma Journal detailing the Selmons' exploits be printed in the RECORD.

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

LUCIOUS BIG EIGHT'S DEFENSEMAN OF YEAR

KANSAS CITY, MO.—Twice in five years Lucious Selmon has had the exhilarating experience of playing on a defensive line with his two younger brothers, Dewey and LeRoy.

"It makes you feel good on the field," says Lucious, "to look around and see them. There's more than just athletic ability involved when they're out there."

What Lucious means is there is family pride—and that runs deeper than team pride any day.

Lucious is the middle guard in Oklahoma's ferocious defense. His sophomore brothers play tackles on either side of him.

Lucious, a 5–11, 236-pound senior, was voted Wednesday as the Big Eight's Defensive Player of the Year by UPI's 18-member panel of Midlands sports writers and sportscasters. He won in a landslide vote, polling 16 votes.

Lucious, a two-time All-Big Eight player, didn't always have the pleasure of having Dewey and LeRoy on either side of him. When he was a senior in high school at Eufaula, Okla., he was a defensive end while his two brothers were tackles.

Lucious twice has led Oklahoma tacklers among down linemen and he's done it against outstanding competition. This season, for instance, he earned his ranking as the Big Eight's best middle guard against the likes of Texas' Bill Wyman, Missouri's Scott Anderson and Colorado's William McDonald.

"I really couldn't say which one was best, but I do know those three were good," said Lucious. "I won some battles and they won some. In their minds, they probably think they won the war, but in my mind I won."

Selmon was the key to the Oklahoma defense that led the Sooners to the Big Eight Conference championship despite the loss of 15 starters off last year's team.

"I had no idea we'd be undefeated at this point of the season," he says. "I realized we had great players and wouldn't have a losing season. But the way the season progressed, it's not too surprising."

Because of his lack of height, Selmon's future in pro football is uncertain. Like Nebraska's Rich Glover ahead of him, his size is against him.

But that's not something that particularly bothers Lucious.

"I'd like to give the pros a try," he says. "I'd like to give it a shot if the opportunity is there. But it's not something I'm really relying on. I'm majoring in special education and I'm thinking about going into human relations. So my future is not predicated on a pro football career."

NEW PERSPECTIVE ON RADIO FREE EUROPE

Mr. HUMPHREY. Mr. President, recently I had the occasion to visit the facilities of Radio Free Europe in Munich, Germany. This firsthand exposure strengthened my confidence in the vital role which this operation serves.

For almost 25 years, Radio Free Europe and its sister station, Radio Liberty, have served the citizens of Eastern Europe and the Soviet Union by offering them a forum for the exchange of ideas and uncensored information which these people are denied by their own governments. Far from being a "relic of the cold war" or "propaganda outlet," Radio Free Europe has earned praise and respect for rational and balanced broadcasting throughout the world. According to the Chicago Sun-Times:

The evidence is substantial the RFE, more than BBC or Voice of America and perhaps more than any other single element of Western policy, is pressing the process of change in East European attitudes.

This respect is echoed in Eastern Europe as well. Recently, W. Bienkowski, a former highly placed Polish Communist official, wrote:

Communism's monopoly of information makes for a situation, I'm ashamed to admit, in which foreign broadcasting stations, particularly Radio Free Europe, perform the vital role of a domestic opposition press, exercising enormous influence both on the population and even on the communist rulers. Not trusting their own leaders, the masses have no choice but to rely on information provided from abroad.

I find it contradictory that we should be insisting that détente be accompanied by the liberalization of humanitarian

rights by Communist governments while at the same time we are cutting back on operations such as Radio Free Europe which represents the only source of free information available to citizens of these countries. As stated in a recent article in the Washington Post:

Détente, if it means anything, means widening the West's contacts with the East, not helping the East to seal off its people from the West. It means the exchange of people, goods, words and ideas. This is the essential business of Radio Free Europe.

I must also mention the important research function of Radio Free Europe which many of our top Government agencies and universities depend upon for background on the political developments in Eastern Europe. Scholars in East European affairs have often indicated to me the importance of maintaining the research function above all since no other source has the competence or the access to information on the internal developments of Eastern Europe as that of RFE's research staff. The materials and facilities that enable its own experts to evaluate current trends is an unparalled source of documentation and counsel for scholars, journalists, and other concerned with East European affairs.

The studies prepared by RFE's researchers, analysts, and public opinion experts are widely distributed to foreign affairs specialists, academicians, scholars, and libraries, news agencies and journalists as well as to private and governmental organizations in Western Europe, the United States, and to other parts of the world. The constant requests from outside the organization testifies to the widespread recognition RFE has attained in its field.

Currently before the Congress is a request for a supplemental appropriation to cover the cost of the large increase in the exchange rate for the German mark that has occurred since the original budget was submitted and for the large termination costs necessitated by the cutbacks forced by curtailment of operations for fiscal reasons. The radios are asking for an additional $4.9 million. I certainly feel that this request is well substantiated within the reasons that have been stated. My discussions with the leadership of Radio Free Europe indicates that it will be impossible to continue a reasonable level of operation without this supplementary appropriation. Already cuts will seriously hinder the effectiveness of the operation.

Mr. President, after a discussion with the distinguished Senator from Rhode Island (Mr. PASTORE), it is my understanding that Chairman PASTORE would be willing to give serious consideration to a supplemental request once the exact termination costs are determined.

Finally, I would like to point out that the very favorable report by the Presidential Study Commission on International Radio Broadcasting has not received the attention that it should have particularly in providing the perspective upon which an appropriation request for the radios should have been considered. Unless there is any doubt about the important role of the radios I would like to quote a few passages from the report of the Commission:

If we believe in the development of lasting, genuinely peaceful relations between the United States and the Soviet Union and East Europe, we must depend on an informed public opinion in the countries concerned. We must ensure that their people have access to a broad range of news and information. . .

Radio Free Europe and Radio Liberty, by providing a flow of free and uncensored information to peoples deprived of it, actually contribute to a climate of détente rather than detract from it. . .

The Commission, therefore, is confident that the radios by providing information and interpretation, will continue to be of help in future negotiations and cooperation between the Soviet Union and the United States in such areas as strategic arms limitation, trade, European security, and environmental protection. . .

This contribution can obviate military expenditures many times greater than the broadcasting costs. Contrariwise, elimination of the radios could lead over time to increased military costs.

NICK JOHNSON—WASHINGTON'S LOSS IS IOWA'S GAIN

Mr. McGOVERN. Mr President, Nick Johnson has completed his distinguished term on the Federal Communications Commission and will be leaving us soon to return to his home in Iowa.

For those of us who became his friends during the 10 years of his remarkable public career, his departure is a sad thing. But for the special interest groups he courageously stood up to, the feeling must be one of relief. And that is perhaps his greatest tribute.

Nick Johnson first came to Washington as a law clerk to the late Supreme Court Justice Hugo Black—an honor he earned by his Phi Beta Kappa key and his law review editorship.

President Johnson appointed Nick, then only 29, as administrator of the Maritime Commission where he rapidly gained a reputation for intelligence, integrity and hard work.

But Nick's greatest accomplishments were as an FCC Commissioner. During the time that the White House was attempting to use the FCC as a club against the news media, Nick stood firmly for the public interest.

Commissioner Johnson has consistently been in the forefront of the many consumer issues which have come before the FCC in the last 7 years. His efforts have ranged broadly from lower telephone rates and better service to equal employment opportunities for women and minority groups in broadcast journalism.

Perhaps his best known efforts were in reducing the violence in children's TV programing and prodding the industry to adopt more constructive programs for children.

With the Nixon appointments to the FCC, Nick became a minority voice. But his well reasoned and scholarly dissents will continue to have a strong impact on communications law for years ahead.

So I wish Nick well in his future career. I am grateful for his friendship and hope that he will again have the opportunity for public service.

OVERCOMING OBSTACLES TO SOLAR ENERGY

Mr. GRAVEL. Mr. President, although the AEC Chairman Dixy Lee Ray has recommended $32.5 million for solar energy R. & D. in fiscal 1975, we should not imagine that this represents a serious effort to let the country enjoy solar energy.

When Dr. Ray proposed a 75-percent increase in the Federal energy budget, from $890 million in fiscal 1974 to $1,570 million in fiscal 1975, she could hardly do less for solar energy than to increase its budget by 75 percent, too, from $13.2 million to $22.9 million. The fact that she recommended an additional $9.6 million is not highly significant.

The entire $200 million which she recommended in her 5-year plan for solar energy would barely build one modest demonstration plant for solar electricity or solar fuels. Instead, she plans to build two miniplants, each 10 electrical megawatts or less. One would be a sunlight thermal plant for $35.5 million including all R. & D., and the other would be wind-farm for $31.7 million, including all R. & D.

By contrast, she recommends that taxpayers hand over $4 billion to validate the nuclear option during the next 5 years, with $2.8 billion of the amount going for breeder reactors which are much further from validation and public acceptance than any solar energy techniques. A single 500 megawatt electrical breeder demonstration plant would cost over $700 million. Besides the substantial risk that breeders could be even less reliable power-makers than today's light-water reactors, there is the growing probability that no radioactive technologies will be tolerated by the public, especially after an accident.

Nevertheless, under her heading of urgent tasks, Dr. Ray has listed "expand the production of nuclear energy as rapidly as possible, first to supplement and later to replace fossil energy."

Her proposed nuclear program shows that she knows how to make a serious effort when she wants one. Her treatment for solar energy is all the shabbier by comparison. The combination of a minibudget with two minidemonstrations could become a practically diabolical formula for discarding ideas without giving them a chance, for arbitrary and desperate choices, and for demoralizing among the technical people who would like a chance to give this country some solar power. Dr. Ray's plan simply denies the Sun a fair chance to compete as a major near-term ource of electric power and clean fuels.

How different the outlook would be if voters were to insist on a really serious solar energy program, comparable to Apollo.

Mr. President, I ask unanimous consent that table 2.4 from Dr. Ray's December 1, 1973, report entitled "The Nation's Energy Future," as well as the six-category breakdown of her solar budget, be printed in the RECORD.

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

TABLE 2-4.—FEDERAL ENERGY RESEARCH AND DEVELOPMENT OBLIGATIONS BY INDIVIDUAL PROGRAM ELEMENT, FISCAL YEARS 1973-79

[In millions of dollars]

Self-sufficiency task	Fiscal year— Actual 1973	Planned 1974	Recommended 1975	Recommended 1975-79 program
1. Conserve energy and energy resources	52.8	62.3	166.2	1,440.0
Reduced consumption	12.1	22.3	29.9	210.0
Increased efficiency	40.7	40.0	136.3	1,230.0
2. Increase domestic production of oil and gas	20.0	19.5	51.7	460.0
Production	12.8	11.2	31.7	310.0
Resource assessment	7.2	8.3	20.0	150.0
3. Substitute coal for oil and gas on a massive scale	88.8	167.2	405.0	2,175.0
Mining			45.0	325.0
Direct combustion			30.0	200.0
Synthetic fuels			240.0	1,270.0
Common technology			90.0	380.0
4. Validate the nuclear option	395.8	517.3	731.7	4,090.0
Safety enrichment, HTGR, and other	129.7	151.7	216.2	1,245.7
Breeder	266.1	365.6	515.5	2,844.3
5. Exploit renewable energy sources to the maximum extent feasible	82.8	123.0	217.5	1,835.0
Fusion	74.8	98.7	145.0	1,450.0
Solar	4.2	13.2	32.5	200.0
Geothermal	3.8	11.1	40.0	185.0
Total	640.2	889.3	1,572.1	10,000.0
Supporting programs (incremental Federal funding to present programs):				
Environmental effect			105.9	650.0
Basic research			43.0	300.0
Manpower development			5.0	50.0
Total			153.9	1,000.0

[In millions of dollars]

	Fiscal year 1975	Fiscal years 1975-79
Solar	32.5	200.0
1. Heating and cooling of buildings. Solar heating and cooling of buildings is entering the pilot-plant stage. Applicability studies, design-criteria development, and component testing will be conducted on a much enlarged scale. Operating pilot systems will be installed in single-family and multifamily dwellings, in agricultural buildings, and in commercial and industrial buildings. This effort could provide the basis for an industry prepared to manufacture solar-energy heating and cooling systems in large quantities. Component development is expected to increase reliability and decrease costs.	12.8	50.00
2. Solar thermal conversion. Major emphasis in this subprogram will be placed on the research and development of key subsystems for the optical-transmission central-receiver tower approach. 3 system-design efforts will be conducted in parallel. Design, hardware procurement and integration, and testing of a 10-MW(e) pilot plant will be achieved.	5.0	35.5
3. Wind energy conversion. A series of experimental wind generator systems in increasing size and performance capability will be constructed and tested. Multi-unit wind generator systems making up a wind "farm" up to 10 megawatts electrical will be built late in the program period.	6.2	31.7
4. Ocean thermal conversion. Emphasis will be placed on design, production, and testing of system components. Key elements that will require significant adaptation of existing technology include the heat exchanger, deep-water pipe, and overall plant structural design.	1.9	26.6
5. Photovoltaic conversion. The photovoltaic program will concentrate on the single-crystal silicon approach, with a modest effort on alternative materials and concepts. Major improvements in materials and processes are needed to permit automated production of cells and to accomplish significant cost reductions.	4.2	35.8
6. Bioconversion. The construction and operation two small-scale pilot plants involves the conversion of wastes into methane and clean fuels. Later in the program period a 10-ton/day urban waste pilot plant will be constructed. Laboratory-scale studies of methods for converting various organic materials, particularly including biomass production, will also be studied.	2.4	20.4

Source: From "The Nation's Energy Future." Dec. 1, 1973.

GOVERNMENT SCHEDULES FOR SOLAR ENERGY

Mr. GRAVEL. Dr. Ray's schedule for solar-energy delay is at least explicit in chapter 7 of her report.

Under near-term objectives, from the present to 1985, she lists "reduce capital costs for solar heating and cooling units." No mention is made of producing solar electricity or solar fuels for industry and transportation, which consume respectively 40 percent and 30 percent of the country's energy.

Under midterm objectives, between 1986 and the year 2000, she lists "demonstration methods to produce significant amounts of electricity from direct solar incidence, from ocean thermal gradients, from wind, and so forth," and "develop photovoltaic, thermoelectric, and bioconversion techniques to a significant level of productivity."

Under long-term objectives, beyond the year 2000, she lists "develop large-scale direct and indirect solar-energy conversion programs," and "develop methods for producing hydrogen in large quantities at low cost."

Since several solar energy technologies undeniably work today, right now, the burden of proof falls on Dr. Ray and her panel of 65 solar advisers to explain to the public why we are supposed to wait for them until after the year 2000.

Unfortunately, the Senate has treated solar energy almost as badly under S. 1283, the National Energy Research and Development Policy Act of 1973, which was passed unanimously December 7, 1973.

In that act, solar electricity and solar fuels have been tucked into the "mid-term research" classification, meaning 1980 to year 2000. Only demonstrations of solar heating and cooling made it into the "near-term" category, between now and 1980.

INSISTING ON SERIOUS SOLAR EFFORTS

Of course, every year we have new opportunities to amend acts and pass additional ones, and I hope that voters will insist on serious solar energy efforts in the 1970's.

By serious, I mean the construction of very large demonstration projects which will contribute to the country's power supply while laying the mass-production-and-marketing foundation for commercial solar energy industries.

Why not, for example, build projects supplying wind-power and hydrogen to the Northeast, Northwest, and Alaska? Another supplying sea-thermal power and hydrogen to the Southeast? Another supplying solar-grown solid fuels and methane in the farming and ranching center of the country? Others supplying electric power from photo-voltaics or solar thermal plants in the Southwest?

BUSINESS OBSTACLES TO NEW TECHNOLOGIES

Several witnesses before the Senate Interior Committee pointed out, without specific reference to solar energy, that just the demonstration of a working plant is not enough to interest industry.

Dr. Chauncey Starr, president, Electric Power Research Institute, from the S. 1283 Hearings, pages 124-5:

Every time the Federal Government has done this kind of thing, has developed something, letting it sit there for everyone to look at, nothing has happened or nothing very much . . .

If an electric utility doesn't buy the plant, doesn't order it, it isn't going to get on the line . . .

[A utility] isn't going to order it from a manufacturer unless it gets a bid, and the manufacturer isn't going to bid unless it's familiar with the process and has confidence it can supply the equipment . . . [For some technologies] the R&D is a minor part. The major part is the economic, marketing, and institutional restrictions.

Dr. Jerome Wiesner, president of MIT, from the S. 1283 hearings, pages 70-2:

A study made for me in 1964 and even earlier studies, indicated essentially all of the [energy] opportunities being talked about today . . .

By and large, the efforts of the Federal Government to stimulate and support work which would enhance our civilian economy have been dismal failures . . . I think this is because . . . we have tried to do them in small pieces with project engineers in Washington doling out little contracts and trying to mastermind the integration of groups of people that ought to be done on the spot. If one examines the successful programs like those in NASA, the AEC, or the Defense Dept., you find that they have been successful because they have been carried out by substantial collections of people in national centers or laboratories that had the resources and the energy drive to do the job . . .

Now a thing which is . . . terribly important to me . . . is how to build in the incentives which both stimulate private investment in R&D and particularly the exploitation and development of the ideas that we investigate. And the large-scale employment of these technologies.

I have the impression, for example, that oil shale plants would be competitive today with oil prices from the Middle East, and yet people are not investing in these plants

And I think there are a whole series of non-technological reasons. Some of them may have to do with overseas investment policy. Some might have to do with environmental problems. But it would seem quite foolish to invest hundreds of millions of dollars and billions of dollars in stimulating the development of an industrial plant, which all the other policies might preclude the use of.

Mr. GRAVEL. Both gentlemen seem to be reminding us that the availability of energy supplies and technologies does not guarantee their use. That is obvious with solar energy, as well as coal.

In our hearings before the Energy Subcommittee of the Senate Finance Committee, we intend to discover and provide the incentives to make private enterprise work in the public interest.

THE MATTER OF UNACCEPTABLE NEW TECHNOLOGIES

An important point was presented in the S. 1283 hearings by Dr. James MacKenzie, Joint Scientific Staff, Massachusetts and National Audubon Societies, page 562:

I know you are interested not only in the development of technology but in implementation. Without implementation, we are clearly not going to get new energy sources . . .

For example, [consider] the oil shale development in the Southwest. If you speak with the people there, they are concerned not only with revegetation, but with the influx of 200,000 people into an area where there are 1,000 now, in a semi-arid area where there are limited water supplies, few schools, and few roads.

The regional impacts of a major development like this have not been assessed adequately. Therefore, an important area that I think should be part of any research program is the systematic funding of environmental impacts by an agency other than the development agency . . .

I think the funding for this type of research should be on the order of 10 percent of development funds.

I think the AEC and Dept. of Interior are both good examples of the problem. If they are to succeed in what they are doing, there has to be somebody else to bring in an adversary point of view, who can continually feed back information into the development process. So that when the development program is completed, they have something which is acceptable.

Mr. President, since I believe that even solar energy could be developed in unacceptable ways, I believe it is urgent that Government fund an independent Office of Early Warning for all the energy technologies under development.

KENYA—INDEPENDENCE DAY

Mr. HARTKE. Mr. President, today Kenya is celebrating 10 years of independence. I understand that Nairobi is full of signs and banners proclaiming "Ten Great Years." It is a slogan we can agree with and applaud.

Under the wise leadership of President Jomo Kenyatta, Kenya has moved ahead confidently in all aspects of national developments. In addition to the prosperity of the country, Kenya has demonstrated to the world that it is possible for peoples of different cultural and religious backgrounds to join together and work toward the common goal of a strong and unified country.

There are over 12 million people in Kenya who have faith in their spirit of Harambee and international interdependence. September 27, 1973, saw Kenya host the first World Bank International Monetary Fund held on the African Continent, where many of America's leaders participated.

In the field of trade, commerce, tourism, and investments Kenya stands ready to assist all potential partners who see in Kenya a way of the future.

For years Kenya has led in the protection of its wildlife and the improvement of her environment, from Lake Rudolph to Mombassa. Now Kenya has become a tourist mecca receiving hundreds of thousands of visitors every year from all parts of the world.

In the field of manpower training, Kenya chose an American institution from Philadelphia, the OIC—Opportunity Industrialization Centers to help develop skills needed for continued growth.

Mr. President, the bonds of friendship between the United States and Kenya have grown strong over the past 10 years. I am confident that they will continue to grow. On this 10th anniversary of Kenya independence I am certain that American people join me in saluting the Republic of Kenya.

NIXON PAPERS TAX DEDUCTION

Mr. WEICKER. Mr. President, I ask unanimous consent that certain materials, which were sent to the Internal Revenue Service on December 10, 1973, be printed in the RECORD.

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

COMMITTEE ON AERONAUTICS AND SPACE SCIENCES,
Washington, D.C., December 10, 1973.

Hon. DONALD C. ALEXANDER,
Commissioner, Internal Revenue Service, Washington, D.C.

DEAR MR. COMMISSIONER: During the course of my investigations as a Member of the Select Committee on Presidential Campaign Activities, certain facts came to my attention relative to an alleged gift of pre-Presidential papers to the United States by Richard M. Nixon in 1969.

The responsibility for determining the validity of the tax deduction which resulted from that alleged gift is solely within the jurisdiction of the Internal Revenue Service. For that reason, I believe the enclosed memorandum of fact and law should be brought to your attention. The very nature of its content raises questions requiring a response by the appropriate governmental authority.

I have noted that on September 5, 1973, in a Presidential News Conference, the President stated: ". . . the IRS has had a full field review or audit of my income tax returns for 1971 and 1972 . . . ." On December 8, 1973, in his financial disclosure statements, the President stated: "The examination conducted earlier this year by the Internal Revenue Service of President and Mrs. Nixon's returns for the years 1971 and 1972 included a review of the gift."

My investigation has revealed that neither the recipient of the alleged gift, the General Services Administration and the National Archives, nor the appraiser of the alleged gift, Mr. Ralph Newman, have ever been contacted by the Internal Revenue Service with reference to the gift in question. In a gift situation involving a donor, donee, and appraiser, for the IRS not to have contacted two out of three principal parties clearly raises questions about the thoroughness of such a review or audit.

When questions relating to the tax treatment of the President are raised, it is very important to the nation and to public confidence that the matter be resolved in a timely and thorough manner.

As I indicated to you by phone this evening, I will make public both this letter and its accompanying documents. This so as to avoid accusations of "leaks" being attributed to either of our offices.

With kind regards,

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

MEMORANDUM

To: Commissioner, Internal Revenue Service.
From: Senator Lowell Weicker, Jr.
Re: Income Tax Deduction by Richard M. Nixon.

SUMMARY OF FACTS

1. In both 1968 and 1969, Richard M. Nixon claimed a tax deduction for charitable contributions of his personal papers to the United States. This had become common practice for individuals in his position. The procedure used by Lyndon B. Johnson and Mr. Nixon from 1965 to 1968 was to wait until the end of the year, apparently make an estimate of their tax situation, and then determine how much of a charitable deduction would be appropriate. Prior to 1965, this technique had not been followed by Presidents or ex-Presidents, who instead donated personal papers in lump sums on the occasion of their death or retirement.

2. Mr. Nixon's first donation of papers to the United States, in 1968, followed normal procedures. He executed a Chattel Deed, dated December 30, 1968 (Exhibit 1.). This deed was signed by Mr. Nixon as donor, delivered to the General Services Administration as recipient, and accepted by the signature of a General Services Administration official on December 30, 1968 on the face of the deed.

3. The papers that were the subject of the 1968 deeded gift were delivered to the National Archives, which serves as the repository for valuable papers given to the United States, on March 20, 1969. (See Exhibit 2.)

4. March 26 and 27, 1969 are dates of key significance. First, a large quantity of Mr.

Nixon's papers, apparently the remainder of his pre-Presidential papers, was transferred to the National Archives for storage on those days. Second, there is in existence a Chattel Deed, dated March 27, 1969 and signed by a Deputy Counsel to the President on April 21, 1969, purporting to deed about one-third of those pre-Presidential papers to the United States. (Exhibit 3.)

5. This deed was not delivered to the United States or any representative thereof until April 10, 1970. (Exhibit 4.)

6. Returning to 1969, from April 6th to 8th, Mr. Ralph Newman, a professional appraiser, made a preliminary appraisal of the papers transferred to the Archives on March 26 and 27, 1969. (Exhibit 5.)

7. On May 12, 1969 the White House announced that a Richard M. Nixon Foundation was being formed, to include a museum and library, as a charitable non-profit corporation. (Exhibit 6.)

8. On May 27, 1969, Sherrod East, consultant to the Archives, issued a status report pertaining to the Nixon papers. (Exhibit 7.)

9. On November 3, 17, 18, 19, 20 and December 8, 1969, Mr. Ralph Newman made his appraisal of the Nixon papers. (Exhibit 5.)

10. On March 27, 1970, Mr. Newman mailed to the National Archives a completed description of the papers claimed by Mr. Nixon as a 1969 gift. (Exhibit 8.)

11. A formal appraisal was drawn up by Mr. Newman on April 6, 1970. (Exhibit 5.) This appraisal was attached to Mr. Nixon's tax return for 1969.

12. On April 10, 1970 the Chattel Deed dated March 27, 1969, was delivered to the Office of General Counsel of the General Services Administration, which administers the National Archives.

13. An additional set of significant facts relate to a specific change in the law that resulted from the Tax Reform Act of 1969. On April 21, 1969 the Treasury Department announced its proposals for the Tax Reform Act of 1969. (Exhibit 9) Included in these proposals was a provision that would prohibit the treatment of letters, memorandum, or similar property as capital assets for purposes of charitable contributions. This proposal would, in effect, eliminate the type of gift under discussion here. On May 27, 1969, the House Ways and Means Committee, which has initial responsibility for tax legislation in the Congress, issued a Press Release announcing that the legislation it was drafting would likewise include repeal of that type of gift as a deductible item. (Exhibit 10.) The May 27, 1969 announcement stated that the proposed House bill would recommend repeal effective as of the end of 1969. On July 25, 1969, the House Bill was reported out of the Ways and Means Committee, but the Committee Report contained two conflicting proposed effective dates for the provision in question. (Exhibit 11.) One reference in the Report indicated an effective date of December 31, 1969; another reference in the Report stated an effective date of July 25, 1969. This Committee bill passed the full House on August 2, 1969. (Exhibit 11.)

On November 21, 1969, the Senate Finance Committee reported out the Senate version of the Tax Reform Act of 1969, including repeal of the gift deduction in question, with a recommended effective date retroactive to December 31, 1968. (Exhibit 12.) This was also the first time a retroactive effective date had been proposed. It was not until the House bill and the Senate bill went to Conference, in December, 1969, that the different effective dates were resolved. On December 21, 1969, the compromise was announced. (Exhibit 13.) The compromise effective date that was chosen was July 25, 1969, the date the House Ways and Means Committee had announced its final bill.

14. Richard M. Nixon claimed a deductible contribution of $576,000 on his tax return for tax year 1969, based on a gift of papers in 1969, and began applying the maximum allowable portion of that deduction against his tax liability. In 1969, the law permitted a deduction up to 30 percent of his adjusted gross income, in succeeding years the law permitted a deduction up to 50 percent of adjusted gross income. Deductions have been taken on the basis of those percentages for tax years 1969 to 1972, resulting in substantial tax savings to the taxpayer.

15. In order for the $576,000 deduction to be valid, Mr. Nixon would have to have made a valid gift by deed or valid gift of $576,000 worth of personal papers, to the United States, prior to July 25, 1969.

I. THE CHATTEL DEED DATED MARCH 27, 1969, ABSOLUTELY FAILED TO EXECUTE A VALID CHARITABLE CONTRIBUTION

1. The essential legal requirements for a valid deeded gift are delivery of a deed, execution of the deed by the donor (or a legally authorized agent), acceptance of the deed by the recipient, and a legally sufficient description of the gift. The transaction in question has the additional burden of meeting these legal requirements prior to July 25, 1969. The March 27, 1969, deed fails on all counts.

A. For purposes of the deduction claimed by Mr. Nixon, the deed was not timely delivered. The Tax Reform Act of 1969 eliminated the deduction in question for gifts made after July 25, 1969. This would require delivery of the deed prior to that date, if the deduction were to be claimed on the basis of the deed. The deed was not delivered until April 10, 1970. (Exhibit 4.) This failure is, in and of itself, sufficient grounds to prevent any claim of gift based on the deed.

B. The deed was not signed by the donor. It was signed by Edward L. Morgan, Deputy Counsel to the President. A document attached to the deed states that Mr. Morgan claims he was authorized to sign the deed on behalf of Mr. Nixon. That attached document is unsigned, but is notarized by Frank DeMarco, Jr. (Ex. 3) Mr. Morgan's claim that he was authorized to sign the deed has no legal significance for the purpose of tax laws which would require under Internal Revenue Service Income Tax Regulations section 1.6061–1(a) and 1.6012–1(a)(5) that such authority be signed by Mr. Nixon.

Mr. Nixon's property was being disposed of and only a clearly evidenced delegation of authority by Mr. Nixon himself would be legally sufficient to permit Mr. Morgan to act in Mr. Nixon's behalf. A second document attached to the deed states that all the items "specifically" set forth in Schedule A of the deed were delivered to the Archives on March 27, 1969. This attached document only pertains to the issues of delivery and identity of the gift and in no way evidences Mr. Morgan's authority.

A comparison with the 1968 deed enhances the significance of Mr. Nixon's missing signature. In 1968, Mr. Nixon not only signed the deed personally, but a handwritten notation alongside his signature indicates that his signature was affixed on December 25, 1968. The signature block which appears on the 1969 deed is a duplicate of the 1968 block but contains nothing.

C. The 1969 deed has never been accepted by the recipient. The General Services Administration, which administers the National Archives, would be the appropriate recipient on behalf of the United States. The earlier 1968 deed had a signature block for the General Services Administration and a representative of that Agency signed that deed, with an accompanying handwritten notation of the date on which the signature was affixed, December 30, 1968. Inquiries to the General Services Administration have produced no explanation for the lack of official acceptance, but have confirmed the implication that the Agency does not treat the deed as accepted to this day. (Exhibits 4. and 14.)

It should be noted that the lack of signed acceptance of the deed by the General Services Administration is in direct violation of their own guidelines. The GSA Handbook on Presidential Libraries, promulgated pursuant to title 44, United States Code, sections 2101–2113 and 2301–2308, containing provisions in Chapter 3, paragraph 5 for handling the receipt of personal papers. Those provisions state:

"5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and a log of all accessions kept for internal control purposes.

a. *Deed of gift.*

(1) The major purpose of the deed of gift is to accomplish the legal transfer of the papers or other historical materials to the library.

* * * * *

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by the NL."

D. The deed fails to identify what is being given away. The body of the 1969 deed itself claims only to have given the materials *"listed and described* in Schedule A annexed hereto . . ." (emphasis added.) An attached document states that there was delivery, for gift purposes, only of "those materials specifically set forth in Schedule A attached hereto." The critical fact is that a specific description or list of materials constituting the alleged gift did not even exist until Mr. Ralph Newman completed his appraisal in late 1969, and could not have been attached as a Schedule A until his description was forwarded to the appropriate parties in 1970. At the time the gift, by law, had to be finalized, the subject property was not sufficiently described so as to identify the actual property that constituted the gift. A deed cannot execute the disposal of something if there is no means of determining what it is that is being disposed of. The deed would fail, in this case, for vagueness. In addition, reference in the body of the deed to a nonexistent list and description would render the deed incomplete as of July 25, 1969.

II. NO VALID GIFT OF PERSONAL PAPERS BY RICHARD M. NIXON TO THE UNITED STATES WAS EXECUTED PRIOR TO JULY 25, 1969

1. The rules of gift law require, in the absence of a deed, actual delivery of the gift property, an express intent by the donor that delivery is for purposes of a gift, and acceptance of the property as a gift by the intended recipient. In addition, it is necessary that the gift exist. The transactions and evidence prior to July 25, 1969, failed to meet these rules of law on all counts.

A. The transfer of papers to the Archives on March 26 and 27, 1969 did not satisfy the necessary legal requirements to constitute a complete delivery of a gift. There is no question that 1217 cubic feet of papers were transferred to the National Archives on March 26 and 27, 1969. The critical fact is that the alleged 1969 gift consisted of some 392 cubic feet of papers, and Richard M. Nixon did not relinquish dominion and control over any specifically identifiable 392 cubic feet of papers at that time or at any time prior to July 25, 1969. Giving up dominion and control is a necessary element of a legal delivery.

At the time of transfer, the papers were received in Room 19E–3 of the National Archives. The papers were in one group. There is no question, then or now, that the

entire lot was *not* intended to be relinquished into the dominion and control of the Archives. Officials at the Archives, parties involved in the transaction, and the President himself in his recent financial disclosure message all indicate that 825 cubic feet of those papers still belong to the President. The essential point is that until the 392 cubic feet constituting the alleged gift were somehow either separated from the 825 cubic feet retained by Mr. Nixon or until the 392 cubic feet were capable of being specifically identified there was no way of knowing which pieces of physical property Mr. Nixon had relinquished control of. There would have been no basis for preventing Mr. Nixon from entering the collection and reclaiming or otherwise disposing of any individual item in the collection, including those papers that eventually were separated out as an alleged gift. It is impossible to relinquish physical dominion or control over something if there is no way of physically knowing what that something is.

Mr. Newman, the individual who selected and described the items constituting the alleged gift has stated that this selection process did not begin until November, 1969. Only when that process began were the 392 cubic feet of papers placed in a separate area within the Archives, adjacent to the main body of papers retained by Mr. Nixon. Only when that process was completed could the Archives actually exercise dominion and control of a specific piece of property.

A leading legal text, *Brown on Personal Property*, states:

"The concept of a complete relinquishment of control as a necessary incident of gift is also met with in those situations where, in spite of an expressed intent of gift and a manual tradition of the subject matter, the words or conduct of the parties indicate that it was not expected that the donor should forego entire dominion and control over the thing given, but that the intended donee should hold the same as the agent or bailee of his assumed benefactor." (*Brown* at 90.)

The transaction in question is precisely the situation where prior conduct, unrefuted by any change in conduct in 1969, would indicate that the Archives were a bailee until such time as a deed arrived indicating that a portion of the property held in bail was to be relinquished to the United States.

Brown states further:

"Until the donee reduces the subject matter of the proposed donation to his possession, the gift is inchoate and subject to revocation by the donor at his pleasure, and is ipso facto revoked by his death." (*Brown* at 92.)

The entire subject matter of the March 1969 transfer could not be reduced to possession by the Archives, since it belonged to Mr. Nixon. There was no subject matter capable of being reduced to possession until the separate subject matter of the gift existed. In fact, evidence that all the papers were in an area of the Archives reserved for "courtesy storage" would indicate that they were all in storage, possessed by Mr. Nixon. Only when the 392 cubic feet of papers were taken to a separate area in the Archives in late 1969, an area within the Archives where materials were clearly in the Archives' possession, could it be said that the Archives were exercising possession.

Significantly, there is direct evidence that the President exercised dominion and control over the subject matter of the alleged gift, the specific 392 cubic feet of papers, long after July 25, 1969. The General Services Administration has stated:

"In accordance with paragraph 1 of the Chattel Deed dated March 27, 1969, GSA, bound by the dictates of section 2107 and 2108(c) of Title 44, United States Code, has withheld general public access to the referenced papers." (Letter from Arthur F. Sampson, Administrator of the General Services Administration, to Honorable Lowell Weicker, dated December 7, 1973.) (Exhibit 14.)

The important point is that whereas the mere existence of restrictions on a gift, even if they are placed pursuant to the donor's instructions may not be evidence of continuing dominion and control, it is quite another matter for GSA to take that action on April 10, 1970 at the instructions of Mr. Nixon. The Chattel Deed referred to by GSA did not arrive at GSA until April 10, 1970. If restrictions were placed on the papers in accordance with a provision in that deed, that constitutes evidence that a form of control was exercised over the papers by Mr. Nixon, by virtue of the *placing* of restrictions on the papers according to *his* terms or directions. This has nothing to do with the validity of the deed. Even if the deed were invalid, it still unquestionably operated to instruct GSA to take some act controlling the papers. The fact that Mr. Nixon was able to exercise this control on April 10, 1970 is positive evidence that he had not irrevocably given up all control and dominion prior to July 25, 1969.

B. There is no evidence of intent by the donor to make a gift; and, in fact, there is evidence to the contrary.

The General Services Administration has stated that "there was no express communication or indication by President Nixon personally to GSA or the National Archives between January 1, 1969 and July 25, 1969, indicating that the transfer of papers was explicitly for purposes of a gift." The circumstances of this alleged gift make the requirement of the donor's intent particularly important. The Archives have consistently served as a "warehouse" for Presidents' papers, providing what the Archives refer to as "courtesy storage." The actual experience of the Archives has been that papers so transferred during a President's lifetime have never been intended as a gift at the time of initial transfer. Likewise, mere transfer has never constituted a gift, in and of itself. So long as the Archives serve a dual function, as a warehouse and as a recipient of gifts, some expression of intent would have been necessary to clarify the transaction. Ordinarily a deed would indicate the requisite intent. Absent a deed there was no way of knowing what was intended as a gift and what was for storage.

Words by an agent of the donor, assuming the agent can provide proof of express authority as the tax regulations require, may well have indicated an intent that something within the large mass of papers was to be a gift. Nevertheless, until steps had been taken to identify the physical existence of that something, the intent was merely a promise. A promise is a future interest, and future interests are not tax deductible gifts.

On the contrary, there is evidence indicating an intent that the March 26 and 27, 1969 transfer was not intended as a gift. First, contemporaneous correspondence makes no reference to the fact that all or a part of the transfer was to be an immediate gift. Second, on May 12, 1969 the White House announced that a Richard Nixon Foundation was being formed. This Foundation, to include a library and a museum, was to be a private, charitable, non-profit corporation. That announcement would indicate, if any thing, that Mr. Nixon envisioned a private library containing his papers. Thus the announcement of a private library would be evidence that the Archives were serving as a warehouse. Third, a status report on May 27, 1969, by the Archives consultant in charge of the Nixon papers project, clearly indicates the lack of any immediate gift intent. That report states in part:

"Since the papers for the most part are not yet deeded to the United States, no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted

"As heretofore indicated, further work should await some further *clarification of White House wishes and intentions....*"(emphasis added.)

The report was written by an individual, Sherrod East, in a position to know the specific intentions and facts of the transaction.

Always in the past, some document such as a letter, will or deed had served to evidence the intent of a President to make a gift of papers to the Archives. The absence of such a communication would be circumstantial evidence that an intent to make a gift did not exist prior to July 25, 1969.

C. The recipient of the alleged gift did not exercise acceptance of the gift prior to July 25, 1969.

For the same reasons as stated in subsection A of this section, it would not have been possible for the National Archives to exercise possession of the alleged gift until late 1969. Prior to that time, there was a large mass of papers from which the alleged gift could eventually be selected. So long as the larger mass of papers remained as one entity, in an area reserved for storage of the Nixon papers, the only constructive acceptance that could be inferred was acceptance for purposes of storage. Acceptance of a valid deed adequately identifying the gift would have constituted acceptance of the gift, even though the physical selection of the papers had not taken place. No deed was received before July 25, 1969, therefore strict acceptance of possession of the actual property became an absolute necessity. Nevertheless, prior to July 25, 1969, it would not have been possible for an official of the National Archives to know or indicate which property the United States owned and which property Mr. Nixon owned.

D. The corpus of the alleged gift did not legally exist prior to July 25, 1969.

An element that runs throughout the issue of whether the gift was made prior to July 25, 1969 is the fact that the gift did not take shape until Mr. Ralph Newman described or selected the papers in November and December 1969.

What existed on March 27, 1969 were raw materials. From those raw materials the corpus of a gift would take shape at a future time. It is therefore important to trace the events that took place in the process of identifying the alleged gift.

According to Mr. Newman's own statement, he had been told that Mr. Nixon would like to take a $500,000 deduction from the large quantity of papers that had arrived on March 26, and 27, 1969. In order to satisfy himself that there was sufficient material in storage to cover such a gift, Mr. Newman made a "ballpark estimate" that the material in storage contained at least $500,000 in value. He made no physical selection of papers. Nothing was separated into a different area. No specific boxes were designated as constituting $500,000 worth of papers. It should be noted that the entire 1217 cubic feet of papers delivered in March, 1969 contained valuable papers and a $500,000 deduction would be covered by only about one-third of the papers. Therefore, a definite choice of papers was a necessary step in being able to identify the papers which would constitute the actual gift.

Only when Mr. Newman returned to the Archives in November 1969, did he begin the process of what he terms "describing" the gift. The method Mr. Newman used was to separate the papers, beginning in chronological order. The chronological method is to have a comprehensive series of papers used because it is preferable for a library covering a continuous period, as opposed to

bits and pieces from disconnected time periods with gaps in the record.

The reason the $576,000 evaluation figure was arrived at was simply that Mr. Newman attempts to be conservative in his appraisals. If a taxpayer desires a $500,000 deduction, Mr. Newman will select a gift with slightly higher value to avoid any challenge that the materials were over-appraised. He arrived at the odd number of $576,000 because as a matter of policy he did not want to end his appraisal in the middle of some set of documents which should be logically kept together, such as continuous documents of a trip or other event. It is interesting to note that in spite of Mr. Newman's attempt to be conservative in his appraisal, Mr. Nixon claimed the full $576,000 deduction.

When Mr. Newman had completed his appraisal, the papers he had described as worth $576,000 were placed in a separate area of the Archives. Until this process was complete, there was no way to clearly identify a piece of property as being the subject of a gift. In fact, there was no way of knowing which items were to be irrevocably a gift and which would be retained by Mr. Nixon.

To demonstrate the importance of this point, it is interesting to note that in the President's financial statement of December 8, 1973, he states:

"On April 8 and 9, 1969, Mr. Ralph Newman, a recognized appraiser of documents, visited the Archives and *designated the papers.*" (emphasis added)

A letter by Mr. Frank Demarco, Jr. to Coopers and Lybrand on August 22, 1973, states:

"On or about April 6, 7, and 8, 1969, the material constituting the subject matter of the *gift was examined and segregated from other materials* by an appraiser duly appointed by the taxpayer to appraise the market value of the said papers." (emphasis added.)

Neither of these statements is true, according to the version given by the appraiser himself, who is the best witness as to what happened. Clearly the donor and his tax attorney recognize the importance of some designation or segregation prior to July 25, 1969.

It is interesting to note that a document dated March 27, 1969 gave Mr. Newman a right of access to the 1968 papers for purposes of appraisal. If the donor had intended to have his 1969 papers designated, Mr. Newman would have had to have similar access to the 1969 papers. The right of access document was made up the same day the 1969 papers were delivered. Mr. Newman could probably have made a general estimate that there were sufficient materials from which to select an eventual gift of $500,000 without having access to the individual papers. He could hardly designate the actual papers constituting the gift without such access. Nevertheless he was given access only to the 1968 gift of March 27, 1969.

Finally, it should be noted that Mr. Nixon stated on his 1969 tax return, according to the tax regulations for declaring a gift, that the date of the gift was March 27, 1969. There is no theory that would support the contention that the gifts had become identifiable as of March 27, 1969.

ADDITIONAL MATTERS

I. The investigation of the alleged gift of papers in 1969 by Richard M. Nixon has revealed a number of related facts. Since it may well be negligent not to alert appropriate authorities as to these facts, they have been set forth as follows:

A. Mr. Frank DeMarco has stated, through his secretary, that he did not keep notary records during 1969. This would be in violation of state law in California, where Mr. DeMarco is a notary public. The significance of the notary records is that they would be the best evidence as to the *date* that Mr. Morgan affixed his signature to a document attached to the deed, which document contained sworn statements that the deed was prepared on March 27, 1969 and that the delivery of papers on that date was purposes of a gift.

B. Letters between Edward L. Morgan and Dr. Daniel J. Reed, Assistant Archivist for Presidential Libraries, dated March 13, 1969, and March 27, 1969, refer to a number of details related to the transfer of papers on March 26 and 27, 1969. Nevertheless, there is no reference in this correspondence to a deed or to a gift. The 1968 Nixon papers are referred to as a "gift" in that same correspondence. (Exhibits 2 and 18.)

C. A status report by Sherrod East, National Archives consultant for pre-Presidential papers of Richard M. Nixon, stated:

"Although these papers (the 1968 Nixon papers gift) have been separately described from the main body of Nixon papers (the papers delivered on March 26 and 27, 1969) (*not yet deeded*) they will at a future time have to be integrated. . . ." (emphasis added.)

At another point in the report, Mr. East stated, with reference to both the 1968 and 1969 papers:

"Since *the papers for the most part are not yet deeded to the United States,* no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted.

"As heretofore indicated, further work should await further clarification of White House wishes and intentions. . . ." (emphasis added.)

Mr. East was in a position to know the facts of the transactions.

D. On March 27, 1969, Edward L. Morgan prepared a document entitled "Limited Right of Access." It was similar to the Chattel Deed, likewise dated March 27, 1969, in the sense that it contained a signature block for Richard M. Nixon, which remained unsigned, and a signature block for Mr. Morgan. Mr. Morgan's statement that he was authorized to sign that document is contained in an attached document. The attached document is notarized by John Joseph Ratchford in Washington, D.C., on March 27, 1969. A similar document attached to the Chattel Deed dated March 27, 1969, was not notarized by Mr. Ratchford, and was not notarized on March 27, 1969. Instead the Chattel Deed was notarized on April 21, 1969, was by Mr. DeMarco, even though that document states that the deed was drawn up and signed by Mr. Morgan on March 27, 1969.

E. To have anticipated a retroactive change in the law some nine months before the change was announced, which would account for the existence of a deed dated March 27, 1969, is an indication of a high degree of care and forethought with respect to anticipated gifts of Mr. Nixon's papers. There is no explanation why lawyers demonstrating such care and forethought neglected the obvious step of delivering the deed.

F. Normal procedure would dictate that a deed drawn up on March 27, 1969, would duplicate a competent deed drawn up by other lawyers some 12 weeks earlier, in late December 1968. There is no explanation or reason for the differences in the 1969 deed, such as the attempt to use an agent, or the absence of a signature block for the General Services Administration.

G. Three significant facts, relating to the method chosen by Mr. Nixon for claiming the deduction in question, indicate that the taxpayer claimed the deduction on the basis of the Chattel Deed dated March 27, 1969.

First, the taxpayer chose $576,000 as the amount of his claimed deduction, not the $500,000 figure which had been mentioned prior to July 25, 1969. That $576,000 figure presents no problem, in and of itself, if a gift by deed is used. So long as the deed and an attached Schedule sufficiently describe the actual property chosen for gift, there is nothing to prevent an eventual dollar and cents evaluation from being incorporated by reference into the original deed. Thus, the failure to have a dollar figure prior to July 25, 1969 would not be fatal. However, if the deed is not relied upon, then the entire transaction has to be completed prior to July 25, 1969, since there is no document or anything else capable of receiving a later addition. The only gift that could have been intended prior to July 25, 1969 was a $500,000 amount. The fact that Mr. Nixon chose $576,000 clearly evidences that he was using the Schedule A forwarded by Mr. Newman in 1970 for attachment to the deed.

Second, Mr. Nixon reported on his tax return that the gift was completed on March 27, 1969. The only type of gift that could possibly have been completed by that date would have to have been by deed. No physical identity of the alleged gift had even been attempted on March 27, 1969.

No claim of any given dollar value was possible at that time. The papers had clearly not been reduced to Archives possession on that date. A deed would avoid all those problems, but to claim a gift by satisfaction of the rules of gift law without a deed would be absurd.

Third, the fact that the deed was presented to the Archives on April 10, 1970, five days before the 1969 tax return was due, and a delivery by the lawyer involved in this aspect of Mr. Nixon's tax return preparation, is circumstantial evidence that the individuals preparing Mr. Nixon's return were relating the deed to the tax return. In addition, the Schedule A from the deed was the document enclosed with Mr. Nixon's tax return as evidence of the value of the alleged gift. Again, this is circumstantial evidence that the deed was intended to be the evidentiary basis for the claimed deduction.

EXHIBIT 1

1968 DEED AND SCHEDULE SIGNED BY PRESIDENT

(Chattel Deed From Richard M. Nixon to the United States of America, Dated December 30, 1968)

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

This conveyance is made to The United States of America without any reservation to the undersigned, Richard M. Nixon, of any intervening interest or any right to the actual possession of the said Materials, it being understood that the delivery of this Chattel Deed to the General Services Administrator shall convey to The United States of America the right and power immediately to take possession of the said Materials and to hold, use and dispose of the same, subject only to the following commitments made on behalf of The United States of America by the General Services Administrator:

1. The undersigned shall have the right of access to any and all of the Materials and the right to copy or to have copied any and all of the Materials by any means of his selection, and to take and retain possession of any or all such copies for any purpose whatsoever. During such time as the undersigned shall hold the office of President of the United States, no person or persons shall have the right of access to such Materials except the undersigned and those who may be designated in writing by the undersigned, and in the case of any person or persons so designated, such right of access shall be

limited to those Materials as shall be described in the instrument by which he, she, it or they shall be designated, and for the purposes specified in such instrument; and, if such instrument shall so provide, the person or persons designated therein shall have the further right to copy such of the Materials as shall be described in such instrument and to take and retain possession of such copies for such purposes as shall be specified in said instrument. The undersigned shall have the right and power at any time during his lifetime to modify or remove this restriction as to any or all of the Materials and/or to grant access to any group or groups of persons by notification in writing to the General Services Administration or other appropriate agency of The United States of America.

2. If a Presidential archival depository shall be established for the housing and preservation of the Materials pertaining to the career of the undersigned in public service, then, as soon as practicable after the establishment of such depository, the Materials shall be transferred to and thereafter housed and preserved at such Presidential archival depository. Until the establishment of such a depository, the Materials shall be housed and preserved at a place to be selected by the General Services Administrator or other appropriate agency of The United States of America.

3. None of the foregoing restrictions is intended to prevent the Materials from being used exclusively for public purposes, and in no event shall any of the said restrictions be so construed.

4. Notwithstanding the foregoing restrictions, employees specifically designated by the archivist of the National Archives and Records Service shall, in the course of performance of their necessary archival duties, have such access to the said Materials as shall be necessary for normal archival processing activities.

By the signature of his duly authorized agent below, the General Services Administrator accepts this conveyance for and on behalf of The United States of America, and confirms the commitments made by his office on behalf of The United States of America, as set forth above.

This instrument is executed in duplicate, each of which is an original, but both of which taken together shall be deemed one and the same instrument.

Dated: ———— —, 19—

RICHARD M. NIXON.

SCHEDULED A ANNEXED TO AND PART OF CHATTEL DEED FROM RICHARD M. NIXON TO THE UNITED STATES OF AMERICA DATED DECEMBER 30, 1968

The materials conveyed by the Chattel Deed of which this Schedule is a part are located in packing cases identified by roman numbers I through XXI. The column at the left identifies each packing case by reference to its number, the center column describes the materials contained in such case in general terms and the column to the right shows the approximate number of items contained in such case.

I. Children's Letters; II. Children's Letters; III. Children's Letters—9,000 items.

IV. 82nd Congress—2,500 items.

V. Campaign of 1964—3,000 items.

VI. 1965 Appearances, Trips—3,000 items.

VII. Plaques and Key (5) Whittier Year Book 1966; 8 Tapes—13 items.

VIII. Far East Trip—3,000 items.

IX. 1960 Campaign—3,000 items.

X. 1959 Speech Files (Correspondence and copies)—3,000 items.

XI. 1964 Campaign Tapes in Chronological Order—24 items.

XII. Plaques, Key, Picture—10 items.

XIII. 1960 Campaign Clippings—1,000 items.

XIV. *Six Crises* Manuscript—2,000 items.

XV. 1959 Appearances, Trips—1,250 items.

XVI. 1953 Trip—Far East Letters, Notes—2,000 items.

XVII. 1955 Central American Trip—3,000 items.

XVIII. 1956 Trip—Philippines, Pakistan, etc.—3,000 items.

XIX. 1964 Correspondence Prior to Republican Convention; Young People's Correspondence Book on 1964 Convention—1,250 items.

XX. 1954 Itineraries, Appearances Foreign Dignitaries (met by RMN)—1,250 items.

XXI. 1964 Campaign Notes (plus 2 Books and Framed Plaque)—3 items.

EXHIBIT 2

MARCH 27, 1969.

Mr. EDWARD L. MORGAN,
Deputy Counsel to the President,
The White House,
Washington, D.C.

DEAR MR. MORGAN: This is in reply to your letter of March 13 and to Mr. Stuart's letter of March 14.

The records of President Nixon recently in Room 236 and in the ground floor vault of Federal Office Building No. 7, together with two filing cabinets from Room 12, Executive Office Building, were moved into the National Archives, Stack Area 19E, on Wednesday, March 26. Our staff, assisted by Mrs. Anne Higgins when necessary, will now organize them so that they can be made available for appropriate use.

The papers which the President gave to the Government on December 30, 1968, were moved from the Federal Records Center in New York on March 20. They are now in Stack Area 14W-4. We have examined them and they are ready and available for Mr. Ralph Newman's examination. We so notified his office on March 21.

Please call upon us if we can be of further assistance.

Sincerely,

DANIEL J. REED,
Assistant Archivist for Presidential Libraries.

EXHIBIT 3

1969 DEED SIGNED BY EDWARD L. MORGAN

(Chattel Deed from Richard M. Nixon to The United States of America, Dated March 27, 1969)

The undersigned, Richard M. Nixon, does hereby give, assign, transfer, set over and deliver unto The United States of America all of his right, title and interest in and to the papers, manuscripts and other materials (hereinafter collectively referred to as "the Materials") which are listed and described in Schedule A annexed hereto and hereby made a part hereof, to have and to hold the same to The United States of America forever.

This conveyance is made to The United States of America without any reservation to the undersigned, Richard M. Nixon, of any intervening interest or any right to the actual possession of the said Materials, it being understood that the delivery of this Chattel Deed to the General Services Administrator shall convey to The United States of America the right and power immediately to take possession of the said Materials and to hold, use and dispose of the same, provided, however:

1. The undersigned shall have the right of access to any and all of the Materials and the right to copy or to have copied any and all of the Materials by any means of his selection, and to take and retain possession of any or all such copies for any purpose whatsoever. During such time as the undersigned shall hold the office of President of the United States, no person or persons shall have the right of access to such Materials except the undersigned and those who may be designated in writing by the undersigned, and in the case of any person or persons so designated, such right of access shall be limited to those Materials as shall be described in the instrument by which he, she, it or they shall be designated, and for the purposes specified in such instrument; and, if such instrument shall so provide, the person or persons designated therein shall have the further right to copy such of the Materials as shall be described in such instrument and to take and retain possession of such copies for such purposes as shall be specified in said instrument. The undersigned shall have the right and power at any time during his lifetime to modify or remove this restriction as to any or all of the Materials and/or to grant access to any group or groups of persons by notification in writing to the General Services Administration or other appropriate agency of The United States of America.

2. If a Presidential archival depository shall be established for the housing and preservation of the Materials pertaining to the career of the undersigned in public service, then, as soon as practicable after the establishment of such depository, the Materials shall be transferred to and thereafter be housed and preserved at such Presidential archival depository. Until the establishment of such a depository, the Materials shall be housed and preserved at a place to be selected by the General Services Administrator or other appropriate agency of The United States of America.

3. Notwithstanding the foregoing restrictions, employees specifically designated by the archivist of the National Archives and Records Service shall, in the course of performance of their necessary archival duties, have such access to the said Materials as shall be necessary for normal archival processing activities.

4. None of the foregoing restrictions is intended to prevent the Materials from being used exclusively for public purposes, and in no event shall any of the said restrictions be so construed, nor are they intended to vest in the undersigned any ownership or title thereto.

This instrument may be executed in duplicate, or triplicate, each of which shall be deemed an original.

Dated: March 27, 1969.

RICHARD M. NIXON,
President of the United States of America.

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

On this, the 21st day of April, 1969, before me, the undersigned Notary Public, personally appeared Edward L. Morgan, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is Deputy Counsel to the President of the United States and that he executed the foregoing instrument on behalf of the President, acting in his capacity as such Deputy Counsel, and that, as such Deputy Counsel, he is authorized to sign such document on behalf of the President of the United States.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

FRANK DE MARCO, Jr.,
Notary Public.

AFFIDAVIT—STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

Edward L. Morgan, being duly sworn, deposes and says:

That he is Deputy Counsel to Richard M. Nixon, President of the United States of America; that he was duly appointed and was acting in said capacity as such Deputy Counsel on March 27, 1969; that in said capacity he did, on behalf of, and as Deputy Counsel and agent for the said Richard M. Nixon, deposit at the National Archives Building, in the City of Washington, District of Columbia,

pursuant to the express direction of the said Richard M. Nixon, all of those Materials specifically set forth in Schedule A attached hereto, being that Schedule A attached to that certain Chattel Deed from Richard M. Nixon to The United States of America dated March 27, 1969.

In witness whereof I have hereunto affixed my hand this 21st day of April, 1969.

EDWARD L. MORGAN,
Deputy Counsel to the President.

Subscribed and sworn to before me this 21st day of April, 1969.

FRANK DE MARCO, Jr.,
Notary Public.

EXHIBIT 4

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., November 16, 1973.

Hon. LOWELL WEICKER, JR.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WEICKER: Thank you for your letter of October 31, 1973, regarding the transfer of personal papers by Richard M. Nixon to the National Archives in March 1969.

I am pleased to reply as follows to each of your questions:

On what date was a deed or gift received by GSA or the National Archives?

The deed was received in our Office of General Counsel on or about April 10, 1970.

What was the date of such deed or gift?

The deed is cover-dated March 27, 1969, and notarized April 21, 1969.

Who signed such deed of gift?

Edward L. Morgan, Deputy Counsel to the President.

If not signed by the President, what proof did GSA demand that the signor was empowered to act for the President?

GSA did not demand proof that the signor was empowered to act for the President, because GSA officials had previously known that Mr. Morgan had responsibility for matters related to the President's future library, including the physical control of the President's papers, and had dealt previously with him in such matters. (See Morgan's affidavit, enclosed.)

In the case of gifts of papers by prior Presidents, commencing with Franklin Roosevelt, were deeds of gifts received contemporaneous with the transfer of papers to the Archives?

If not, when were they received?

Were such prior deeds signed by the donor Presidents in all cases?

Presidents Franklin Roosevelt and John Kennedy died unexpectedly without signing such deeds of gift. Their papers and memorabilia were legally given to the Government through other legal means. It is important to note that despite the absence of a deed of gift or other formal instruments, President Roosevelt's gift of his papers to the Government, including papers still retained by him at the time of his death, was upheld in the New York courts as a valid gift inter vivos, as evidenced by Roosevelt's public announcement to the effect that he planned to donate these papers to the United States for deposit in the subsequently completed Roosevelt Library.

President Eisenhower signed a letter in 1960, to the Administrator of General Services, in which the President offered to give his papers to the Government. Title to his papers and other historical materials was formally conveyed in his will.

President Truman did not sign a deed of gift but did instead sign a letter addressed to the Administrator of General Services stating his intention to give his papers and other historical materials to the Government and specifying conditions governing access to and use of the materials. Transfer of title was made in his will.

President Johnson also gave the Administrator of General Services a letter of intent in 1965 and deeded portions of his papers to the Government annually from 1965 through 1968. Title to the balance of his historical materials was conveyed to the Government in his will.

When was the physical transfer of papers to GSA?

The physical transfers of the pre-presidential papers of Richard Nixon to the National Archives occurred on December 30, 1968, and March 27, 1969.

Was there any documentary or other evidence submitted by the donor, Richard M. Nixon, indicating that such transfer was a gift and not for purposes of temporary storage by the Archives?

In both deeds—that for 1968 and that for 1969—President Nixon made a gift of a portion of his personal papers to the Government and indicated his expectation of their eventual preservation in a Nixon Presidential Library. In addition, on May 12, 1969, the President announced the creation of the Richard Nixon Foundation to plan for a future Nixon Library.

On what date did the National Archives become aware of the specific value of the alleged gift?

As a matter of policy, GSA does not become involved in the relationships between donors and appraisers or donors and the Internal Revenue Service. We first became aware of the alleged value of the gift upon reading it in the press in June, 1973.

Has there been official acceptance of the alleged gift by GSA, and if not, why has there been no such acceptance?

There has not been a formal instrument drafted or endorsed by the General Services Administration to represent acceptance of the papers covered by the deed of March 27, 1969. This is because this particular deed was not delivered to GSA until April, 1970, and then was delivered to the GSA Office of General Counsel and not to the Office of the Archivist, where the usual procedure is to countersign the deed. Afterwards, the formality of drafting an instrument of acceptance was deemed unnecessary because of what was considered the implied acceptance of the papers represented by their delivery and processing by the Archives staff, and by the absence of any GSA regulation requiring some manner of formal acceptance of donated papers.

Was official acceptance given for prior Presidential gifts?

GSA acknowledged all letters of intent from former Presidents or countersigned their deeds of gift.

Please detail all communications from June, 1972 to date between GSA and the President and/or his agents relative to the aforesaid gift.

On or about January 13, 1973, GSA employee John Nesbitt, Chief of the Nixon Records Liaison Staff, received from Mr. Pete Kinsey, then Staff Assistant, Office of Counsel to the President, the 1969 deed of gift and forwarded it to Dr. Daniel J. Reed, Assistant Archivist for Presidential Libraries, for filing. (On or about September 13, 1971, at the request of J. Dapray Muir, then Staff Assistant, Office of Counsel to the President, the 1969 deed of gift had been turned over to Mr. Muir for examination.)

In early June, 1973 (I was unable to determine the exact date of this meeting), I met at the White House with J. Fred Buzhardt, Leonard Garment, Professor Charles A. Wright, and Edward Morgan, in an attempt to gain more information as to the circumstances surrounding this gift, including the delivery of the papers, the signing and delivery of the deed, and so forth. Although this meeting did result in some clarification of an unclear factual situation, it was necessary that more information be obtained in order to determine exactly what in fact had occurred. Such additional information was requested by my General Counsel, William E. Casselman II, in a September 27, 1973, memorandum to Leonard Garment, Counsel to the President (copy enclosed). On or about September 27, Mr. Casselman met with Mr. Garment and his assistant, Mr. Parker, to discuss the memorandum. Mr. Parker's reply to this request, dated November 16, 1973 (copy enclosed), clarified the circumstances surrounding the delivery of the deed to GSA.

For your further information, I am enclosing copies of both the 1968 and 1969 deeds of gift. If you have further questions, we would be glad to respond to them.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

EXHIBIT 5

RICHARD MILHOUS NIXON, THE WHITE HOUSE, WASHINGTON, D.C.

APPRAISAL

State of Illinois, County of Cook, ss:

Ralph G. Newman being first duly sworn, upon oath deposes and states as follows:

1. He is the president and the duly authorized agent in this behalf of Abraham Lincoln Book Shop, Inc., and he makes this affidavit in its behalf and under its lawful authority. He has full personal knowledge of all the matters and things hereinafter set forth.

2. Said Abraham Lincoln Book Shop, Inc., was duly authorized and created and exists under and by virtue of the laws of the State of Illinois and it is duly authorized to and does transact business in the State of Illinois and throughout the United States.

3. Among the purposes and businesses of said Abraham Lincoln Book Shop, Inc., is the buying, selling and dealing in and general appraisals of libraries, collections of rare books, autographs, letters, documents, drawings, prints, paintings, etchings, broadsides, historical objects, mementos and curiosities and other allied printed, pictorial and manuscript materials.

4. Said Abraham Lincoln Book Shop, Inc., its officers, employees and agents, and its predecessor companies have been doing business as appraisers of libraries, collections of rare books, autographs, letters, documents, drawings, printing, paintings, etchings, broadsides, historical objects, mementos and curiosities and other allied printed, pictorial and manuscript materials since the year 1933, in Illinois and in various other states of the United States of America and have been called upon as consultants in such matters by many of the leading private collectors, libraries, museums and public and private institutions of this country.

5. The said Abraham Lincoln Book Shop, Inc., through its employees, agents and officers did, from the sixth to the eighth day of April 1969, and on Nov. 3, Nov. 17 through 20, and December 8, 1969, examine the papers of Richard Milhous Nixon, Part II, being the property of Richard Milhous Nixon, The White House, Washington, D.C. 20500, and found that the reasonable and fair and true market value thereof in money was Five Hundred Seventy-Six Thousand and no/hundredths Dollars ($576,000.00) as appears from the annexed schedule attached hereto and made a part thereof.

This deponent verily believes the said valuation to be the fair and reasonable and true market value.

RALPH G. NEWMAN.

Subscribed and sworn to before me, a Notary Public, this sixth day of April 1970.

LILLIAN JACOBS,
Notary Public of Cook County, Ill.

My commission expires September 30, 1971.

APPRAISAL

Abraham Lincoln Book Shop, Inc., an Illinois corporation having its principal place

of business in Chicago, Illinois, does hereby certify that, through its officers, agents and employees, it is familiar with and has carefully examined and appraised: The papers of Richard Milhous Nixon, Part II.

This material is the property of Richard Milhous Nixon, The White House, Washington, D.C. 20500, and is listed in the schedule herewith following and attached to this statement and expressly made a part thereof. There has been recorded, together with the listing of each item, figures representing the fair and reasonable and true market value thereof, in money, as by it known, estimated and believed as of the twenty-seventh day of March 1969.

In witness whereof Abraham Lincoln Book Shop, Inc., has appended hereto the affidavit of its president, Ralph G. Newman and has caused these presents to be signed in its behalf by its president and attested by its secretary, Margaret H. April and its corporate seal to be hereunto affixed this sixth day of April 1970.

Abraham Lincoln Book Shop, Inc., an Illinois corporation:

RALPH G. NEWMAN,
President.

Attested:

MARGARET H. APRIL,
Secretary.

APPRAISAL: THE PAPERS OF RICHARD MILHOUS NIXON, PART II

Part II of The Papers of Richard Milhous Nixon was delivered to the Office of Presidential Papers of The National Archives and Records Service, Washington, D.C., March 24 to 27, 1969.

These papers were transferred from their original containers to standard archives boxes by the members of the staff of the Office of the staff of the Office of Presidential Papers. In identifying the paper our reference to boxes is to these standards archives boxes.

The papers and documents covered by this document are divided into five (5) general divisions, and are so identified.

THE PAPERS OF RICHARD MILHOUS NIXON, PART II

I. General correspondence

As Vice President, 1953–1961, Aandahl through Zweing, [National Archives Boxes # 18 through # 845], 828 boxes—414,000 items.

II. Appearance file

1948–1962, [National Archives Boxes #1 through # 173], 173 boxes—87,000 items.

III. Correspondence

Re invitations and turn-downs, 1954–1961, [In unnumbered National Archives Boxes], 56 boxes—27,000 items.

IV. Foreign trip files

As Vice President, 1953–1961, [In unnumbered National Archives Boxes] 116 boxes—57,000 items.

V. Visit of Nikita S. Khrushchev

To the United States, 1959, [In unnumbered National Archives Boxes], 3 boxes—15,000 items.

Total number of boxes; Part II, The Richard Milhous Nixon Papers—1,176.

Total number of items; Part II, The Richard Milhous Nixon Papers—600,000.

The appraised fair market value of The Richard Milhous Nixon Papers, Part II, as of the twenty seventh day of March, One Thousand Nine Hundred Sixty Nine, is Five Hundred Seventy Six Thousand and no/hundredths Dollars ($576,000).

RALPH GEOFFREY NEWMAN—QUALIFICATIONS

(See Biographical Sketch From Who's Who in America)

Ralph Geoffrey Newman has been engaged in the buying and selling, appraisal, and authentication of rare books, manuscripts, films, photographs, prints, archives, and historical and literary properties, etc. since 1933.

He has been recognized internationally as an authority in his field and has been honored for his work with degrees from James Millikin University, Lincoln College, Iowa Wesleyan College, Knox College, and Rockford College. He has also been the recipient of many honors from learned societies, universities, and other organizations including the Freedoms Foundation at Valley Forge, the Independence Hall Association, Lincoln Memorial University, Friends of American Writers, the Civil War Round Table, the Royal Society (London), Lincoln Group of Washington, the Manuscript Society, Lincoln College, and others.

He has acted as a consultant in the assembling of some of the major collections in the United States, both private and public. His clients include the Library of Congress, the United States Army Military History Research Collection, the National Archives, the Chicago Historical Society, Notre Dame University, the State Historical Society of Wisconsin, Yale University Library, Cornell University Library, Lincoln National Life Foundation, Oregon Historical Society, David Wolper Productions, Walt Disney Productions, the Bell and Howell Company, and many distinguished individuals, including the Presidents of the United States, members of the Supreme Court, the Senate and House of Representatives of the United States, leading industrialists, collectors, authors, and historians.

He has appraised collections for all of the above and for hundreds of others, including banks, insurance companies, attorneys, and business firms.

He has been president of the Illinois State Historical Society, the Adult Education Council of Greater Chicago, the Civil War Round Table, and is currently president of the Board of Directors of the Chicago Public Library. He is a member of the Library Council of Notre Dame University, a trustee of Lincoln College and of Lincoln Memorial University, and a director of the Abraham Lincoln Association. He served as chairman of the Illinois Commission for the New York World's Fair and as chairman of the Illinois Sesquicentennial Commission. Currently, he is a member of the Illinois Special Events Commission. He was special consultant to the Secretary of the Interior for the opening of Ford's Theatre in Washington and is chairman of the Board of Directors of the Ford's Theatre Society.

He is president of the Abraham Lincoln Book Shop, Inc. and of Ralph Geoffrey Newman, Inc. Both of these firms specialize in the buying, selling, and appraisal of rare books, manuscripts, and materials in the field of communication.

He has served as special consultant for a variety of business firms, including Encyclopaedia Britannica, Broadcast Music, Inc., WGN Continental Broadcasting Company, Automatic Retailers of America, and the Parker Pen Company. In 1969, he supervised the planning and construction of a Lincoln and American History exhibit which he took to Japan and Australia under the auspices of the United States Department of Commerce.

Allan Nevins, America's leading historian and twice winner of the Pulitzer Prize for history, has characterized Newman as "a national resource." The late Carl Sandberg called him a "unique and useful American."

Since 1950 his work has concentrated on the field of appraisals and he has been widely recognized as one of the most qualified persons in the field. He is a member of the American Society of Appraisers and the Appraisers Association of America. His articles on appraisals have appeared in many publications including the "Antiquarian Bookman," "Manuscripts, American Heritage," and the "Association for State and Local History Bulletin."

Newman is the author of several works including "The American Iliad, Eyewitness, the Civil War Digest, Lincoln for the Ages," and "999 Questions and Answers on American History." His articles have appeared in the country's leading publications and he has been the subject of articles in the Saturday Evening Post, Reader's Digest, Holiday, and other nationally known periodicals. He writes a weekly column for the Chicago Tribune, "Do You Remember?" which has been a popular feature for almost ten years.

At a ceremony in Washington a few years ago, when tribute was paid to Newman, Dr. David C. Mearns of the Library of Congress referred to him as "Acknowledged authority . . . preceptor of the past for the enlightenment of the future."

FROM WHO'S WHO IN AMERICA
(Volume 35, 1968–69)

Newman, Ralph Geoffrey, bookseller, pub.; b. Chgo., Nov. 3, 1911; s. Henry and Dora (Glickman) N.; Litt.D., James Milliken U. (Lincoln Coll.), 1950, also Knox College; LL.D., Ia. Wesleyan Coll.; m. Estelle Hoffman, Oct. 13, 1934 (div.), children—Maxine (Mrs. Richard G. Brandenburg), Carol (Mrs. Elwood C. Parry, III). Founder, proprietor Abraham Lincoln Book Shop, Chgo., 1933—; owner Americana House, pubs., 1947—; pres. Lincoln's New Salem Enterprises, Inc., Ralph G. Newman, Inc. Conducts a weekly column Do You Remember, Chicago Tribune, Chmn. Ill. Sesquecentennial Commn.; pres. Adult Education Council Greater Chgo. Bd. directors Chicago Public Library; member bd. of regents Lincoln Academy of Illinois; mem. bd. of trustees Lincoln Meml. U., Lincoln Coll. Served with USNR, 1944–45. Recipient diploma of honor Lincoln Meml. U., 1952; American of Year award, Independence Hall Assn., 1958. Mem. Civil War Round Table Chgo. (founder 1940), Royal Arts Soc. (London), Abraham Lincoln Assn., Ulysses S. Grant Assn. (pres.), Am., Ind., Illinois, Mississippi Valley, Minn., Wis., Tenn., Ia., Kansas, So. Chgo. hist. socs., Am. Legion, Am. Booksellers Assn., Bibliog. Soc. Am., Royal Bibliog. Soc. London, Civil War Centennial Assn. (sec., treas.), Friends of the Pub. Library of Chgo. (dir.), Lincoln Fellowship of So. Cal., Pa., Wis., Inst. of Human Relations (chmn. adv. board), Phi Alpha Theta. Clubs: Filson (Louisville); Lotos, The Players (New York City); The Arts, Caxton, The Press (Chicago). Author: (with Otto Eisenschiml) The American Iliad, 1947; 999 Questions and Answers on American History, 1966. Editor: The Diary of a Public Man, 1945; The Railsplitter, 1950; The Civil War (with Otto Eisenschiml and E. B. Long), 1956; The Abraham Lincoln Story (radio series), 1958–59; Lincoln for the Ages, 1960; Eyewitness (with Otto Eisenschiml), 1960; The Civil War Digest (with E. B. Long; 1960; Pictorial Autobiography of Abraham Lincoln, 1962. Mem. editorial bd. Civil War History 1955—, Lincoln Herald, 1954—. Homes: 1500 N. La Salle Parkwy., Chgo. 60610. Office: 18 E. Chestnut St., Chgo. 60611.

EXHIBIT 6

THE PRESIDENT'S FINANCIAL STATEMENT

ANNOUNCEMENT OF THE PRESIDENT'S REPORT ON HIS PERSONAL FINANCES, MAY 12, 1969

The President and Mrs. Nixon last made public their financial affairs on October 8, 1968. Since then they have sold their apartment and purchased other properties. The President now wishes to update that previous report. The President and Mrs. Nixon have:

(1) Agreed to sell their New York cooperative apartment at 810 Fifth Avenue. Purchasers are Mr. and Mrs. Lewis Lehrman. Gross sales price is $326,000. Escrow closing date is to be May 29, 1969, unless extended by the parties.

(2) Sold their common stock in Fisher's Island, Inc.—185,891 shares were sold to the corporation in April for $2.00 per share, totaling $371,782.

(3) Purchased the two houses at 500 and 516 Bay Lane, Key Biscayne, Fla., for a total price of $252,800. The purchases were financed with conventional mortgages. The President owns an equity of $71,800.

(4) Agreed to purchase a portion of the Cotton property at San Clemente, Calif., including the house, outbuildings and about 350 feet of oceanfront. The balance of the property will be held in trust until a suitable future use can be determined. The President's portion of the property will be purchased for approximately $340,000 (the exact amount to be determined when the total area of the tract is determined by actual survey). He will pay $100,000 down, the balance over 5 years. The President has immediate possession of the property; closing date is July 15, 1969.

The new net worth statement is as follows:

Statement of net worth

ASSETS

Cash and receivables	$571,000
Life insurance cash value	44,000
Real estate:	
Key Biscayne vacant lots	37,600
500 and 516 Bay Lane, Key Biscayne	252,800
Whittier, California lot	75,000
	980,400

LIABILITIES

Notes and loans payable to banks and others	126,000
Mortgages or contracts payable:	
Whitter property	54,400
500–516 Bay Lane, Key Biscayne	181,000
Vacant lots, Key Biscayne	22,100
Total mortgage	257,500
Total liability	383,500
Net worth	596,900
Total	980,400

EXHIBIT 7

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., May 27, 1969.

Reply to Attn of: Sherrod East, Consultant, NL.

Subject: Pre-Presidential Papers of Richard M. Nixon.

To: Assistant Archivist, NL.

On March 25, 1969, pursuant to our telephone conversation the preceding week, I reported to your office to advise you concerning appropriate handling of the President's stored records relating to his career before January 20, 1969. After talking with you and members of the staff, I proceeded alone to the Executive Office Building to see Terry Good and Mrs. Anne V. Higgins who were to show me the records then in storage areas in FOB 7. With a Secret Service escort we proceeded there to make a preliminary inspection of the records. Mrs. Higgins and the SS man returned to their respective offices after a short time while Good and I worked into the afternoon making notes and plans on the assumption that we would have to work in the very crowded FOB storage quarters with more than 500 crates, shipping cartons, and some 17 file cabinets.

That same day, however, you and Mr. E. L. Morgan of the White House staff arranged to have the stored records moved to the National Archives Building forthwith. The move was accomplished by GSA on March 26 and 27. The records were received in Room 19E–3 by me, Mr. Percy Berry, and two newly recruited archival trainees. Unpacking and shelving of the papers had to begin immediately in order to make room for all the crates and storage boxes which, nevertheless, had to be stacked 4 and 5 high in no discernible order.

It was apparent that our plan, devised the first day, for identifying series of records as unpacking, reboxing, and shelving proceeded apace was essential to achieving initial intellectual and physical control of the papers, some of which had been in storage for many years. (See the inventory worksheet and accompanying instructions for its execution as enclosure 1.) Having been taught to recognize a record series, the trainees proceeded first to place the papers in NA containers and prepare temporary labels for each recognizable series, with each container within the series being numbered in sequence. Shelving was utilized as fast as it could be erected in our cramped quarters. At this stage it was not possible to predetermine any logical arrangement of series on the shelves. Our problems were further complicated by the indiscriminate mixing of all kinds of office property, memorabilia, books, mementoes, audiovisual materials, etc., with the records of a long and varied public and private career.

A further complicating factor in the overall project was presented when our trainee crew was diverted to perform priority arrangement, boxing and labeling of some 45 cubic feet of RMN papers which had been hurriedly separated from his storage files and deeded to the U.S. Government before December 31, 1968. Although these papers have been separately described from the main body of Nixon papers (not yet deeded) they will at a future time have to be integrated with the respective series or as discrete series in the main body of records.

Work has proceeded rapidly under far from ideal conditions. Improvisation has been a frequent necessity if not the rule. I have been impressed with the ability and industry of all the Presidential Library trainees. A dozen have worked on the project for varying periods, but no one trainee has been on it throughout. The average number available at one time was four. Scheduling of assignments for the trainees is being ably managed by Mrs. Mary Walton Livingston, who has also informed herself about the project so that she can supervise future work on the papers including necessary reference service with possible assistance of trainees or Terry Good from the EOB staff.

Since the entire collection has now, after two months, been processed through the initial stages of boxing, temporary labeling, and preparation of series inventory worksheets, some statistical analysis showing what the problem was and how much we have accomplished is in order.

We received 4 2-drawer, 5 4-drawer, and 13 5-drawer legal size steel file cabinets & more than 500 miscellaneous-sized shipping boxes, single-drawer cardboard storage file cases, and odd-sized crates.

The records, all having been identified on series inventory worksheets, are now housed in the following: 2 4-drawer, 4 2-drawer, 11 5-drawer legal size steel cabinets; 2 locked wooden crates; 2 nailed wooden oversize crates; 1 aluminum suitcase; 910 open-face document boxes; 303 records center boxes; 1,247 NA gray document boxes; and 95 NA oversize gray document boxes.

The collection includes some 465 separate series of papers. (This figure is subject to some future change when possible consolidation of some few "series" may be found appropriate.) It measures in overall some 1,058 linear feet of papers; 27 center boxes of accountable (i.e., listed by title and donor) books; 39 center boxes of unaccountable or unlisted books; 64 document boxes of sound tapes; 47 oversize document boxes of motion picture film and 28 oversize boxes of memorabilia, mementoes, and artifacts.

As of the date of this report ¾ of the final-type labeling has been completed and the entire collection is under control for reference and accessioning purposes. For the present, intellectual and physical locator control of the papers is through two sets of the series inventory worksheets in two loose-leaf books each. In Set I, Book 1, the sheets are arranged topically or according to positions held during Mr. Nixon's career up until he became President. Within each such grouping there is a chronological breakdown as appropriate or an arrangement of series from the general to the specific (sometimes from the important to the less important).

Set II, Book 1, is a more or less strict chronological arrangement of another copy of each of the series worksheets with some topical arrangement of sheets in each of several period blocks.

Book 2 in each of the sets contains special grouping of series sheets and special item lists of titles in each category. For example, a series sheet describing "Audiovisual material-Tapes" will be followed by a listing of all tapes by title by year. Another sheet will describe the category "Motion picture film" followed by an item list of film titles, etc.

The arrangement of sheets in these books is experimental and it can be altered in a variety of ways as experience or judgment of future custodians of the papers might dictate. We are talking here of Xerox copies of the original hand-written inventory worksheets prepared by the trainees assigned to the project. The original sheets are arranged according to the names of the persons preparing them.

It is recommended that the worksheets in Set I, Books 1 and 2, be edited for consistency in style and terminology and then typed in the present format so that a copy can be sent to the White House for examination and suggestions as well as to show the present level of control we have established for the records. In due course, consideration can be given to preparation of a formal NA style inventory or such additional special lists or indices as may be required.

The current labeling project should be completed. If and when the papers are removed to another stack location they should be moved and shelved in as logical a sequence of series as can be devised, presumably that established for the inventory. The inventory on the series worksheets will then have to be corrected to show new stack, row, and shelf location.

We emphasize that the work accomplished thus far is simply that preliminary to more sophisticated arrangement and description of an important collection. Since the papers for the most part are not yet deeded to the United States, no appraisal of the papers for permanent retention or elimination of duplicate or extraneous material has been attempted.

As heretofore indicated, further work should await some further clarification of White House wishes and intentions and perhaps a careful study by selected professional staff yet to be designated who will have responsibility for planning and administering the holdings of a future Richard M. Nixon Library.

I have found this assignment both strenuous and challenging. Thank you and the Archivist for the opportunity to work on this as well as the project last fall and winter.

SHERROD E. EAST.

EXHIBIT 8

ABRAHAM LINCOLN BOOK SHOP, INC.,
Chicago, Ill., March 27, 1970.

MRS. MARY LIVINGSTON,
Office of Presidential Libraries, National Archives Building, Washington, D.C.

DEAR MRS. LIVINGSTON: I enclose herewith a general description of the eleven hundred and seventy-six (1176) boxes of manuscript material which were designated as a gift by Richard Milhous Nixon in 1969.

This is being done to be certain that my records correspond with yours and that this

material is being kept separated from the balance of the Nixon papers.

I have completed all of my preliminary work on this material, but will be returning soon to gather some detailed information I will be requiring. I shall advise you before coming East so that you can expect me.

Thank you again for your always spendid cooperation.

Sincerely yours,

RALPH G. NEWMAN.

THE WHITE HOUSE,
Washington, D.C.

THE PAPERS OF RICHARD MILHOUS NIXON—PART II

I. General correspondence as Vice President, 1953–1961; Aandahl through Zwieng (boxes 18 through 845)—828 boxes.

II. Appearance file, 1948–1962 (boxes 1 through 173)—173 boxes.

III. Correspondence re. invitations and turn-downs; 1954–1961 (56 boxes)—56 boxes.

IV. Foreign trip files as Vice President, 1953–1961 (116 boxes)—116 boxes.

V. Visit of Khrushchev to the United States, 1959 (3 boxes)—3 boxes.

Total number of boxes—1176.

EXHIBIT 9

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,

TAX REFORM PROPOSALS

(Contained in the Message from the President of April 21, 1969 and Presented by Representatives of the Treasury Department to the Committee on Ways and Means at Public Hearings on the subject of Tax Reform on Tuesday, April 22, 1969)

3. GIFTS OF ORDINARY INCOME PROPERTY

A. Present Law

Under present law, when property, which if retained or sold would have produced ordinary income (or short-term capital gain), is given to a charity, there is no tax on the ordinary income earned with respect thereto; in addition, a charitable contribution deduction is allowed for the fair market value of the property.

For example, a married taxpayer filing a joint return with $95,000 of income after allowing for deductions, and personal exemptions, is in the 60 percent marginal tax bracket and would have an after-tax net income of $52,820. If this individual sells an asset valued at $15,000 which would produce $12,000 of income taxable at ordinary income rates, his taxable income would be increased $107,000 and, after payment of his tax, he would be left with $60,480 of after-tax income. On the other hand, by donating the asset to charity he pays no tax on the $12,000 income and also deducts the full $15,000 value of the gift from his other income thereby reducing his taxable income to $80,000. After payment of Federal income tax he would be left with $61,660. Thus, under present law by donating the asset to charity rather than selling the asset, the taxpayer makes $1,180, the amount by which he improved his after-tax position.

B. The proposal

To prevent this unwarranted tax benefit it is recommended that section 170 be amended to provide that the allowable charitable deduction be reduced by the amount of ordinary income or net short term gain that would have resulted if the property had been sold at its fair market value rather than being donated to charity. Under this proposal, the taxpayer in the above example would be entitled to a charitable contribution deduction of $3,000 ($15,000–$12,000).

C. Effective date

The ordinary income proposals would apply to gifts made after April 22, 1969.

4. GIFTS OF THE USE OF PROPERTY

A. Present law

Under existing law a taxpayer, by granting to a charity the right to use property for a specified period, may exclude from income the amounts that would have been included in income had the property been rented to a noncharitable party; in addition, the donor claims a charitable deduction for the fair rental value of the property.

For example, an individual owning a ten story office building which is currently netting $1 million annually may donate use of one floor for a year to a charity. His economic gift is, of course, $100,000, the fair rental value of the space. * * *

EXHIBIT 10

COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,

PRESS RELEASES ANNOUNCING TENTATIVE DECISIONS ON TAX REFORM SUBJECTS

(As announced by Chairman Wilbur D. Mills on May 27, July 11, and July 25, 1969, together with Summary of Subsequent Principal Decisions)

C. TAX TREATMENT OF CHARITABLE CONTRIBUTIONS

(1) *Increase of Limit on Deduction.*—The Committee tentatively decided to increase the general limit on the charitable contribution deduction for individuals from 30 percent to 50 percent. However, the base to which this percentage would be applied (adjusted gross income) would be reduced by any non-business interest deductions claimed in excess of $5,000.

(2) *Repeal of Unlimited Deduction.*—The Committee tentatively decided to repeal the unlimited charitable contribution deduction. The repeal would become effective as of 1975 but in the interim the deduction would be limited. In 1969, the unlimited deduction could not reduce a taxpayer's income after other itemized deductions to less than 10 percent of his adjusted gross income. This percentage would increase to 20 percent in 1970 and then would increase ratably between 1971 and 1975 to 50 percent.

(3) *Appreciated Property.*—The Committee has not yet fully decided between two alternative approaches with respect to the tax treatment of charitable contributions of appreciated property. One approach would apply to all charitable contributions of appreciated property. Under this approach taxpayers at their option would either reduce the charitable contribution claimed to the amount of their cost or other basis in the property, or, if they wished to claim a deduction based on fair market value of the property, would include in income the untaxed appreciation with respect to the property involved. A transitional rule would be provided with respect to this approach. The second approach would apply the above-described rules to the following types of charitable contributions of appreciated property.

(a) All such charitable contributions to private foundations other than private operating foundations. An exception to this would apply for gifts of appreciated property to a private foundation where it within one year spends the amount for charitable purposes.

(b) All gifts of property without regard to the type of charitable organizations if the property (had it been sold) would have resulted in either ordinary income or short term capital gain.

(c) All gifts of works of art, collections of papers, and other forms of tangible personal property.

(d) In the case of so-called bargain sales—where a taxpayer sells property to a charitable organization for less than its fair market value (usually its cost to him)—the cost of the property is to be allocated between the portion of the property "sold" and the portion of the property "given" to the charity on the basis of the fair market value of each.

(4) *Repeal of Charitable Trust Rule.*—The Committee tentatively decided to repeal the two-year charitable trust rule which allows an individual to exclude from his income the income of a trust established by him to pay the income to a charity for a period of at least two years.

(5) *Limitation on Deduction Allowed Non-Exempt Trusts.*—The Committee tentatively decided to limit the deduction allowed non-exempt trusts for amounts set aside for charity to the present value of the gift to charity.

(6) *Disallowance of Deduction for Right to Use of Property.*—The Committee tentatively decided to disallow charitable deductions for contributions to a charity of the right to use property.

EXHIBIT 11

REPORT OF THE COMMITTEE ON WAYS AND MEANS

In addition, if property is sold to a charity at a price less than its fair market value—a so-called bargain sale—the proceeds of the sale are treated as a return of cost and the seller is allowed a charitable contributions deduction for the appreciation in excess of the sale price. If the sale price is above his cost basis, the taxpayer pays a tax on the difference. However, if the sale price is equal to his cost basis, the entire appreciation is taken as a deduction and no tax is paid on the gain. In either case, the taxpayer is not required to allocate the cost basis between the sale part of the transaction and the gift part of the transaction. If this were done, the taxpayer would be required to pay tax on the portion of the gain attributable to the sale part of the transaction.

The tax saving available in the case of a bargain sale of property to a charity may be illustrated by the example of a taxpayer in the 70 percent tax bracket who makes a sale of inventory with a value of $200 to a charity at its cost of $100. The taxpayer in this case would save $140 in taxes with respect to his $100 charitable gift (70 percent of the $100 gain if sold, or $70, plus 70 percent of the $100 of appreciation taken as a charitable deduction, or $70).

Your committee does not believe the charitable contributions deduction was intended to provide greater—or even nearly as great—tax benefits in the case of gifts of property than would be realized if the property were sold and the proceeds were retained by the taxpayer. In cases where the tax saving is so large, it is not clear how much charitable motivation actually remains. It appears that the Government, in fact, is almost the sole contributor to the charity. Moreover, an unwarranted benefit is allowed these taxpayers, who usually are in the very high income brackets. Your committee, therefore, considers it appropirate to narrow the application of the tax advantages in the case of gifts of certain appreciated property.

Explanation of provisions.—In order to remove some of the present tax advantages of gifts of appreciated property over gifts of cash, the bill provides that taxpayers making contributions of appreciated property are to be required, at their option, either (A) to reduce their charitable contribution deduction to the amount of their cost or other basis in the property or (B) to take a charitable deduction based on the fair market value of the property but to include in their tax base the untaxed appreciation with respect to the property involved. The charitable donee's basis for the property would be the taxpayer's adjusted basis (for purposes of determining gain increased by the amount

of gain recognized by the taxpayer in the contribution. The treatment, however, is to apply only to the following types of charitable contributions of appreciated property.

* * * * *

Explanation of provision.—Your committee's bill increases the general limitation on the charitable contributions deduction for individual taxpayers from 30 percent of adjusted gross income to 50 percent of his contribution base. The 20-percent charitable contribution deduction limitation in the case of gifts to certain private foundations is not increased by the bill. Also, contributions of appreciated property (which property, if sold, would be treated as giving rise to capital gain) is to be subject to the 30-percent limitation.

Effective date.—The increase in the limit on the deductibility of contributions from 30 percent to 50 percent of a taxpayer's contribution base (subject to the special limitation for contributions of appreciated property), is to be applicable to taxable years beginning after December 31, 1969.

2. *Repeal of the unlimited deduction (sec. 201(a) of the bill and sec. 170(b)(1)(C) of the code)*

Present law.—Under present law, the charitable contributions deduction for individuals generally is limited to 30 percent of the taxpayer's adjusted gross income. In the case of gifts to certain private foundations not receiving a substantial part of their support from a governmental unit or the general public, the limitation is 20 percent.

An exception to this general limitation allows a taxpayer an unlimited charitable contribution deduction, if in 8 out of the 10 preceding taxable years the total of the taxpayer's charitable contributions plus income taxes (determined without regard to the tax on self-employment income) exceeded 90 percent of his taxable income (computed without regard to the charitable contributions deduction, personal exemptions, an loss carrybacks).

General reasons for change.—Your committee's attention was called to the fact that the unlimited charitable contributions deduction has allowed a small number of high-income persons to pay little or no tax on their income. It has been indicated that the unlimited deduction currently is used by about 100 taxpayers who generally have incomes well in excess of $1 million. Moreover, it appears the charitable contributions deduction is the most important itemized deduction used by high-income taxpayers, who pay little or no tax, to reduce their tax liability.

Your committee does not believe that high-income taxpayers should be allowed to minimize or avoid tax liability by means of the charitable contribution deduction. Accordingly, your committee believes that the unlimited charitable contribution deduction should be repealed. The effect of this, in combination with the increase in the general limitation on the deduction to 50 percent, is that charity can remain an equal partner with respect to an individual's income, but charitable contributions no longer will be allowed to reduce an individual's tax base by more than one-half. In view of the fact that it takes a number of years for a taxpayer to qualify for the unlimited deduction, your committee feels it is appropriate to gradually remove the unlimited deduction over a 5-year period.

Effective dates.—The amendments made by this provision relating to gifts of certain appreciated property are to apply with respect to contributions paid (or treated as paid under section 170(a)(2)) after December 31, 1969. The amendments made by this provision with respect to bargain sales to a charitable organization are to apply to sales made after May 26, 1969.

4. *Repeal of a 2-year charitable trust rule (sec. 201(g) of the bill and sec. 673(b) of the code)*

Present law.—Under present law, an individual may establish a trust to pay the income from his property, which he transfers to the trust, to a charity for a period of at least 2 years, after which the property is to be returned to him. Although the individual does not receive a charitable contributions deduction in such a case, the income from the trust property is not taxed to the individual. This 2-year charitable trust rule is an exception to the general rule that the income of a trust is taxable to a person who establishes the trust where he has a reversionary interest in the trust which will or may be expected to take effect within 10 years.

General reasons for change.—The effect of the special 2-year charitable trust rule is to permit charitable contributions deductions in excess of the generally applicable percentage limitations of such deductions. For example, with a 30-percent limitation, the maximum deductible contribution that could generally be made each year by an individual who had $100,000 of dividend income (but no other income) would be $30,000. However, if the individual transferred 60 percent of his stock to a trust with directions to pay the annual income ($60,000) to charity for 2 years and then return the property to him, the taxpayer excludes the $60,000 from his own income each year. In effect, the individual has received a charitable contribution deduction equal to 60 percent of his income.

Your committee does not believe that taxpayers should be allowed to avoid the limitations on the charitable contribution deduction by means of a 2-year charitable trust.

Explanation of provision.—In order to eliminate the above-described means of avoiding the generally applicable percentage limitations on the charitable contribution deduction, your committee's bill would repeal the 2-year trust provision of section 673(b) of the Code. Accordingly, an individual no longer is to be able to exclude the income from property placed in a trust (to pay the income to a charity for a period of at least 2 years) from his income. As a result, a person who establishes a trust will be taxable on its income, whether or not the income beneficiary is a charity, where the individual has a reversionary interest which will or may be expected to take effect within 10 years from the time the income-producing property is transferred to the trust.

Effective date.—This provision is to apply with respect to transfers in trust made after April 22, 1969.

5. *Charitable contributions by estates and trusts (sec. 201(f) of the bill and sec. 642(c) of the code)*

* * * * *

EXHIBIT NO. 12

TAX REFORM ACT OF 1969: REPORT OF THE COMMITTEE ON FINANCE

Effective date.—This provision is to apply with respect to contributions made in taxable years beginning after December 31, 1969.

3. Charitable Contributions of Appreciated Property (sec. 201(a) of the bill and sec. 170(e) of the code).

Present law.—Under present law, a taxpayer who contributes property which has appreciated in value to charity generally is allowed a charitable contributions deduction for the fair market value of the property and no tax is imposed on the appreciation in value of the property. A special rule (sec. 170(e)) applies, however, to gifts of certain property so that the amount of charitable contribution is reduced by the amount of gain which would have been treated as ordinary income under the recapture rules for certain mining property No. 617), depreciable tangible personal property (sec. 1245) and certain depreciable real property (sec. 1250), if the property contributed had been sold at its fair market value.

If property is sold to a charity at a price below its fair market value—a so-called bargain sale—the proceeds of the sale are considered to be a return of the cost and are not required to be allocated between the cost basis of the "sale" part of the transaction and the "gift" part of the transaction. The seller is allowed a charitable contributions deduction for the difference between the fair market value of the property and the selling price (often at his cost or other basis).

General reasons for change.—The combined effect, in the case of charitable gifts of appreciated property, of allowing a charitable contributions deduction for the fair market value (including the appreciation) and at the same time not taxing the appreciation, is to produce tax benefits significantly greater than those available with respect to cash contributions. The tax saving which results from not taxing the appreciation in the case of gifts of capital assets is the otherwise applicable capital gains tax which would be paid if the asset were sold. In the case of gifts of ordinary income property, however, this tax saving is at the taxpayer's top marginal income tax rate. In either case, this tax saving is combined with the tax saving of the charitable deduction at the taxpayer's top marginal rate.

Thus, in some cases it actually is possible for a taxpayer to realize a greater after-tax profit by making a gift of appreciated property than by selling the property, paying the tax on the gain, and keeping the proceeds. This is true in the case of gifts of appreciated property which would result in ordinary income if sold, when the taxpayer is at the high marginal tax brackets and the cost basis for the ordinary income property is not a substantial percentage of the fair market value. For example, a taxpayer in the 70-percent tax bracket could note a gift of $100 of inventory ($50 cost basis) and save $105 in taxes (70 percent of the $50 gain if sold, or $35, plus 70 percent of the $100 fair market value of the inventory, or $70).

The committee does not believe that the charitable contributions deduction was intended to provide greater—or even nearly as great—tax benefits in the case of gifts of property than would be realized if the property were sold and the proceeds were retained by the taxpayer. In cases where the tax saving is so large, it is not clear how much charitable motivation actually remains. It appears that the Government, in fact, is almost the sole contributor to the charity. Moreover, an unwarranted tax benefit is allowed these taxpayers, who usually are in the very high income brackets. The committee, therefore, considers it appropriate to narrow the application of the tax advantages in the case of gifts of certain appreciated property.

Explanation of provision.—The House bill takes appreciation into account for tax purposes in five types of situations. The committee amendments retain two of these provisions.

Both the House bill and the committee amendments provide that appreciation is to be taken into account for tax purposes in the case of gifts to a private foundation, other than an operating foundation and other than a private foundation which within one year distributes an amount equivalent to the gift to public charitable organizations or private operating foundations. In addition, both the House bill and the committee amendments take appreciation in value into account for tax purposes in the case of property (such as inventory or works of art created by the donor) which would give rise to ordinary income if sold.

In the case where the appreciation is taken into account for tax purposes, the committee amendments provide that the charitable deduction otherwise available is to be reduced

by the amount of appreciation in value in the case of assets which if sold would result in ordinary income, or in the case of assets which if sold would result in capital gain, by 50 percent (62½ percent for corporations) of the amount of this appreciation in value. The House bill would have given the taxpayer the option of reducing his charitable deduction to the amount of his cost or other basis for the property, or of including the appreciation in value of the property in his income (as ordinary income or capital gains income as the case may be) at the time of taking the charitable contribution deduction and deducting the full fair market value of the property as a charitable contribution.

Examples of the types of property giving rise to ordinary income where either some, or all, of the appreciation is to be taken into account without regard to the type of charitable recipient are gifts of inventory, "section 306 stock" (stock acquired in a nontaxable transaction which is treated as ordinary income if sold), letters, memorandums, etc., given by the person who prepared them (or by the person for whom they were prepared), and stock held for less than 6 months. Under the committee amendments, the portion of the appreciation taken into account in these cases is the amount which would be treated as ordinary income if the property were sold. This would be all of the appreciation in the case of gifts of inventory but in the case of gifts of depreciable tangible personal property used in the trade or business of the taxpayer, for example, it would be only the portion of the gain subject to recapture (under sec. 1245) since any remaining gain above this amount would still be treated as a capital gain not taken into account by this provision (unless the contribution were to certain private foundations). Under the House provision, it appears that the full appreciation would have been taken into account if any of the gain would (if sold) have been taxed as ordinary income.

* * * * *

EXHIBIT 13

TAX REFORM ACT OF 1969

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1969".

(b) TABLE OF CONTENTS.—

TITLE I—TAX EXEMPT ORGANIZATIONS

SUBTITLE A—PRIVATE FOUNDATIONS

Sec. 101. Private foundations.

SUBTITLE B—OTHER TAX EXEMPT ORGANIZATIONS

Sec. 121. Tax on unrelated business income.

TITLE II—INDIVIDUAL DEDUCTIONS

SUBTITLE A—CHARITABLE CONTRIBUTIONS

Sec. 201. Charitable contributions.

The conference substitute (sec. 201(a) of the substitute and section 170(b) of the code) follows the Senate amendment except that it provides that in the case of contributions to private nonoperating foundations, the contribution such foundations receive must be distributed to public charities or private operating foundations within 2½ months following the year of receipt if the 50 percent limitation (or the 30 percent limitation as the case may be) is to apply.

2. Repeal of the unlimited charitable deduction (secs. 170(b)(1)(C), (f)(6), and (g) of the code)

The House bill eliminates the unlimited charitable contribution deduction for years beginning after 1974. During the interim period an increasing limitation is placed on the amount by which the deduction may reduce an individual's taxable income. For taxable years beginning in 1970, the total charitable deduction (for those qualifying under this provision) is not to be allowed to reduce the individual's taxable income to less than 20 percent of his adjusted gross income. This percentage is increased by 6 percentage points a year for the years 1971 through 1974. Corresponding downward adjustments are made in the percentage of a taxpayer's income which must be given to charity (or paid in income taxes) in 8 out of the 10 preceding taxable years in order to qualify for the extra charitable deduction during the interim period.

The Senate amendment modifies the House bill to provide that two rules are not to apply in the case of a person qualifying for the extra charitable contribution deduction: (1) the 30-percent limit on gifts of appreciated property and (2) the appreciated property rule which takes the appreciation into account for tax purposes in the case of gifts of property which would give rise to a long-term capital gain is sold.

The conference substitute (sec. 201(a) of the substitute and secs. 170(b)(1)(C), (f)(6), and (g) of the code) follows the Senate amendment.

3. Charitable contributions of appreciated property (sec. 170(e) of the code)

The House bill in the case of charitable contributions of appreciated property takes this appreciation into account for tax purposes in five types of situations. These are as follows:

(1) Appreciation is taken into account in the case of gifts to a private foundation other than an operating foundation and within 1 year distributes an amount equivalent to the total amount of gifts of appreciated property;

(2) Appreciation is taken into account in the case of property (such as inventory or works of art created by the donor) which would give rise to ordinary income if sold;

(3) Appreciation is taken into account in the case of gifts of tangible personal property (such as paintings, art objects, and books not produced by the donor) which would result in capital gain if the property were sold.

(4) Appreciation is taken into account in the case of gifts of future interests in property (such as a remainder interest in trust) which would result in capital gain if the property were sold.

(5) The cost or other basis of property in the case of a so-called bargain sale to charity is allocated between the portion of the property which is "sold" to the charity and the portion which is "given" to the charity on the basis of the fair market value of each portion.

The Senate amendment deleted categories (3), (4), and (5) listed above.

The conference substitute (sec. 201(a) of the substitute and sec. 170(e) of the code) follows the House bill except that in the case of category (3), listed above, it does not take appreciation in value into account in the case of gifts of tangible personal property (which would result in capital gain if the property were sold) where the use of the property is related to the exempt function of the donee. In addition, the conference substitute does not take appreciation into account in the case of category (4) referred to above relating to gifts of future interests in property.

The House bill provides that the amendments relating to charitable contributions generally apply to contributions paid after December 31, 1969.

The Senate amendment modifies this effective date to provide that in the case of a gift of a letter or memorandum or similar property, the charitable contribution amendments are to apply to contributions paid after December 31, 1968.

The conference substitute (sec. 201(g)(1)(B) of the substitute) follows the Senate amendment except that it changes the date to July 25, 1969.

4. Two-year charitable trust (sec. 673(b) of the code)

No substantive change is made by the Senate amendment in the House bill.

5. Gifts of the use of property (sec. 170(f)(3) of the code)

The House bill provides that a charitable deduction is not to be allowed for contributions to charity of less than the taxpayer's entire interest in property.

The Senate amendment modifies the House bill by providing that:

(1) A deduction is to be allowed for contributions of a remainder interest in real property;

(2) A charitable deduction is to be allowed where an outright gift is made of an undivided interest in property;

(3) The amendments are to apply to gifts made after October 9, 1969, (the House bill applies to gifts made after April 22, 1969).

The conference substitute (sec. 201(a) of the substitute and sec. 170(f)(3) of the code) follows the Senate amendment except that in the case of the first modification referred to above the charitable deduction is allowed only for contributions of remainder interests in real property consisting of personal residences or farms.

The conferees on the part of both Houses instead that is a gift of an open space easement in gross is to be considered a gift of an undivided interest in property where the easement is in perpetuity.

6. Charitable contribution by estates and trusts (sec. 642(c) of the code)

The House bill denies nonexempt trusts a deduction for the amount of their current income set aside for charity. The House bill also denies this deduction to estates.

EXHIBIT 14

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., December 7, 1973.

Hon. LOWELL WEICKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WEICKER: Thank you for your letters of November 21 and 28, 1973, regarding additional questions you have concerning the transfer of personal papers of Richard M. Nixon to the National Archives in March 1969.

I am pleased to reply as follows to your questions:

Do the formalities contained in paragraph 5, chapter 3, of the GSA Handbook on Presidential Libraries require an acceptance of the deed by the Archivist?

No. The formalities that you refer to from the GSA Handbook on Presidential Libraries are merely guidelines issued to establish uniformity in the procedures utilized by the several Presidential Libraries in the acceptance of donated papers. Prior to the issuance of these guidelines, each Library had employed varying methods for the acceptance of donated papers, resulting in some confusion as to the status of certain papers, and creating a serious lack of coordination of the operations of a most important segment of the work of the National Archives. These guidelines were issued to end this disparate treatment by the Libraries, and to establish a uniform procedure to be followed at the normal operational level of such activity, the Presidential Library. They were never intended to restrict the methods available to

the Archivist in acceptance of gifts, but were meant to apply primarily to the Libraries themselves.

GSA has the authority, under chapter 21 of title 44, United States Code, to issue these guidelines as formal published regulations, having the force and effect of law. However, in the interest of retaining our options for receiving gifts of papers that are invaluable in constructing a documentary history of our nation, we have deliberately chosen not to issue regulations that might restrict or hinder all possible means of donation. As merely internal GSA guidelines they lack both the legal status and the intent to require the Archivist to formally accept a deed of gift.

On what date did these formal procedures go into effect?

These procedures first became effective on December 20, 1968, when the Handbook on Presidential Libraries was first issued. From 1965 to that date, informal attempts to gain uniformity were made in memoranda from the Office of Presidential Libraries at the National Archives to the several Libraries.

Was there any express communication or indication by Richard M. Nixon to GSA or the National Archives between January 1, 1969, and July 25, 1969, indicating that the 1969 transfer of papers was explicitly for purposes of a gift?

There was no express communication or indication by President Nixon personally to GSA or the National Archives between January 1, 1969, and July 25, 1969, indicating that the transfer of papers was explicitly for purposes of a gift. However, the papers were viewed by GSA personnel as having been delivered for gift purposes with a formal deed of gift to follow, and actions by GSA personnel beginning upon delivery were consistent with this view. These actions continued through the remainder of 1969 and included actions to assist Mr. Newman in his appraisal work. It should be borne in mind that it was not until December of 1969 that July 25, 1969, was finally established as the critical date.

On what date did GSA receive a letter from Edward L. Morgan to Dr. Daniel J. Reed, dated March 13, 1969?

March 14, 1969.

To what papers did this letter refer?

Mr. Morgan's letter referred to the papers donated by the deed dated December 30, 1968.

Has the public had access to the pre-Presidential papers transferred to the National Archives on March 26 and 27, 1969?

No. In accordance with paragraph 1 of the Chattel Deed dated March 27, 1969, GSA, bound by the dictates of sections 2107 and 2108(c) of Title 44, United States Code, has withheld general public access to the referenced papers.

Who has had access to these papers since their transfer to the National Archives?

Other than GSA personnel who are permitted access under the Chattel Deed to perform necessary archival work on the papers, actual access has been limited to the appraisers and members of the White House staff.

Has the Internal Revenue Service, between January 1, 1972, and the present time, contacted GSA or the National Archives and collected all the relevant details and evidence with respect to the March 26th and 27th, 1969, transfer of these papers?

No.

As you requested, I have enclosed a copy of the "Limited Right of Access from Richard Nixon to Ralph Newman", dated March 27, 1969.

Sincerely,

ARTHUR F. SAMPSON,
Administrator.

LIMITED RIGHT OF ACCESS FROM RICHARD NIXON TO RALPH NEWMAN

(Pursuant to Chattel Deed from Richard M. Nixon to the United States of America, dated December 30, 1968).

Whereas, the undersigned executed a Chattel Deed to The United States of America dated December 30, 1968, a copy of which is attached hereto as Exhibit I,

Now, therefore, pursuant to the restrictions set forth in Paragraph "1", page 2 thereof, the undersigned hereby grants to Ralph Newman a limited right of access to inspect and examine for the purpose of appraisal, but not to copy or remove, all of those documents set forth in Schedule A which is annexed to and made a part of said Chattel Mortgage, Exhibit I hereof.

This limited right of access shall expire April 16, 1969.

Dated This 27th day of March, 1969.

RICHARD NIXON,
President of the United States of America.
EDWARD L. MORGAN,
Deputy Counsel to the President.

IN THE CITY OF WASHINGTON, DISTRICT OF COLUMBIA, SS

On this, the 27th day of March, 1969, before me, the undersigned Notary Public, personally appeared Edward L. Morgan, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he is Deputy Counsel to the President of the United States and that he executed the foregoing instrument on behalf of the President, acting in his capacity as such Deputy Counsel, and that, as such Counsel, he is authorized to sign such document on behalf of the President of the United States.

In witness whereof, I have hereunto set my hand and official seal the day and year first above written.

JOHN JOSEPH RATCHFORD,
Notary Public.

My commission expires: May 31, 1973.

EXHIBIT 15

INCOME TAXES: PART III—GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1221. Capital asset defined:

For purposes of this subtitle, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

* * * * *

(3) a copyright, a literary, musical, or artistic composition, a letter or memorandum, or similar property, held by—

(A) a taxpayer whose personal efforts created such property,

(B) in the case of a letter, memorandum, or similar property, a taxpayer for whom such property was prepared or produced, or

(C) a taxpayer in whose hands the basis of such property is determined, for purposes of determining gain from a sale or exchange, in whole or part by reference to the basis of such property in the hands of a taxpayer described in subparagraph (A) or (B);

As amended Dec. 30, 1969, Pub. L. 91–172, Title V, § 514(a), 83 Stat. 643.

* * * * *

1969 Amendment. Par. (3). Pub. L. 91–172 added reference to a letter or memorandum, added subpar. (B) dealing with a letter or memorandum, and substantially redesignated former subpar. (B) as subpar. (C).

Effective Date of 1969 Amendment. Section 514(c) of Pub. L. 91–172 provided that: "The amendments made by this section [amending this section and sections 341 and 1231 of this title] shall apply to sales and other dispositions occurring after July 25, 1969."

Legislative History. For legislative history and purpose of Pub. L. 91–172, see 1969 U.S. Code Cong. and Adm. News, pp. 1645, 1800, 1992, 2233, 2432.

Supplementary Index to Notes, Gas 74a, Trademarks 105a.

1. CONSTRUCTION

Crosswhite v. U.S., 369 F.2d 989, main volume, 177 Ct.Cl. 671.

Capital gains provisions are to be read narrowly, Hansche v. C. I. R., C. A. 7, 1972, 457 F.2d 429.

This section defining capital asset for capital gain treatment must be narrowly applied and its exclusions interpreted broadly to effectuate basic congressional purpose. Lewis v. U.S., 1968, 389 F.2d 818, 182 Ct.Cl. 426.

Statutes conferring preferred treatment on taxpayers in case of sale of capital assets or sale of certain natural resources must be strictly construed. Crosby v. U.S., D.C.Miss. 1968, 202 F. Supp. 314, affirmed 414 F. 2d 822.

Provision of this section defining term "capital asset" is a relief provision and must be strictly construed. Malat v. Riddell, D.C. Cal. 1966, 275 F.Supp. 358.

3. PURPOSE

This section excluding from capital assets property held by taxpayer primarily for sale to customers in ordinary course of his trade or business was intended to differentiate between profits and losses arising from everyday operation of business and realization of appreciation in value accrued over substantial period of time. Huxford v. U.S., C.A.Fla. 1971, 411 F.2d 1371.

Concept of capital asset for tax purposes is to be construed narrowly in accordance with purpose of Congress to afford capital-gains treatment only in situations typically involving realization of appreciation in value accrued over substantial period of time. Silverstein v. U.S., D.C.Ill. 1968, 293 F.Supp. 1106, affirmed 419 F.2d 999, certiorari denied 90 S.Ct. 1362, 397 U.S. 1041, 25 L.Ed.2d 652.

4. LAW GOVERNING

Characterization of taxpayer's manner of holding land has underpinnings of question of fact but ultimate issue of whether taxpayer's holding is not primarily for sale in the ordinary course of business is inherently question of law. U.S. v. Winthrop, C.A.Fla. 1969, 417 F.2d 905.

7. CAPITAL TRANSACTIONS

Even though important purpose of taxpayer in acquiring stock of another corporation was to obtain source of raw materials necessary for taxpayer's business, presence of substantial investment purpose in the acquisition precluded taxpayer from having loss resulting from sale of acquired stock treated as loss against ordinary income rather than as a capital loss. Dearborn Co. v. U.S., 1971, 444 F. 2d 1145, 195 Ct. Cl. 219.

Where taxpayer, wholesaler of petroleum products, purchased interest in petroleum refinery at time when taxpayer was experiencing supply problems, and stock in refinery was sold when first order of purchase was received seven years after shortage ended, stock sold by taxpayer was not a "capital asset" and taxpayer was entitled to ordinary loss deduction on the sale. FS Services, Inc. v. U.S., 1969, 413 F.2d 548, 188 Ct.Cl. 874.

Basic requirement for capital gain or loss treatment for income tax purposes is that the transaction giving rise to claimed gain or loss must constitute a sale or exchange of capital asset. Jamison v. U.S., D.C.Cal. 1968, 297 F.Supp. 221, affirmed 445 F.2d 1397.

8. SUBSTANCE OF TRANSACTION

In determining whether sale of capital assets occurred, court must look to substance of and effect rather than just to form of transaction for tax purposes. Silverstein v. U.S., D.C.Ill. 1968, 283 F. Supp. 1106, affirmed

419 F. 2d 999, certiorari denied, 99 S.Ct. 1362, 397 U.S. 1041, 25 L.Ed. 2d 652.

EXHIBIT 16

(1970 "Schedule A" to 1969 deed. This schedule was substituted for an earlier schedule A which is not available.)

SCHEDULE A ANNEXED TO AND PART OF CHATTEL DEED FROM RICHARD MILHOUS NIXON TO THE UNITED STATES OF AMERICA, MARCH 27, 1969

The materials conveyed by the Chattel Deed of which this Schedule A is a part, herewith deposited and housed in the National Archives Building, Washington, D.C., constituting six hundred thousand individual items contained within 1,176 file boxes, are more particularly described as follows:

I. GENERAL CORRESPONDENCE AS VICE PRESIDENT

Boxes "Aandahl through Zwieng", Boxes 18 through 845, inclusive—828 Boxes.

II. APPEARANCE FILE 1948–62

Boxes 1 through 173—173 Boxes.

III. CORRESPONDENCE RE INVITATIONS 1954–61

56 Boxes.

IV. FOREIGN TRIP FILES AS VICE PRESIDENT

116 Boxes.

V. VISIT OF KHRUSHCHEV TO UNITED STATES

3 Boxes.

Total: 1,176 Boxes.

EXHIBIT 17

PRESIDENTIAL LIBRARIES—A GSA HANDBOOK

CHAPTER 1. GENERAL

1. *Purpose.* This handbook sets forth guidelines for the operation of Presidential libraries and provides general guidance on administrative, professional, and technical matters. It is in accord with the provisions of law (44 USC 2101–2113; 2301–2308), the Regulations for the Public Use of Records (41 CFR 105–61), and the provisions of the GSA Policy Manual, ADM P 1000.2A. At the same time it recognizes that in some of their activities the libraries must be guided by local circumstances.

2. *Definitions.* For ease of preparation and reading, the titles and terms listed below are cited in short form throughout this HB:

a. "President" means the President of the United States (or a former President) whose papers are or will be deposited in a Presidential library operated by the General Services Administration.

b. "Director" means the Director of a Presidential library.

c. "Regulations" refer to "Public Use of Records," Donated Historical Materials, and Facilities in the National Archives and Records Service" 41 CFR 105–61, or GSA Order ADM 1800.2A.

d. NA means the Executive Director, NARS.

e. NAP means the Director, Planning and Management Programs Division.

f. NAPB means the Budget and Reports Branch.

g. NAPP means the Manpower Branch.

h. NAT means the Director, Technical Services Division.

i. NATR means the Chief, Document Reproduction and Preservation Branch.

j. NL means the Assistant Archivist to Presidential Libraries.

3. *Applicability.* The provisions of this handbook are applicable to all Presidential libraries; those in operation and those being planned.

4. *Responsibilities.* It is the responsibility of NL, through the library Directors, to see that each library in operation carries out the functions set forth in the GSA Organization Manual, OFA P 5440.1, and the Delegations of Authority Manual, ADM P 5450.39 and NAR 5450.7. Planning for future libraries is primarily the responsibility of NL, in cooperation with the designated representatives of the Presidential administration involved.

5. *Background and organization.* The first Presidential library was the Franklin D. Roosevelt Library, authorized by special legislation passed in 1939, and completed at Hyde Park, N. Y., in 1940. It grew out of President Roosevelt's concern for the preservation of the many papers and gifts that were accumulating in the White House and for their eventual availability to scholars and museum visitors. The Roosevelt Library was placed under the direct supervision of the Archivist of the United States. After the formation of the General Services Administration, the Presidential Libraries Act of 1955 was passed, authorizing the Administrator to acquire the historical materials of any President if they were offered to the Government, along with related materials obtained elsewhere, and to administer them as a Presidential library. Under that legislation the Harry S. Truman Library was established at Independence, Mo., in 1957; the Dwight D. Eisenhower Library at Abilene, Kans., and the Herbert Hoover Library at West Branch, Iowa, were both established in 1962. The Directors of the first two libraries were under the direct supervision of the Archivist of the United States. The addition of the Eisenhower and Hoover libraries required additional Central Office support, and the Office of Presidential Libraries was established as a coordinating unit in 1964. The added burdens of planning for the John F. Kennedy and the Lyndon B. Johnson libraries led to an increase in the responsibility of NL, and he was designated as the supervisor of the Directors of all the libraries in 1968.

6 thru 8. Withdrawn by CHGE 3.

g. Prospective donors should be told that appraisals for tax deductions are appropriate. Library staff members do not make the appraisals; the Internal Revenue Service prohibits the making of appraisals by recipient institutions because they are not qualified to judge values that would hold on the market for sale of documents. The library may properly, however, give the donor the names of appraisers, preferably more than one.

h. Occasionally gifts of papers, or other historical materials are offered received without solicitation. If they are not pertinent to the library's field of interest and if it can be done without offending a donor, such materials should be transferred to an institution where they would be more useful.

i. In addition to personal papers the libraries may receive from the National Archives the official records of boards, commissions, and committees that were established by and reported to one President, the records of which were not taken over by a successor agency. If the records are likely to be sought by scholars in both places, microfilm copies may be sent to the library. The National Archives may at times transfer to a library records closely related to the Presidential papers.

4. *Shipment and receipt.*

a. Shipment of papers to a library should always be arranged without cost of inconvenience to the donor. For small quantities this may be done by sending several self-addressed franked labels for the donor's use in mailing the papers. In the Washington, D.C., area representatives of NL will pick up papers from donors and ship them to the library. In other parts of the country this service can be performed by representatives of the nearest NARS Regional Director's office. Shipment should be made at the expense of the library, charged to the library's accounting code.

b. Upon receipt of materials at the library the Director will see that proper distribution is made of published items, audiovisual materials, and museum objects that are with the papers and warrant special handling.

5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and a log of all accessions kept for internal control purposes.

a. Deed of gift.

(1) The major purpose of the deed of gift is to accomplish the legal transition of the papers or other historical materials to the library. The deed usually applies both to the materials initially transferred and to any that may be sent to the library later. This makes it possible to open the first instalment for research, if the donor is willing, before all his papers have been acquired.

(2) The deed of gift generally used by the libraries follows a pattern approved by the General Counsel of GSA; but minor modifications may be made to suit the donor, and some options are available. The content of this document should be agreed upon with the donor, and he should sign it at the time the papers are transferred to the library or shortly thereafter. Papers should not be allowed to remain in the physical custody of the library, or of a transmitting agency, without a signed deed of gift.

(3) The deed of gift should give the donor assurance that his papers will be kept intact; stipulate any restrictions on access that the donor imposes; allow library staff members on official business to handle the papers; and state whether or not the literary property rights in the papers are transferred.

(4) It is best from the viewpoint of research use to receive papers with no limitations on access. For recent periods in which many of the participants are still living, however, it is frequently necessary to accept restrictions imposed by the donor in order to obtain the papers. The library should accede to the wish of the donor in this matter, after explaining the possibilities to him. Restrictions are best stated in terms of categories of papers, with the provision that library staff members will review them and segregate those that are to be closed at the discretion of the Director and to be opened when circumstances permit. This provision is more satisfactory than the establishment of committees for review. The stipulation of periods of years for which papers are to be closed is unduly rigid, as it does not take into account the fact that circumstances may change.

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by NL.

b. *Accessions log.* Each library should maintain as a basic control a log, or register, of accessions of papers and related historical material. Entries should be made chronologically as materials are received, each unit of entry normally being the papers of an individual donor or organization. Entries are numbered in sequence as materials are received and should include the date of receipt, identification of the materials, their inclusive dates, and the volume. Small accretions to accessions are entered under the same numbers. Descriptions of the materials that are prepared after accessioning are referred to in this manual in chap. 5, Finding Aids.

EXHIBIT 18

THE WHITE HOUSE,
Washington, March 13, 1969.

DR. DANIEL J. REED,
Assistant Archivist for Presidential Libraries, National Archives and Records Service, Washington, D.C.

DEAR DR. REED: This will merely confirm our discussion of the other day in which I requested that someone from your organization double check and be certain that you have now received all of the Vice Presidential papers that were sent to the Archives from the President's former law firm in New York,

and secondly that the indexing and cataloging of the Vice Presidential papers that were given as a gift to the Archives will be complete by April 1 in order that Mr. Neuman may complete his appraisal for tax purposes.

Should you have any questions at all in this regard, please feel free to call either me or Bud Krogh in our office.

Thank you very much.

Sincerely,

EDWARD L. MORGAN,
Deputy Counsel to the President.

EXHIBIT 19

OCTOBER 31, 1973.

Mr. ARTHUR F. SAMPSON,
Administrator, General Services Administration, General Services Building, Washington, D.C.

DEAR MR. SAMPSON: With reference to the transfer of personal papers by Richard M. Nixon to the National Archives in March 1969, I would appreciate the following factual information:

On what date was a deed of gift received by GSA or the National Archives?

What was the date of such deed of gift?

Who signed such deed of gift?

If not signed by the President, what proof did GSA demand that the signor was empowered to act for the President?

In the case of gifts by prior Presidents, commencing with Franklin Roosevelt, were deeds of gifts received contemporaneous with the transfer of papers to the Archives?

If not, when were they received?

Were such prior deeds signed by the donor Presidents in all cases?

When was the physical transfer of papers to GSA?

Was there any documentary or other evidence submitted by the donor, Richard M. Nixon, indicating that such transfer was a gift and not for purposes of temporary storage by the Archives?

On what date did the National Archives become aware of the specific value of the alleged gift?

Has there been official acceptance of the alleged gift by GSA, and if not, why has there been no such acceptance?

Was official acceptance given for prior Presidential gifts?

Please detail all communications from June, 1972 to date between GSA and the President and/or his agents relative to the aforesaid gift.

If there are any questions as to these inquiries, please feel free to contact me. My thanks for your time in responding to this request.

With kind regards.

Sincerely,

LOWELL WEICKER JR.,
U.S. Senator.

MEMORANDUM FOR HON. LEONARD GARMENT, COUNSEL TO THE PRESIDENT

SEPTEMBER, 27, 1973.

The General Services Administration has recently initiated a factual inquiry into the history of certain papers of the President, created prior to January 20, 1969, that were donated to the United States of America and were deposited at the National Archives on March 26 and 27, 1969. Our inquiry has left unanswered several important questions concerning the "Chattel Deed of Gift" that corresponds to these papers. It is our hope that White House records and/or former or present White House personnel may be able to help us fill these gaps.

The information we have been able to gather so far leads us to the following tentative conclusions as to the physical history of the deed of gift: sometime around the beginning of April 1970, an original deed of gift corresponding to these papers was delivered to the GSA Office of General Counsel (probably to Hart T. Mankin, then General Counsel); the instrument was signed, as was an accompanying affidavit, by Edward L. Deputy Counsel to the President, and notarized by Frank DeMarco, Jr., the signatures dated April 21, 1969, although the instrument was cover-dated March 27, 1969; on or about September 13, 1971, the original deed of gift was turned over to Mr. Dapray Muir, an attorney in the Office of Counsel to the President; sometime in April or May 1973, a duplicate original (xeroxed, but with original signatures) was discovered in the files of the Office of Presidential Libraries, National Archives and Records Service and was immediately placed in an appropriate vault in the National Archives Building where it remains today.

Our questions are as follows:

1. Where was the deed in the period between April 1969, and April 1970;

2. Who transmitted the original deed at Mr. Mankin (and how);

3. Were any duplicate originals transmitted at that time;

4. Who transmitted the duplicate original to the Office of Presidential Libraries and where had it been; and

5. Where is the original deed of gift now?

We would be most appreciative of any assistance you can provide, so that our own inquiry can be satisfactorily completed.

WILLIAM E. CASSELMAN II,
General Counsel.

EXHIBIT 20

THE WHITE HOUSE,
Washington, November 16, 1973.

Memorandum for William E. Casselman,
General Counsel.
General Services Administration.
From Douglas M. Parker.
Subject: Deed of Gift.

In response to your memorandum to Leonard Garment, dated September 27, 1973, I can advise you as follows:

The deed of gift was executed with a ribbon copy and a duplicate original (Xerox but with original signatures). Both the ribbon copy and the duplicate original remained in the office of Frank DeMarco until April 1970. In April 1970, Mr. DeMarco mailed the duplicate original to Edward L. Morgan, Deputy Counsel to the President, who, we believe, delivered it to Hart T. Mankin, General Counsel of GSA. The ribbon copy remained in Mr. DeMarco's office until October 10, 1973, when it was transmitted to the Office of the Counsel to the President where it presently remains.

The duplicate original was turned over by GSA to Mr. Dapray Muir, an attorney in the Office of Counsel to the President on or about September 13, 1971. Subsequently, Mr. Roy E. Kinsey of that office turned the deed over to John Nesbitt who is in charge of the National Archives Office located in the Executive Office Building. Mr. Nesbitt in turn returned the deed to the National Archives, Office of Presidential Libraries under a cover memorandum dated January 13, 1973.

EXHIBIT 21

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C. November 21, 1973.

Mr. ARTHUR F. SAMPSON,
Administrator, General Services Administration, General Services Building, Washington, D.C.

DEAR MR. SAMPSON: Thank you for your letter of November 16, 1973, responding to my inquiries as to the transfer of certain papers by Richard M. Nixon to the National Archives.

The information you provided was most helpful and complete. Nevertheless, there are a few additional questions to which I would appreciate your response.

On page 4 of your November 16 reply, you noted that one of the reasons there had been no official acceptance by GSA of the 1969 deed was the "absence of any GSA regulation requiring some manner of formal acceptance of donated paper." My research indicates the following information in Paragraph 5, Chapter 3, of the GSA Handbook on Presidential Libraries:

"5. *Documentation of accessions.* The essential documents in the acquisition process are a deed of gift executed between the donor and the library and the library and a log of all accessions kept for internal control purposes.

a. *Deed of gift.* (1) The major purpose of the deed of gift is to accomplish the legal transfer of the papers or other historical materials to the library.

* * * * * *

(5) Deeds of gift should be signed both by the donor and by the Archivist of the United States or his designated representative. Three copies should be signed, the original to be retained by the library, one copy returned to the donor, and one kept by the NL".

My question is whether the above requirements would necessitate an acceptance of the deed by the Archivist, and if not, why not?

I note that on page 2, in response to my inquiry into the procedures followed by prior Presidents, you indicate that either a letter or transfer of title by will were the methods used until 1965. I further note that the requirements referred to above, from the Handbook on Presidential Libraries, are dated December 20, 1968. My question is whether GSA procedures first required a deed of gift as of 1965, or 1968, and if not, when were the procedures referred to above first promulgated?

On page 3, in response to my request for evidence submitted by the donor, Richard M. Nixon, indicating that the transfer of papers was intended to be a gift, when referred to the 1968 and 1969 deeds, and a May 12, 1969 Presidential announcement relative to the Richard Nixon Foundation. To clarify my question, with reference only to the 1969 transfer was there any express communication or indication by Richard M. Nixon to GSA or the National Archives between January 1, 1969 and July 25, 1969 indicating that the 1969 transfer of papers was explicitly for purposes of a gift?

Is GSA in receipt of a letter from Edward L. Morgan to Dr. Daniel J. Reed, dated March 13, 1969, and if so, on what date was that letter actually received by Dr. Reed or the National Archives? Further, can you confirm whether the papers referred to in that letter are the 1968 gift received by GSA on March 20, 1969, or the March 26 and 27, 1969, transfer of papers?

A letter dated March 27, 1969, from Daniel J. Reed to Edward L. Morgan contains a handwritten P.S. which makes reference to "the document: 'Limited Right of Access' from RMN to Ralph Newman, dated March 27, 1969". If you could forward a copy of this document, it would be helpful to our investigation.

Finally, from March 26, 1969 to the present time has the public had access, in limited or unlimited form, to the papers transferred on March 26 and 27, 1969? If access has been limited, who specifically has had access during that period of time?

I would hope your response to these questions would satisfy my inquiries, and again my thanks for your time in this matter.

With kind regards,

Sincerely,

LOWELL WEICKER, JR.,
U.S. Senator.

EXHIBIT 22

THE PRESIDENT'S NEWS CONFERENCE OF SEPTEMBER 5, 1973

STATEMENT ON LEGISLATIVE GOALS

THE PRESIDENT. Ladies and gentlemen, before going to your questions, I have a brief announcement that I think will be of inter-

est not only to our listeners and to you but also to the Congress.

The Congress is returning today from its August recess, as I am, and as I look over the record of accomplishment this year, I find it is very disappointing in terms of the Administration initiatives, those initiatives that I believe are bipartisan in character and of vital importance to all of the American people.

Consequently, I will be sending what is in effect a new State of the Union message, one which will concentrate on the measures presently before the Congress which have not been acted upon and which I consider urgent to be acted upon before the end of this year.

I am not trying to present to the Congress an impossible task; consequently, I will not cover the whole waterfront, but it is important that in several areas that action be taken, or it will be too late to act for the interests of the people.

In my statement today, I will cover four or five areas that will be included in that message, which will be distributed to you on Sunday night and delivered to the Congress Monday at the time of the opening of business.

THE PRESIDENT'S PROPERTIES AND FINANCES

Q. Mr. President, there have been some conflicting reports about your real estate dealings in California, and I would like to ask about that. Several different versions have been released by the White House, both as to your own personal financial involvement and as to the Government's expenditures in San Clemente and at Key Biscayne, and your auditors, I understand from news reports, say that the entire audit has not been released on your financial dealings out there.

I would like to ask why we have had so many conflicting reports to start with, and second, one of the questions that is raised by the only partial release of the audit is have you paid the taxes on the gain realized in the sale of the land to Rebozo and Abplanalp at San Clemente?

THE PRESIDENT. Any other questions you want to go into?

Of course, whatever a President does in the field of his property is public knowledge, and questions of that sort I do not resent at all. I do resent, I might say, the implications, however, first, that whether at Key Biscayne or in San Clemente my private property was enriched because of what the Government did.

As a matter of fact, what the Government did at San Clemente reduced the value of the property. If you see three Secret Service gazebos and if you see some of the other fences that block out the rather beautiful view to the hills and the mountains that I like, you would realize that what I say is quite true; it reduces its value as far as a residential property is concerned.

The second point is this: At rather considerable expense, and a great deal of time on my part, I ordered an audit, an audit by a firm highly respected, Coopers & Lybrand of New York. That audit has been completed. It covered at my request not simply the last year, but it covered the years 1969, 1970, 1971, and 1972.

The audit has been completed, and the audit gave the lie to the reports that were carried usually in eight-column heads in most of the papers of this country—and, incidentally, the retractions ended up back with the corset ads for the most part—but on the other hand, it gave the lie to the charge that there was $1 million worth of campaign funds, that that is how I acquired the property in San Clemente.

It also gave the lie to any other charges that, as far as my acquisitions in Florida are concerned, or in California, that there was any money there except my own.

Now, I would make two or three other points briefly about it that I think all laymen could understand. I borrowed the money to acquire the property, and I still owe it. I own no stocks and no bonds—I think I am the first President in this office since Harry Truman—I don't own a stock or a bond. I sold everything before I came into office.

All that I have are the two pieces of property in Florida which adjoin each other, the piece of property in San Clemente with which you are familiar, and a house on Whittier Boulevard in which my mother once lived. I have no other property, and I owe money on all of them.

Third, as far as the capital gain matter, which is a technical matter that you have mentioned, I should point out—and maybe this is good news for people who wonder if Presidents are exempt from what the IRS does—the IRS has had a full field review or audit of my income tax returns for 1971 and 1972, and included in its audit the transaction which you refer to, in which some argue there was a capital gain and some argue that there was not. It is a matter of difference between accountants.

The IRS, after its audit, did not order any change. If it had, I would have paid the tax. It did not order a change.

Now, with regard to the audit itself is concerned, the results of that audit insofar as the acquisition of the property have been put out. That is all that is going to be put out because I think that is a full disclosure.

I would simply say, finally, that in this particular case I realize that naturally there is a suspicion that a President, because he has the great power of this office and because he has the benefit of Secret Service, GSA, and all the rest to protect him, that he some way or other is going to profit from all of that security that is provided for him.

As I pointed out in my press conference 2 weeks ago, I'd far less rather have the security than have my privacy, but that just can't be done.

EXHIBIT 23

TELEGRAM

RALPH G. NEWMAN,
President, Abraham Lincoln Book Shop, Inc., Chicago, Ill.

I would appreciate your response to the following inquiries:

Has the IRS ever contacted you with respect to Mr. Nixon's alleged gift of papers to the United States in 1969?

On what date did you complete your description of that alleged gift?

What is your understanding of the papers delivered on March 26 and 27, 1969, that were not included in the gift description?

What was the selection criteria, and were the unincluded papers of the same quality as those in the alleged gift?

LOWELL WEICKER, Jr.,
U.S. Senator.

EXHIBIT 24

U.S. SENATE,
COMMITTEE ON AERONAUTICAL
AND SPACE SCIENCES,
Washington, D.C., November 28, 1973.

Mr. ARTHUR F. SAMPSON,
Administrator, General Services Administration, Washington, D.C.

DEAR MR. SAMPSON: I would appreciate your responding to one additional matter with respect to the transfer of personal papers to the Archives by Richard M. Nixon in 1969.

Has the Internal Revenue Service, between January 1, 1972 and the present time, contacted GSA or the National Archives and collected all the relevant details and evidence wtih respect to the March 26th and 27th, 1969 transfer of these papers?

Thank you again for your time and attention in responding to my inquiries.

With kind regards.

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

EXHIBIT 25

KALMBACH, DEMARCO, KNAPP
& CHILLINGWORTH,
Los Angeles, Calif., August 22, 1973.

COOPERS AND LYBRAND,
New York, N.Y.

GENTLEMEN: In connection with your engagement to examine and report on the statement of assets and liabilities as of May 31, 1973 of our clients Richard M. Nixon and Patricia R. Nixon, you have requested our opinion respecting the gift of certain pre-Presidential private papers of Richard M. Nixon to the United States of America on March 27, 1969 and the treatment of such contribution as a deductible item for income tax purposes as claimed on the Federal income tax returns filed by the clients for the years 1969 through 1972.

In connection therewith, we have made a factual examination of the circumstances of the transaction, the law applicable thereto and such other and further matters as we have deemed pertinent to the inquiry and to the delivering of this opinion, and based upon such examination and the applicable law, it is our opinion that on March 27, 1969, the client made a valid gift to the United States of America of certain of his personal private papers having at the date of such gift a fair market value of $576,000; that deductions claimed by the said taxpayer on his Federal income tax returns for the calendar year 1969 were in all respects proper and valid; that the facts and circumstances of the gift were fully disclosed in the 1969 return as filed; that subsequent deductions for those allocable portions of the market value of the gift claimed by the taxpayer in subsequent federal income tax returns filed for the calendar years 1970, 1971 and 1972 were and are proper and valid deductions against income.

Our examination of the facts and circumstances of the transaction show that immediately prior to March 27, 1969, the taxpayer declared an intention to make a gift of the subject private papers to the people of the United States and that at his direction, his personal counsel, Edward L. Morgan, directed and supervised the removal of such private papers from the taxpayer's personal dominion and control at the Executive Office Building, Washington, D.C., and caused the same to be delivered to the National Archives in Washington, D.C. on said date where said materials have remained for an uninterrupted period. At all times subsequent to March 27, 1969, the materials constituting the subject matter of the gift were under the exclusive dominion and control of the National Archives. On or about April 6, 7, and 8, 1969, the material constituting the subject matter of the gift was examined and segregated from other materials by an appraiser duly appointed by the taxpayer to appraise the market value of the said papers, and the same thereafter were maintained, cataloged, segregated, sorted and identified by members of the staff of the National Archives in accordance with filing and cataloging procedures established by the National Archives and as to which the taxpayer had no element of control. The materials constituting the gift thereafter were, after a period of time extending from April 6, 1969 through March 27, 1970, individually itemized and appraised by the appraiser, and as a result of said appraisal, the market value ascribed to the gift was certified to by an affidavit executed by said appraiser on April 6, 1970.

While, in our opinion, the law is clear that an instrument of deed is not a necessary requisite to a gift of personal property, the duly appointed and constituted attorney-in-fact and agent of the taxpayer did on April 21, 1969 execute an instrument of gift reciting and declaring the intent of the donor to make such gift; that said gift had in fact been made on March 27, 1969 and the subject matter thereof delivered to the National

Archives. The instrument contained a clause reserving to the donor only a right of access to himself to inspect and copy the materials. In our opinion, the law is clear that the reservation of such right of access for inspection and copying by the donor did not constitute a sufficient retention of ownership in the material to anyway vitiate the gift.

Very truly yours,

FRANK DE MARCO, Jr.

EXHIBIT 26

PRESIDENT'S FINANCIAL DISCLOSURE MESSAGE, DECEMBER 8, 1973

GIFT OF PAPERS

In 1969, President Nixon directed his lawyers to take all necessary steps to make a gift of part of his papers to the United States of America through the National Archives. On March 27, 1969, large crates of his papers were delivered to the Archives. Included were a large volume of paper, books and other memorabilia of his career prior to becoming President, including many of his Vice Presidential papers. On April 8 and 9, 1969, Mr. Ralph Newman, a recognized appraiser of documents, visited the Archives and designated the papers. He also pointed out the items he believed the President should retain. Mr. Newman returned later to the Archives and made a final appraisal of a fair market value of the papers comprising the gift, setting the value at $576,000.

In making the gift, President Nixon was following the tradition of his six predecessors—Hoover, Roosevelt, Truman, Eisenhower, Kennedy and Johnson—all of whom made a gift of their papers to the United States.

A question has arisen in the case of President Nixon, however, because in December, 1969, an amendment was passed retroactive to July 25, 1969, disallowing such deductions and some critics question whether technical requirements relating to the intended gift were sufficiently completed before the expiration date.

President Nixon was and is advised by his attorneys that the gift met the deductibility requirements of the law. Accordingly, in the tax years 1969–1972, he has taken deductions totaling approximately $482,019. As the gift is valued at $576,000, he is still entitled to additional deductions of $93,981.

The examination conducted earlier this year by the Internal Revenue Service of President and Mrs. Nixon's return for the years 1971 and 1972 included a review of the gift. Upon completing this review, the IRS raised no questions about the deductions taken. Nevertheless, because questions have been raised about the procedures followed in making the gift of the papers to the United States, the President is asking the Joint Committee on Internal Revenue Taxation to review those procedures and to pass upon the validity of his tax deductions. The President will abide by the decision of that Committee.

Additional details relating to the gift transaction can be found in the following documents being released today:

Appraisal by Ralph G. Newman, President of Abraham Lincoln Book Shop of Chicago, Illinois, of papers of Richard Milhous Nixon, consisting of 600,000 items, as of March 27, 1969 at a valuation of $576,000, supported by Newman affidavit and statement of his qualifications as an authority in the field of such appraisals.

Letter from Kalmbach, DeMarco, Knapp & Chillingworth to Coopers & Lybrand stating their opinion regarding the deductibility for tax purposes of the President's gift of pre-Presidential papers.

THE NEED FOR A CONSTITUTIONAL INDEPENDENT SPECIAL PROSECUTOR ACT

Mr. FONG. Mr. President, at this time in the history of the United States, I believe there is virtual unanimity throughout the country and in Congress that there is the need for an independent Special Prosecutor to once and for all investigate all the Watergate and Watergate-related charges, clear the innocent of the cloud hanging over their heads, and proceed with the prosecution of all offenders against the United States arising from these Watergate and Watergate-related activities.

It is imperative that the Special Prosecutor not only have the independence and authority needed to do this job properly, but that he also have the appearance and assurance of that independence and authority in the mind and eyes of the public. And, perhaps at this time, it is even more important than it has ever been before, that the public be assured of his independence and authority so that there be full confidence in the results he achieves and the decisions he makes.

In my own view, in practical effect, Mr. Leon Jaworski who was appointed Special Prosecutor on November 5, 1973, under the authority vested in him by Department of Justice Order No. 551–73 establishing the Office of Watergate Special Prosecution Force, and issued November 2, 1973 by Robert H. Bork, as Acting Attorney General, and published in the Federal Register of November 7, 1973, has all the authority and independence necessary to carry out the functions and responsibilities of the Office.

Mr. President, I ask unanimous consent that this order No. 551–73 of the Department of Justice be printed in the RECORD as appendix A at the conclusion of my remarks.

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

(See appendix A.)

Mr. FONG. Mr. President, despite this fact and because of the nature of the events which led to the requirement that a Special Prosecutor's office be created, and because of the subsequent dismissal of Mr. Archibald Cox as Special Prosecutor and the appointment of Mr. Jaworski to that position, I feel it would be more politic to create the office of Special Prosecutor by statute. Such statute would, in my opinion, give the Nation the additional assurance it needs to accept the reality that the Special Prosecutor is an independent Special Prosecutor.

The question then turns to what is the best method of accomplishing this end—How do we assure maximum independence with the fewest risks of challenge to the legality of the actions of the independent Special Prosecutor?

I have since October 20 studied in depth the legal implications of the various options open to us in Congress. As a member of the Judiciary Committee, I have had the benefit of the testimony of the former and present Special Prosecutor, the former and the Acting Attorneys General, several Senators, many law professors, and other experts. We heard 11 days of testimony from October 29 through November 20.

Two Senate bills S. 2611 and S. 2642 and two reports—92–595 and 93–596—emanated from these hearings.

Based upon all this information and upon my study of the applicable case law and after a great deal of thought on the subject, it is my conclusion that the only way in which it is certain that the Special Prosecutor's office will be properly created so that his actions will not be subject to constitutional challenge is to have us, by statute, establish the office, spell out its jurisdiction and authority, set the term of the office, fix the limited grounds for his removal from office, and provide for his appointment by the Attorney General.

The constitutional basis for the choice of appointment of the Special Prosecutor by the Attorney General is set forth in article II, section 1, clause 1 of the Constitution which provides:

The executive Power shall be vested in a President of the United States of America.

And, section 2, clause 3 of article II continues:

. . . he [the President] shall take Care that the Laws be faithfully executed. . . .

From this, it is apparent that the function of carrying out the laws is vested in the executive branch of the Government.

The manner of appointment of officials is provided for in article II, section 2, clause 2, which in pertinent part reads:

. . . he [the President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

There are, therefore, four ways in which a Special Prosecutor might be appointed:

First, by the President, with the advice and consent of the Senate; second, by the President alone; third, by the courts of law; or fourth, by the heads of departments.

In the latter three cases, the appointee would be deemed an "inferior officer."

What are the advantages and disadvantages of each of these methods and what are the consequences flowing from each method of appointment?

Appointment by President with advice and consent of Senate or alone.

It is conceded by most people that an appointment by the President alone, in all the circumstances, would be the least desirable method of appointing a Special Prosecutor. Hence, I shall not discuss that further.

If we in the Senate wish to require our advice and consent be obtained to a Presidential appointment of a Special Prosecutor, we are faced with the grave possibility, if not probability, that we cannot by statute constitutionally limit the power of the President to remove the Special Prosecutor from office.

In *Myers* v. *U.S.*, 272 U.S. 52 (1926), the Supreme Court held unconstitutional an 1876 law which denied the President the right to remove first class postmasters prior to the expiration of their 4-year term without the advice and consent of the Senate. In a very lengthy

opinion, Mr. Chief Justice Taft reviewed the entire question of constitutional directions for removal of officials from office.

Obviously, we do not wish to give the President an unrestricted right to dismiss the Special Prosecutor.

Interestingly, the Court in the Myers case also reviewed the Tenure of Office Act of 1867, which had been repealed in 1887 and found that it was unconstitutional. The Tenure of Office Act required Senate consent for the dismissal of the Secretary of War. It was the dismissal without Senate consent by President Johnson of Secretary of War Edwin Stanton because of his leaking of Cabinet secrets, that was the basis of 10 of the 11 articles of impeachment charged against President Johnson.

It is true that in *Humphrey's Ex'rs.* v. *U.S.* 295 U.S. 6022 (1935), the Supreme Court did hold that the President could not at will remove a member of the Federal Trade Commission since his duties were quasi-legislative and quasi-judicial.

Similarly, in *Wiener* v. *U. S.* 357 U.S. 349 (1958), it was held that a member of the War Claims Commission was not removable by the President as his duties were adjudicatory.

But, on the other hand, the Court of Appeals for the Sixth Circuit in *Morgan* v. *TVA*, 115 F2d 990 (6 Cir. 1940) held that the TVA was predominantly an administrative arm of the executive. Hence one of its directors was subject to removal by the President.

In my opinion, the functions of a Special Prosecutor are not quasi-legislative nor quasi-judicial. The functions of a Special Prosecutor are administrative of an executive function—law enforcement.

Hence, it is my conclusion that if he were to be appointed by the President even with the advice and consent of the Senate, it would be unconstitutional to attempt to restrict by statute the right and power of the President to remove him, for as the Supreme Court pointed out in the Myers case, the power of removal is constitutional and not derived from legislative fiat.

Turning then to the next alternative: The desirability of having the Special Prosecutor appointed by the courts of law.

In *Ex Parte Siebold*, 100 U.S. 371 (1880), we do have the Supreme Court sustaining the constitutionality of a Federal statute vesting the power of appointment of supervisors of elections in the Circuit Court of the United States.

But, in *Hobson* v. *Hansen*, 265 F. Supp. 902 (1967), the District Court for the District of Columbia, while sustaining the appontment of members of the District of Columbia Board of Education by the District Court for the District of Columbia did indicate that, depending on the circumstances of a particular case, there did exist the possibility of a challenge under the due process clause to actions of the appointing judges then sitting as judges to hear the merits of litigation challenging the validity of the performance of the court-appointed member of the board of education.

And, in *U.S.* v. *Marxano*, 149 F. 2d 923 (C.A. 2d, 1945), Judge Learned Hand made it clear:

> Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge.

In *U.S.* v. *Solomon* (216 F. Supp. 835 (S.D. N.Y. 1963)), the Court upheld the validity of a statute (28 U.S.C. 506, now 28 U.S.C. 246) permitting the district court to appoint a U.S. attorney when a vacancy occurs and until the vacancy is filled by the President. But, in that case, it was clearly recognized that "the executive branch is free to choose another U.S. attorney at any time, the judicial appointment notwithstanding." And, of course, the interim U.S. attorney was subject to the control of the executive in the person of the Attorney General in performing his duties and not subject to the control of the Court.

Furthermore, in *U.S.* v. *Cox*, 342 F. 2d 167 (5 Cir. 1965), the Court held the U.S. attorney to be an officer of the executive department who exercises discretion as to whether or not to prosecute. In that case, the Mississippi district court had directed the U.S. attorney to prepare indictments as desired by the grand jury. The Attorney General had directed the U.S. attorney not to comply with the judge's order. The court of appeals held that the district court could not direct the Attorney General or the U.S. attorney to prepare or sign indictments.

With this analysis of the relevant cases, I deem it highly probable that a constitutional challenge to a statute authorizing a court-appointed and therefore court-controlled and court-removable Special Prosecutor might be sustained.

The benefits from this type of appointment are too few to be worth running the risks of having convictions obtained by such court-appointed Special Prosecutor reversed and the guilty go free because of a violation of the due process clause of the fifth amendment.

As Judge Gesell, in *Nader* v. *Bork*, Civil Action No. 1954–73, (D.C., D.C.), stated on November 14, 1973:

> Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court.

Judge Sirica in a letter to Senator JAMES O. EASTLAND, chairman of the Committee on the Judiciary, dated November 15, 1973, also voiced his approval and that of at least eight other Judges of the District Court for the District of Columbia Judge Gesell's opposition to a court-appointed Special Prosecutor.

Mr. President, I ask unanimous consent that the text of Judge Sirica's letter of November 15, 1973 be printed in the RECORD as appendix B at the conclusion of my remarks.

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

(See appendix B.)

Mr. FONG. That leaves us with having the independent Special Prosecutor appointed by the Attorney General—with proper safeguards to insure his independence of action and freedom from dismissal except upon ground specified by statute.

This is the only type of appointment I deem capable of withstanding successful constitutional challenge.

This being the case, I am glad to cosponsor S. 2642, the Taft-Hruska bill, with certain modifications if we agree they are desirable after a colloquy.

S. 2642, as reported out by the Judiciary Committee would:

First, authorize the Attorney General to appoint an independent Special Prosecutor;

Second, provide that the jurisdiction of the independent Special Prosecutor would generally parallel the jurisdiction of former Special Prosecutor Cox and that of Special Prosecutor Jaworski; and

Third, provide that the independent Special Prosecutor could only be removed by the Attorney General "for neglect of duty, malfeasance in office, or violation of this act," what I presume to be the equivalent of the "extraordinary improprieties" ground now provided by regulation—Order No. 551–73—as the ground for removal of the Special Prosecutor.

The Attorney General would have to give both Houses of Congress 30 days' notice of such removal stating the reasons for the dismissal, but the consensus of majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and House would not be necessary for such removal, as now required by the Department of Justice regulation.

The district courts in an action by the Special Prosecutor could enjoin his removal.

Fourth, provide for the District Court for the District of Columbia to appoint an interim independent Special Prosecutor if the Attorney General fails to act within 15 days of enactment of the statute or if the independent Special Prosecutor is disabled or there is a vacancy in the office. This in an interim appointment and is subject to direction of the Attorney General.

The provisions of S. 2642 would in my opinion certainly be constitutional.

An executive function—that of enforcement of the law—is subject to being exercised by appointment by an executive head of a department, the Attorney General.

The independent Special Prosecutor would be subject to control by the head of the department, the Attorney General.

The scope of authority vested in the independent Special Prosecutor would be spelled out by law.

The jurisdiction of the independent Special Prosecutor would be set by law.

The administrative functions, term of office, and funds for operation of the office would be set by law.

Grounds for removal of the independent Special Prosecutor would be set by law.

This bill would be constitutional.

Convictions of the guilty obtained by this Attorney General-appointed independent Special Prosecutor would withstand constitutional challenge.

It is clear that Congress can limit and restrict the power of removal it grants a head of a department as it deems for the best public interest. This was establishd in *U.S. v. Perkins*, 116 U.S. 483 (1886) when a cadet engineer was held not to be subject to removal by the Secretary of the Navy by any other means than court-martial under a statute requiring removal by court-martial in time of peace.

SUGGESTED CHANGES

I raise the question whether it would not be prudent, at the present time and under all the circumstances, to amend section 11(a) of S. 2642 to make it absolutely clear that the independent Special Prosecutor is removable only for "extraordinary improprieties on his part, which include neglect of duty, malfeasance in office or violation of this act."

I further suggest that in lieu of the 30-day notice of dismissal provided for in section 11(b), that that section be amended to provide that the independent Special Prosecutor will not be dismissed nor his independence limited without first obtained a two-thirds agreement to such dismissal or limitation from the majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and the House of Representatives.

The findings and declaration of purpose set forth in section 2 of S. 2642 in subsection (9) provides;

(g) the Acting Attorney General has assured the Congress that, under this Act, he will consult with the Senate leaders prior to making any appointment to the Office of Special Prosecutor and will not appoint anyone whom the Senate disapproves by resolution.

Acting Attorney General Bork in a letter dated November 26, 1973 to Senator HRUSKA did state, in relevant part:

Because I understand the need for public confidence in the Special Prosecutor, let me assure you that if S. 2642 is approved while I am the Acting Attorney General, I will consult with the Senate leaders prior to making any appointment to the office of Special Prosecutor. I also will not appoint anyone whom the Senate disapproves by resolution.

It is to be expected that we will soon have an Attorney General in the person of Senator SAXBE.

There should be no doubt as to the requirement that whoever occupies the position of Attorney General and whenever an appointment is made to fill the position of independent Special Prosecutor that the proposed appointment be first subject to consultation with the Senate Judiciary Committee and that the Attorney General not appoint anyone whom the Senate disapproves by resolution.

Accordingly, I suggest a new subsection be added to section 4 of S. 2642 providing:

(b) The Attorney General, accompanied by the person he proposes to name to be Special Prosecutor, shall consult with the Senate Committee on the Judiciary and the Attorney General shall make no appointment as provided for in subsection (a), if the Senate within 15 days of submission of the name of a person to be Special Prosecutor disapproves by resolution of such appointment.

With these added safeguards to insure the independence of the independent Special Prosecutor, I feel not only the reality of independence and legality will be assured the Special Prosecutor but the appearance of independence of the Special Prosecutor will be firmly established.

APPENDIX A

TITLE 28—JUDICIAL ADMINISTRATION

CHAPTER I—DEPARTMENT OF JUSTICE

Part O—Organization of the Department of Justice

Order No. 551-73—Establishing the Office of Watergate Special Prosecution Force

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, there is hereby established in the Department of Justice, the Office of Watergate Special Prosecution Force, to be headed by a Director. Accordingly, Part O of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1(a) which lists the organization units of the Department, is amended by adding "Office of Watergate Special Prosecution Force" immediately after "Office of Criminal Justice."

2. A new Subpart G-1 is added immediately after Subpart G, to read as follows:

"Subpart G-1—Office of Watergate Special Prosecution Force

§ 0.37 *General Functions.*

The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the Attorney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix which is incorporated and made a part thereof.

§ 0.38 *Specific Functions.*

The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this Subpart:

(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings, which United States attorneys are authorized by law to conduct, and to designate attorneys to conduct such legal proceedings.

(b) To approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order, or other demand of a court or other authority. (See Part 16(B) of this chapter.)

(c) To apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005 relating to immunity of witnesses in Congressional proceedings.

The listing of these specific functions is for the purpose of illustrating the authority entrusted to the Special Prosecutor and is not intended to limit in any manner his authority to carry out his functions and responsibilities."

APPENDIX—DUTIES AND RESPONSIBILITIES OF THE SPECIAL PROSECTOR

The Special Prosecutor.—There is appointed by the Attorney General, within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

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.

In particular, the Special Prosecutor shall have full authority with respect to the above matters for:

Conducting proceedings before grand juries and any other investigations he deems necessary;

Reviewing all documentary evidence available from any source, as to which he shall have full access;

Determining whether or not to contest the assertion of "Executive Privilege" or any other testimonial privilege;

Determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistently with applicable statutory requirements, or for warrants, subpoenas, or other court orders;

Deciding whether or not to prosecute any individual, firm, corporation or group of individuals;

Initiating and conducting prosecutions, framing indictments, filing informations, and handling all aspects of any cases within his jurisdiction (whether initiated before or after his assumption of duties), including any appeals;

Coordinating and directing the activities of all Department of Justice personnel, including United States Attorneys;

Dealing with and appearing before Congressional committees having jurisdiction over any aspect of the above matters and determining what documents, information, and assistance shall be provided to such committees.

In exercising this authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice. The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions. The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities. In accordance with assurances given by the President to the Attorney General that the President will not exercise his Consitutional powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the Majority and the Minority Leaders and Chairmen and ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action.

Staff and resource support

1. *Selection of Staff.*—The Special Prosecutor shall have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel, on a full or part-time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor.

2. *Budget.*—The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit budget requests for funds, positions,

and other assistance, and such requests shall receive the highest priority.

3. *Designation and Responsibility.*—The personnel acting as the staff and assistants of the Special Prosecutor shall be known as the Watergate Special Prosecutor Force and shall be responsible only to the Special Prosecutor.

Continued Responsibilities of Assistant Attorney General, Criminal Division.—Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all of the duties currently assigned to him.

Applicable Departmental Policies.—Except as otherwise herein specified or as mutually agreed between the Special Prosecutor and the Attorney General, the Watergate Special Prosecution Force will be subject to the administrative regulations and policies of the Department of Justice.

Public Reports.—The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate and shall upon completion of his assignment submit a final report to the appropriate persons or entities of the Congress.

Duration of Assignment.—The Special Prosecutor will carry out these responsibilities, with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself.

APPENDIX B

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
November 15, 1973.

HON. JAMES O. EASTLAND,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR EASTLAND: I have received your letter dated November 15th concerning a quotation attributed to me in the *Washington Post* newspaper. I have read the *Post* article you referred to and find it substantially accurate insofar as it refers to my statements. Shortly after Judge Gesell of this Court released his opinion in the case of *Nader v. Bork*, I was visited in my chambers by several reporters who asked whether I agreed with the paragraph of that opinion in which Judge Gesell notes his opposition, and the reasons therefor, to a court-appointed special prosecutor. I responded that personally, I am in full agreement with Judge Gesell's statement. I also mentioned that I had been informed that several other active judges, members of this court, were of the same opinion.

I might mention that shortly before receiving your letter this afternoon, I had lunch with eight of our judges, each of whom remarked that he disapproves of a procedure that would require this court to appoint a special prosecutor.

Thank you for your letter and interest in this matter.

With kindest regards,
Sincerely yours,

JOHN J. SIRICA.

THE APPOINTMENT POWER OF THE EXECUTIVE

Mr. GURNEY. Mr. President, the structure of our Government and the history of its nearly two centuries teaches that the critical ingredient of independence of governmental officers is restriction upon their removal. If an officer can be removed arbitrarly, it matters not who appoints him. If he cannot be removed but for good cause, his independence is assured.

We need look little further for proof of this than our Federal judiciary. It has been the unbroken assumption since 1789 that judges will be independent, even though appointed by the President, if they can be removed only by the most laborious procedures and for cause.

The system works. On our Supreme Court there have been numerous examples of Justices deciding cases differently than had been supposed by the President who appointed them, and many a President has agonized over the opinions of his appointees. The same is true of judges of the lower courts.

Not only does the system work, through history we in the Congress have fought to sustain it. Witness the "court-packing" scheme of President Franklin Delano Roosevelt in 1937, when the Congress, joined by the people, turned back an effort to expand the Supreme Court with ideological "yes men," an effort which would have had profound consequences on our constitutional separation of powers had it succeeded.

In considering this Special Prosecutor legislation, it seems to me that some of us are overlooking the central issue of removal—the key to the independence of the Special Prosecutor—by concentrating too heavily on the issue of who shall appoint him.

This is a defect in two of the proposals the Senate is considering, the Hart-Bayh bill and the Percy-Baker bill. The first goes so far overboard in manipulating the appointment process that it may sink in a morass of constitutional doubt; the second utilizes an appointment process which may nullify any restrictions upon removal. Only the Hruska-Taft proposal unquestionably can withstand attack on constitutional grounds, and the elaborate restrictions the bill places upon removal of the Special Prosecutor are adequate to insure independence many times over.

Because both Hruska-Taft and Percy-Baker leave the appointment power in the Executive, in this regard there is little difference between them. Because the Acting Attorney General has assured the Senate that the Senate will have the right to disapprove any candidate for appointment to the office of Special Prosecutor, the difference between the two proposals is the difference between the ordinary confirmation process for Presidential nominees and the process of prior consultation and refusal to appoint if disapproved by the Senate, as outlined by the Acting Attorney General in his letter to Senator HRUSKA dated November 26, 1973. The choice between these differing appointment proposals is made easy when the effect of the appointment process upon removal restrictions is considered.

The fatal flaw in using the Presidential appointment with advice and consent of the Senate approach, the approach of the Percy-Baker bill, is that the removal power cannot be restricted. If the Senate chooses to use Presidential appointment, the Senate cannot restrict Presidential removal. This is the lesson of the Meyers case, in which Chief Justice Taft emphatically stated for the majority:

> The power of removal is an incident of the power to appoint and the power of the Senate to check appointments by advice and censent does not by implication extend the power of the Senate to block Presidential removal of officers.

It is argued that Meyers does not apply to the Percy-Baker bill, or in any event the case has been so modified and qualified by subsequent cases, notably Humphrey's executor and Wiener, that it does not bar the validity of restrictions upon Presidential removal of the Special Prosecutor. I cannot agree with this analysis, since the Special Prosecutor would be given no "quasi-legislative" or "quasi-judicial" powers so as to bring Humphrey or Wiener into play, but regardless, it cannot be denied that at the very least there is substantial doubt as to the validity of the removal provisions of the Percy-Baker bill in view of the Meyers case. The mere existence of this doubt suggests that the Percy-Baker approach should be avoided. Removal restrictions are so critically important to the issue of independence that we should do nothing to jeopardize them.

With the Hart-Bayh approach different problems emerge, although the result—serious constitutional doubt which may jeopardize the validity of the work of the Special Prosecutor—is the same. With Hart-Bayh, the problems relate to the appointment process. The appointment method selected—appointment by a panel of judges—is probably unconstitutional.

The argument for the constitionality of the Hart-Bayh bill rests primarily upon the case of ex parte Siebold, which lays down the test whether the power of a particular appointment can be vested in the judiciary, as being a question whether the judicial appointment is "incongruous" given the nature of the office. No appointment could be more "incongruous," given the fundamental departure from Anglo-American legal principles that would result, than that of a Special Prosecutor.

If the Hart-Bayh bill were adopted, for the cases falling under the Special Prosecutor's jurisdiction we would be making serious inroads into the adversary system which is the touchstone of Anglo-American jurisprudence. Our entire legal system is based on the idea that the ends of justice are best achieved, and the truth is most accurately brought out, when two adverse parties litigate their differences before a neutral tribunal according to rules of evidence and procedure developed through the centuries. This system is in opposition to the accusatorial or inquisitorial system, found on the European continent, in which one person both investigates and judges a case, acting as prosecutor and judge as well. Our system depends on the neutrality of the judge or the magistrate, and it requires strict separation of the judicial function from that of the prosecution.

The Hart-Bayh bill would subvert the adversary system for the cases under the Special Prosecutor's jurisdiction. Under that bill, the ultimate responsibility for both the prosecution and the adjudication of criminal cases would rest with the judiciary, a departure not merely from

the constitutional principle of separation of powers but an outright rejection of the very basis of our jurisprudence.

The U.S. Supreme Court has on many occasions affirmed that strict neutrality of judicial officers is required in criminal cases. It is often stated that the major purpose for instituting the system of judicial warrants for arrest and search, a guaranteed right under the fourth amendment to our Constitution, was to substitute "the more detached, neutral scrutiny" (*Terry* v. *Ohio*, 392 U.S. 1, 21 (1968)), "objective mind" (*McDonald* v. *United States*, 335 U.S. 451, 455 (1948)), and "deliberate, impartial judgment of a judicial office" (*Wong Sun* v. *United States*, 371 U.S. 471, 481 (1963)) for the zeal of "a police officer engaged in the often competitive enterprise of ferreting out crime." (*Aguilar* v. *Texas*, 378 U.S. 108 (1964)).

As recently as 1971 the Supreme Court struck down a New Hampshire statute which mingled the prosecutorial and the judicial function. In *Coolidge* v. *New Hampshire* (403 U.S. 443 (1971)) the Supreme Court invalidated a warrant issued in a murder case by a State attorney general, who was then engaged in the investigation of the case and later acted as chief prosecutor at the trial, despite a State statute authorizing issuance of such warrants by the attorney general.

The lesson of Coolidge and the other warrant cases ought to be clear. The prosecutorial and judicial functions are not to be mingled. Responsibility for investigating, preparing, trying and appealing criminal cases ought not to be concomitant with the responsibility to adjudicate those cases.

But that is precisely what the Hart-Bayh bill would do. The responsibility for investigating, preparing, and litigating cases would be placed in the same branch of government as that in which responsibility to adjudicate is placed. Under the Hart-Bayh bill, the judiciary would be responsible for selecting a Special Prosecutor and deciding how well he performs his task. The Special Prosecutor would be subject to dismissal by the judiciary. Those who select him would be empowered to dismiss him without further review. What could be more pernicious to judicial impartiality? What could be more incongruous with the judicial function? If this would not meet the Siebold test of incongruity, nothing could, for nothing could be more incongruous than this.

Under article II, section 2, of the Constitution, Congress is provided certain powers to vest the appointment of "inferior officers" in the courts or the departments of the executive branch of government. Initially this power of Congress to vest the appointment power in the courts or departments was rather narrowly construed. The appointing power in the clause was considered "intended to be exercised by the department of the government to which the official to be appointed most appropriately belonged." (*Matter of Hennen*, 13 Pet. 258).

This construction of the power was explained in Meyers as not intended to define the constitutional power of Congress under article II, section 2, but rather to express the rule of law by which it should be governed. Since Siebold, the test has been whether there exists such an incongruity in the appointment as to excuse the courts from being required to make the appointment. Under Siebold Congress has some discretion as to where to vest the power of a particular appointment. This discretion, however, is not limitless.

There have been but a few cases dealing with vesting the power of appointment of seemingly "nonjudicial" officers in the judiciary. In Siebold itself, Congress empowered the courts to appoint elections supervisors to prevent the stuffing of ballot boxes. In *Hobson* v. *Hansen* (265 F. Supp. 902 (D.D.C. 1967)) a district court determined that Congress permissibly delegated to it the power to appoint members to the District of Columbia School Board. In *United States* v. *Solomon* (216 F. Supp. 836 (S.D.N.Y. 1963)), another district court case, the court held that the statute empowering district courts to appoint temporary U.S. attorneys was constitutional.

In both Siebold and Hobson, against Hansen, however, it should be noted that the subjects involved, the conduct of elections and a District of Columbia agency, are expressly within the legislative power of Congress. In article I, section 4 of the Constitution, the Congress is expressly given the power to alter any State regulations as to the times, places, and manner of holding congressional elections, except as to the places of choosing Senators. Under article I, section 7, clause 17, the Congress is expressly empowered to exercise exclusive and plenary legislative jurisdiction over the District of Columbia. Both Siebold and Hobson against Hansen ought to be read in the light of this congressional legislative power. Although the courts did not clearly articulate it, they were undoubtedly constrained to permit wider latitude in the designation of the appointing power when the subject involved was clearly within the legislative power of the Congress.

This situation should be contrasted with that present in the Solomon case involving temporary appointment of U.S. attorneys. In Solomon the court was very careful to limit the nature of the appointment it was called upon to make. The court stressed the very temporary nature of the appointment and the fact that it could at any time be superseded by a subsequent Presidential appointment. The court stressed that its temporary appointment in no way bound the President or fettered Presidential discretion in the appointment process.

In the case of court appointment of a Special Prosecutor as outlined in the Hart-Bayh bill, these limitations are not present. On the contrary, the court under that bill is given a broad power not merely to appoint but to remove, and the President is given no voice at all in the process. Viewed in this manner, neither Siebold, nor Hobson against Hansen, nor Solomon provide support for the Hart-Bayh bill. Rather, they argue against its constitutionality.

One interesting aspect of the hearings before the Judiciary Committee was the reference to British legal history by Professor Paulsen of the University of Virginia. As Professor Paulsen correctly noted, in Britain, historically and even today, a private citizen may lay the grounds for criminal prosecution before the magistrate who will make the decision whether the prosecution will then go forward. From this the professor concludes that "our legal history does not support the notion that control of prosecution is an 'inherently executive function.'" I disagree.

First it ought to be pointed out that to argue from this bit of history that criminal prosecution can somehow be a judicial function is a classic nonsequitur. The fact that a private rather than governmental person can institute criminal prosecutions in no manner whatsoever supports the conclusion that the institution and conduct of criminal prosecutions is a judicial function. All it indicates is that prosecution need not exclusively be carried out by Government officers. The function of prosecuting people to enforce compliance with the law, however, is in no manner made any the less executive in nature if private persons are able to supplement govvernmental action. The crown is not made any less responsible for the enforcement of criminal laws.

Second, reference to this portion of our history is quite incomplete, and reference to British practices in this respect should not be taken to refer to the American experience. The British have never developed a consistent and strong practice of separating governmental powers, and certainly there is no history of separation of powers in Britain such as we have here in this country.

The American experience is wholly different from the British. In the United States we have developed a very strict separation of executive and judicial powers in the area of the criminal law. As the example of the magistrates clearly shows, in the United States we insist upon strict neutrality of judicial officers. We do not mingle enforcement with adjudication. It is in this country unconstitutional to do so.

The magistrate example provides a very good indication of how British and American practices have differed because of the American doctrine of separation of powers. The British experience begins with the keepers of the peace in the 12th century, knights charged with general responsibility to preserve the peace and quell disorder. Their main duties were to suppress riots, arrest offenders, and try indicted persons at quarter sessions—hardly an expression of judicial neutrality as we know it today—and gradually the justices of the peace acquired even broader duties. During the Tudor era of the 14th and 15th centuries the justices of the peace even were given such duties as the conscription of seamen and the fixing of various prices and wages. As instruments of comprehensive Tudor economic regulation, the justices had—

> A considerable range of supervisory and regulatory obligations, a little overwhelming in their number and somewhat bewildering in their variety. It was perhaps just as well in the medley of duties thrust upon them that the justices were not bothered with any

fine distinctions between judicial and administrative duties or criminal and civil jurisdictions. The jumbled legislation lumped them all together. (B. Osborne, Justices of the Peace 1361–1848, 7, 12–15 (1960).

In the 17th century the English magistrate's duties continued to expand. The justices of the peace exercised summary jurisdiction over minor offenses, out of quarter sessions, conducted preliminary examinations of persons accused of indictable offenses, issued arrest warrants, and exercised other judicial functions; they also exercised various governmental powers, particularly in administration of the poor laws. (See F. W. Maitland, "The Constitutional History of England," 232–33 (1931).) Also at this time the justices began to use general search warrants to enforce laws regulating religion, the general form of search power having been in use in England since the first half of the 14th century—the earlier statutes did not grant this power to the justices of the peace. See N. B. Lasson, "The History and Development of the Fourth Amendment to the United States Constitution," 23 (1937).

The demeanor of the Justices at that time, as would be expected of someone wielding combined investigatory and judicial powers with direct responsibility for preservation of order, was not in keeping with their modern American image of neutral arbiter—See P. Devlin, "The Criminal Prosecution in England," 3–7 (1960). In describing the preliminary examination, for example, Maitland notes:

The object of it is not to hold an impartial inquiry into the guilt or innocence of the prisoner, and to set him free if there is no case against him; the justice of the peace here plays the part rather of a public prosecutor than of a judge. (Maitland, op. cit. supra at 233.) A blending of powers in the administration of the criminal law characterized the performance of the Justices.

In those times the justices of the peace combined in their persons the functions of magistrate, policeman, and prosecutor. . . . 'They raised hue and cry, chased criminals, searched houses, took prisoners. A justice of the peace might issue the warrant for arrest, conduct the search himself, effect the capture, examine the accused, and sans witnesses, extract a confession by cajoling as friend and bullying as magistrate, commit him, and finally give damning evidence at trial." (Lasson, op. cit. supra at 36 n. 86, quoting J. Pollock, "The Popish Plot" (1903).

The justices of the peace—

Were the key figures in a flexible administrative machine and they carried out both special and general commissions of which the commission of the peace was merely the most regular and the most important. (J. H. Gleason, "The Justices of the Peace in England 1588 to 1640," 96 (1969). The reason why such broad and significant powers developed upon the Justices is that they were an influential elite to whom such powers could be trusted. As a group they were wealthy, well educated, ambitious, and in reasonable accord with national policy both religious and political. (Id. at 96.) The qualified lawyers, the Members of the House of Commons, and J.P.S. in Elizabethan and Stuart England were so closely intertwined that they were essentially different embodiments of a single social entity. (Id. at 122.) The Justices . . . were competent members of the ruling class, and nothing was more natural than that a parliament of landowners . . . should trust them with all manner of duties and governmental powers. (Maitland, op. cit. supra at 494.)

But the trust of Parliament was in their political and religious conformity and acceptability, not in their neutrality and impartiality toward an accused in the administration of the criminal law.

The 17th and 18th centuries saw a burgeoning use of general and unrestricted powers of search, primarily extralegally by agents of the King, occasionally aided by acts of Parliament. It was this type of general search power, and the use of general warrants, which led directly to the inclusion in our U.S. Constitution of the fourth amendment with its prohibition against unreasonable searches and its designation of the specific requirements for search warrants.

We rejected the English precedent.

We chose instead a strict separation of judicial and law enforcement functions.

We began a course of criminal justice administration very different from that brought to our shores initially—we formed our own history.

This excursion into legal history has been somewhat lengthy but it has an important purpose. First it shows that "our" legal history—and here I refer to American legal history since adoption of the Constitution—is quite different from that of England with regard to the separation of powers in criminal prosecutions. The British history is one of blending, the mixing of judicial and prosecutorial powers. Ours is directly the opposite. We have constitutionally required a very strict separation of powers, a very strict neutrality of judicial officers, and a very rigid adherence to the formal adversary process in the criminal law.

Second, it underscores the reasoning behind the American requirement that criminal prosecutorial powers are to be kept separate from powers of adjudication, and the constitutional basis for that requirement. The general warrant—the power of unbridled search which was to such a large extent the cause of the American rebellion against British rule—developed directly and naturally out of the British magistrate system in which administrative and judicial powers and responsibilities were so casually blended. When one authority is given the power both to conduct a criminal prosecutorial function—such as a search—and to decide its propriety, the possibility of arbitrary and despotic action is not merely apparent but very real indeed.

Our entire criminal justice system is predicated upon the principle that judging and prosecuting are to be kept strictly apart. Are we to cast away that principle based on a fear of the moment, as a matter of expediency? That is what the Hart-Bayh proposal would do.

The argument has been made that prosecuting attorneys as lawyers are "officers of the court," and therefore they can be made "inferior officers" of the court under article II, section 2, of the Constitution, appointed by the judiciary. This argument misinterprets the meaning of the phrase "officer of the court" as it applies to an attorney. The phrase is intended to refer to an attorney's high obligation to the law itself, and to the adversary system of justice. As the ethical considerations of Canon 7 of the Code of Professional Responsibility of the American Bar Association clearly indicate and express—

Our legal system provides for the adjudication of disputes governed by the rules of substantive, evidentiary and procedural law. An adversary presentation counters the natural human tendency to judge too swiftly in terms of the familiar that which is not fully known; the advocate, by his zealous preparation and presentation of facts and law, enables the tribunal to come to the hearing with an open and neutral mind and to render impartial judgments.

We ought to abide by that admonition. We ought not to begin to mingle prosecutorial and adjudicatory responsibilities by giving a judge—or a panel of three judges—ultimate, and in some cases very final authority, over both the prosecution and the judging of criminal cases.

Proponents of the Hart-Bayh bill contend that the public needs the reassurance that the Special Prosecutor will be impartially appointed and without restrictions be permitted to pursue his awesome responsibilities. But the public is ill served by using the vehicle of judicial appointment and control of the Special Prosecutor to attempt to reach that public reassurance. It is difficult to believe that the public will readily accept a bill that will place responsibility for investigating, prosecuting, and judging criminal cases all under one authority, all in one branch of government.

This whole concept was rejected by those ancestors of ours who fought a revolution and gave us our Constitution.

They guarded against this concept in the Constitution and the Bill of Rights.

The drafters of the Constitution were right. Let us not seek to subvert their great work by this ill advised legislation.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

INDEPENDENT SPECIAL PROSECUTOR ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 2611, which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar No. 573 (S. 2611) a bill to insure the enforcement of the criminal laws and the due administration of justice; establish an independent Special Prosecutor.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

SECTION 1. That this Act may be cited as the "Independent Special Prosecutor Act of 1973".

SEC. 2. The Congress finds and declares that—

(a) Serious allegations of illegal acts of high officials of the executive branch of Government cannot under present extraordinary circumstances be fully and properly investigated and prosecuted by the executive branch itself.

(b) Public confidence in the integrity of the Nation's criminal justice system cannot be maintained if the investigation of such allegations and prosecution of illegal acts by high officials of the executive branch of Government are carried out under the authority of the executive branch itself.

(c) The establishment of a Special Prosecutor independent of the executive branch of Government is "necessary and proper" under article I, section 8 of the Constitution of the United States to insure the enforcement of the criminal laws and the due administration of justice through a complete investigation of such allegations and a vigorous and uncompromised prosecution of accused offenders.

(d) A Special Prosecutor independent of the executive branch of Government should properly be appointed by the judicial branch of Government, and article II, section 2 of the Constitution of the United States provides authority for Congress to vest such appointment "in the courts of law".

(e) The establishment of an independent Special Prosecutor is an appropriate exercise of the power under article I, section 8 of the Constitution of the United States to "exercise exclusive legislation in all cases whatsoever" over the District of Columbia, in that many such activities are alleged to have occurred in the District.

APPOINTMENT

SEC. 3. (a)(1) The United States District Court for the District of Columbia is authorized and directed to appoint, in the following manner, a Special Prosecutor who shall have the duties and powers prescribed in this Act. The district court, sitting en banc, shall designate a panel of three of its members (hereinafter referred to as the "panel"). The panel shall promptly appoint a Special Proscutor with the experience, abilities, and reputation necessary to perform the responsibilities of the office.

Vacancies

(2) The panel shall fill promptly any vacancy which may occur thereafter in the position of Special Prosecutor. Any vacancy in the panel, itself, shall be filled in the same manner as the original designation of the panel.

Disqualification

(3) No member of the district court who has supervised any grand jury or presided at any criminal trial pertaining to matters within the jurisdiction of the Special Prosecutor shall be eligible to be a member of the panel. Participation in the designation of the panel shall not disqualify a judge in a proceeding in which the Special Prosecutor or his staff is involved. However, any judge who serves on the panel is disqualified from participating in any proceeding in which the Special Prosecutor or his staff is involved in their official capacity.

(b) The Special Prosecutor is authorized and directed and shall have exclusive jurisdiction, to investigate, as he deems appropriate, and prosecute against and in the name of the United States:

(1) offenses arising out of the unauthorized entry into Democratic National Committee headquarters at the Watergate;

(2) other offenses arising out of the 1972 Presidential election;

(3) offenses alleged to have been committed by the President, Presidential appointees, or members of the White House staff;

(4) all other matters heretofore referred to the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973); and

(5) offenses relating to or arising out of any such matters.

SEC. 4. The Special Prosecutor shall have full power and authority with respect to the matters set forth in section 3 of this Act:

(1) to conduct proceedings before grand juries and other investigations he deems unnecessary;

(2) to review all documentary evidence available from any sources;

(3) to determine whether or not to contest the assertion of Executive Privilege or any other testimonial privilege;

(4) to receive appropriate national security clearance and review all evidence sought to be withheld on grounds of national security and if necessary contest in court, including where appropriate through participation in camera proceedings, any claim of privilege or attempt to withhold evidence on grounds of national security;

(5) to make application to any Federal court for a grant of immunity to any witness, consist with applicable statutory requirements, or for warrants, subpenas, or other court orders;

(6) to initiate and conduct prosecutions in any court of competent jurisdiction, frame and sign indictments, file informations, and handle all aspects of any cases over which he has jurisdiction under this Act, in the name of the United States, and

(7) notwithstanding any other provision of law, to exercise all other powers as to the conduct or criminal investigations and prosecutions within his jurisdiction which would otherwise be vested in the Attorney General and the United States attorney under the provisions of chapter 31 and 35 of title 28, United States Code, and the provisions of section 301.6103(a)-1(q) title 26, Code of Federal Regulations, and as the attorney for the Government in such investigations and prosecutions under the Federal Rules of Criminal Procedure.

SEC. 5. (a) All materials, tapes, documents, files, work in process, information, and all other property of whatever kind and description relevant to the duties enumerated in section 3 hereof, tangible, or intangible, collected by, developed by, or in the possession of the former Special Prosecutor or his staff established pursuant to regulation by the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be delivered into the possession of the Special Prosecutor appointed under this Act.

(b) All investigations, prosecutions, cases, litigation, and grand jury or other proceedings initiated by the former Special Prosecutor pursuant to regulations of the Attorney General (28 C.F.R. 0.37, rescinded October 24, 1973), shall be continued, as the Special Prosecutor deems appropriate, by him, and he shall become successor counsel for the United States in all such proceedings, notwithstanding any substitution of counsel made after October 20, 1973.

SEC. 6. The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provision of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Special Prosecutor is authorized to request any officer of the Department of Justice, or any other department or agency of the Federal or District of Columbia government, to provide on a reimbursable basis such assistance as he deems necessary, and any such officer shall comply with such request. Assistance by the Department of Justice shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction and use by the Special Prosecutor of the investigative and other services, on a priority basis, of the Federal Bureau of Investigation.

SEC. 7. The Administrator of General Services shall furnish the Special Prosecutor with such offices, equipment, supplies, and services as are authorized to be furnished to any other agency or instrumentality of the United States.

SEC. 8. Notwithstanding any other provisions of law, the Special Prosecutor shall submit to the Congress directly requests for such funds, facilities, and legislation as he shall consider necessary to carry out his responsibilities under this Act, and such requests shall receive priority consideration by the Congress.

SEC. 9. The Special Prosecutor shall carry out his duties under this Act within two years, except as necessary to complete trial or appellate action on indictments then pending.

SEC. 10. The panel has the sole and exclusive power to dismiss the Special Prosecutor. The only grounds for removal are gross impropriety, gross dereliction of duty, or physical or mental disability preventing discharge of his responsibilities under the Act.

SEC. 11. The Special Prosecutor solely shall exercise the powers and perform the duties specified herein. Neither the Chief Judge or the President of the United States, nor any other officer of the United States shall have any authority to direct, countermand, or interfere with any action taken by the Special Prosecutor pursuant to this Act. Neither the President of the United States, nor any other officer of the United States, shall have any authority to remove the Special Prosecutor from office.

SEC. 12. The Special Prosecutor is authorized from time to time to make public such statements or reports as he deems appropriate and is authorized and directed upon completion of his duties to submit a final such statement or report to the Congress and the President.

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EXPEDITED REVIEW PROCEDURE

SEC. 14. (a)(1) Any objection by a person who is the subject of an indictment or information to the authority of the Special Presecutor under the Constitution to frame and sign indictments or informations and to prosecute offenses in the name of the United States shall be raised by motion to dismiss the indictment or information. Such motion shall be made within twenty days of notice of the indictment or informtaion, or before entry of a plea. The making of such a motion shall not preclude the making of motions on other grounds as permitted by the Federal Rules of Criminal Procedure. Persons who are the subjects of an indictment or information on the date this Act becomes effective shall raise such objection within twenty days of notice that the Act has become effective.

(2) The district court shall immediately certify any motion made under subsection (a)(1) to the United States court of appeals for that circuit, which shall hear the motion sitting en banc.

(3) Notwithstanding any other provision of law or rule, any decision on the motion shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days from the ruling on the motion.

(4) It shall be the duty of the court of appeals and of the United States Supreme Court to advance on the docket and to expedite to the greatest possible extent the

disposition of any motion filed pursuant to subsection (a)(1).

(5) Except as provided in this subsection, no court shall have jurisdiction to consider any objection to the validity of an indictment or information or a conviction based on the lack of authority under the Constitution of the Special Prosecutor to frame and to sign indictments and informations and to prosecute offenses in the name of the United States.

(6) The Special Prosecutor and anyone acting on his behalf shall be deemed a person authorized to be present during sessions of a grand jury, notwithstanding any later judicial determination regarding his authority to frame and to sign indictments and informations and to prosecute offenses in the name of the United States.

(b)(1) A person aggrieved by any act of the Special Prosecutor may bring an action or file an appropriate motion challenging his constitutional authority under this Act and for appropriate relief. Such an action or motion shall be filed within twenty days of notice of the act to which objection is had. The district court shall immediately certify all questions of constitutionality of this Act to the United States court of appeals for that circuit, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law or rule any decision on a matter certified under subsection (b)(1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days of the court of appeals decision.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any question certified under subsection (b)(1).

(c) In addition to any other civil or criminal relief against interference with the performance of his duties to which the Special Prosecutor appointed under this Act may be entitled, he may bring an action for injunctive relief against any interference, or threatened interference, with the performance of his duties or with his exclusive jurisdiction under this Act, or against failure to cooperate with him as required by this Act, by any officer of the executive department of the United States. Any defense to such action which challenges the authority of the Special Prosecutor under the Constitution, or otherwise calls into question the constitutionality of this Act shall be interposed within twenty days of the filing of the complaint.

(2) An action pursuant to subsection (c)(1) shall be brought in the United States Court of Appeals for the District of Columbia Circuit which shall hear the matter, sitting en banc. Notwithstanding any other provision of law or rule any decision on the matter shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal must be brought within ten days of the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any action brought pursuant to section (c)(1).

(d) The expedited review procedures of this section shall not apply to any challenge to the constitutionality of the provisions of this Act insofar as any question presented shall have been determined by the Supreme Court of the United States, notwithstanding that the previous determination occurred in litigation involving other parties.

Mr. MANSFIELD. Mr. President, I have sent word to the Senators that I know are most intimately involved, though not all of them. It is my intention to try to answer any questions which are raised between now and the hour of 11:45 this morning, at which time the regular order will go into effect and the unfinished business will be laid before the Senate automatically.

The PRESIDING OFFICER. The time for debate on the pending bill will be limited to 4 hours, to be equally divided and controlled by the Senator from Nebraska (Mr. HRUSKA) and the Senator from Michigan (Mr. HART).

Mr. BAKER. Mr. President, I will be happy to yield to the distinguished Senator from Illinois if he wishes. However, I have only very brief remarks to make.

The PRESIDING OFFICER. How much time does the Senator from Tennessee yield himself?

Mr. BAKER. Mr. President, I am not in a position to yield myself time. I believe that the time is under the control of the Senator from Nebraska.

I wonder if the distinguished majority leader would yield to me such time as I need in which to make these remarks since the Senator from Nebraska is not on the floor.

Mr. MANSFIELD. The Senator from Tennessee may have as much time as he desires.

Mr. BAKER. Mr. President, I rise to state that I fully understand the parliamentary situation. I have discussed the matter since the colloquy on the floor yesterday with the distinguished majority leader and with the distinguished minority leader.

I have joined with the distinguished Senator from Illinois in offering what we believe to be a desirable and constitutional solution to the so-called special prosecutor dilemma. I am aware, however, that the leadership of the Senate, while not institutionalized fully in all of its scope and sweep within the powers, rules, and precedents of the Senate, is an essential and vital part of a coherent and rational functioning of this body. And when the joint leadership, which is not codified into the rules of the Senate at all but which exists as a very important part of the functioning of this body, proposes a particular course of action with respect to procedural matters, I have found in my years of experience that it is extremely difficult to undo this situation.

So, I found myself yesterday in a position of wanting very much to proceed with the consideration of legislation to enact into statute and law the provisions for the appointment and protection of a Special Prosecutor. However, the power, the prestige, and the practical impact of the procedural niceties of the Senate propel me in all candor and reason to understand that we are not likely to succeed in that respect.

In colloquy with the distinguished majority leader, he pointed out that he would at my request withhold his unanimous-consent request of yesterday until today, which request related to the allocation of time for debate for the pendency of this bill which is now pending before the Senate.

We could not solve the whole problem however. And I think that the RECORD should show that I understand the procedure under the rules of the Senate and that the Senate must proceed at the proper time to the consideration of regular business.

I do not relish the prospect of laying aside what I consider to be important legislation. However, I understand the realities of the situation.

I understand that after this colloquy, the majority leader will ask unanimous consent to proceed to lay other legislation before the Senate. It will not be my position to object to that.

I will, however, join with my distinguished colleague, the Senator from Illinois, in asking certain assurances from the joint leadership, in this case from the majority leader and others, respecting the future course of our legislative activities into the matter of cloaking the Special Prosecutor with special protection.

I received yesterday, as I understand it, the assurances of the joint leadership that, if it is necessary, the leadership would join in taking this matter from the calendar at some early, future date.

Mr. MANSFIELD. The Senator is correct.

Mr. BAKER. I understand further that if circumstances require, even after the adjournment of this session of the 93d Congress sine die, the joint leadership, in accordance with the resolution of adjournment, would consider the matter of reconvening the Congress so that we might take up the legislation still on the calendar dealing with the special prosecutor.

There are other assurances that I hope we have. However, the representations, as I understand them, are that this bill and the related amendments will remain on the calendar of the Senate and that, even after adjournment sine die, if the circumstances indicate the necessity and desirability of reconvening and reconsidering our action with respect to the consideration of these measures, the leadership would join in our request that we do so.

Mr. MANSFIELD. The Senator is correct.

Mr. BAKER. In view of those reaffirmations by the distinguished majority leader, and seized with an excess of realism, as I sometimes am not, I am inclined to think that the best course of action today is to clearly state our concern and our disappointment that we are not now going to be able to dispose of this important legislation, and to settle for the assurances of the joint leadership that the matter will remain on the calendar, and that we can proceed as facts and circumstances warrant in the future.

Mr. PERCY. Mr. President, will the distinguished Senator yield?

Mr. MANSFIELD. I yield.

Mr. PERCY. Possibly the distinguished majority leader would want to withhold an answer to the total question with which we are concerned, because I have a few questions. If he will yield for that purpose, I would first like to say that I believe the majority leader is well aware that on both sides of the aisle, there is a

desire to cooperate, but that there is also a deep concern as to what, in good conscience, is now our responsibility.

Under the previous order, as I understand the parliamentary situation, the pending business before the Senate is S. 2611, the Special Prosecutor legislation.

After 2 months of debate, hearings, testimony by the leading constitutional scholars in our Nation, an unprecedented drop in the confidence of the people in their Government, and much preparation on the part of the Senate to deal with three pieces of legislation which, combined, have over 60 cosponsors, we are now, at last, considering this legislation. However, as the distinguished majority and minority leaders stated last night, it is their intention to lay this legislation aside and not consider any Special Prosecutor legislation this year.

But since there is a unanimous consent agreement which makes this Special Prosecutor legislation the pending business, I understand that there are only four ways that we could move on to other legislation. One way would be to vote on the bills now, as provided for under the other unanimous consent agreement, and thus dispose of the legislation. A second would be to lay it aside and vacate the previous order through a unanimous consent request which could be objected to. A third way would be to request the leadership to move to lay the legislation aside and have a vote on that motion. The last method would be for a Member of this body to call for regular order, which would put us back on the Rhodesian chrome bill.

Mr. President, the task facing the leadership of the Senate is not an easy one at any time as they attempt to accommodate 100 Senators and still move the business of the Senate along expeditiously. In order to be successful, they need the cooperation of the Senate. In this regard, I would like to try to accommodate the desires of the leadership. However, in good conscience we cannot let this matter drop so easily.

The Senate is still on record as having passed Senate Resolution No. 105, calling upon the President to name a Special Prosecutor of the highest integrity. In principle, this resolution has already been accepted by the President. Mr. Jaworski has been named and through the debate we heard last night on the floor, and, indeed, throughout the hearings on this matter, it is clear that the Senate fully approves of Mr. Jaworski and the job he is doing. However, that is not enough. If we walk away from this now with no more than this bare minimum, too many questions will remain unanswered, too many doubts will remain in the minds of the American public, not only about the integrity of the investigation absent statutory safeguards, but also about the willingness or ability of Congress to act and to act decisively.

The fact that within the last 2 weeks, the country has watched the Senate grind to a halt because of three separate filibusters has not enhanced our image. If we now just throw up our hands and ignore the intent of at least 60 out of 100 Senators, who obviously represent a majority opinion in the country, the people's disillusionment about the Senate will well be justifiable.

If we, indeed, do nothing this year on legislation regarding a Special Prosecutor, we should at the very least make clear where we are on this matter. So I would ask the distinguished majority leader whether he does not feel that the Senate and the Senate Judiciary Committee have had imposed upon them by an anxious country an oversight responsibility for the Special Prosecutor. Is not this what was done with regard to Mr. Cox, and with the nomination of Attorney General-designate SAXBE, now pending before this body, should not we, at the very least, receive from him certain assurances as to Mr. Jaworski's work?

Would the majority leader indicate for the RECORD, so that the country would at least have this assurance, that the Judiciary Committee does stand ready to exercise that oversight responsibility, and that Mr. Jaworski will not be operating in a vacuum? That there will be a concerned Congress, fully representing the wishes of the American people, sharing in the responsibility of insuring the integrity of this investigation, a responsibility that is so great because the innocent need to be fully vindicated in the minds of the American people when declared innocent by the Special Prosecutor. And when any cases or charges against anyone are dropped, the country should then feel confident that all of the factors have been examined and that there has been oversight by the Judiciary Committee.

Would the majority leader give to the Senator from Illinois and to the country an assurance that this responsibility is an acknowledged responsibility of the Judiciary Committee?

Mr. JAVITS. Mr. President——

Mr. MANSFIELD. In answer, I would say yes, but I would go beyond what the distinguished Senator from Illinois has just said, and state that the master of the Judiciary Committee, the Senate itself collectively, should consider itself as the oversight committee as far as the conduct of the Office of the Special Independent Prosecutor is concerned.

When I say office, I mean not only Mr. Jaworski, but I mean the staff which he inherited from Mr. Cox, which he retained, and which has been performing, I think, with distinction, vigor, and durability. It is not a Judiciary Committee responsibility; it is a Senate responsibility, and the Senate as a whole ought to undertake that as long as these two bills are on the calendar.

That oversight capacity will be in existence, the Senator may be reassured.

Mr. JAVITS. Mr. President, will the Senator yield on that point?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. I would just like to sustain Senator PERCY and express my enormous satisfaction with what the majority leader has said. I have not been a major actor in these matters, as have Senators PERCY, BAKER, BAYH, and HART, but when the announcement came yesterday I was deeply disquieted. My first instinct was to contest it, because of the fact that we should not go down without a whimper, having made all this noise about this matter.

But overnight, after consulting other Senators and reviewing what the majority leader had said, and with the vigilance being exercised by my colleagues, I decided that I would go along with the leadership.

With all my experience here, I would simply like to add one corollary to the majority leader: If, in order to exercise collective oversight, it is necessary to take action in the Senate either by calling up one of these measures or some other action, is it the position of the majority leader that he intends to fully facilitate that, if any reasonable number of Senators asked for it?

Mr. MANSFIELD. It is.

Mr. JAVITS. I thank my colleague very much.

Mr. PERCY. Mr. President, I wish to thank my distinguished colleague from New York. He minimizes his role in this matter. He has been a constant source with whom many of us have consulted. He is a cosponsor of one of the bills, and has been a great source of strength and reassurance as we have consulted with him on this matter.

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

Mr. PERCY. I am happy to yield; I do have four or five questions, however.

Mr. BAKER. At that point, though.

Mr. PERCY. I yield.

Mr. BAKER. Before the Senator from Illinois proceeds with his questions for the majority leader, I would simply like to note for the benefit of the Senate that on yesterday I talked with the distinguished senior Senator from New York, who expressed the gravest concern with this matter, and his concern that if we did not proceed, there might be lack of public confidence in the Senate and in our resolution and determination to see that these matters be handled independently and effectively.

I have had the opportunity to discuss this matter with the Senator from New York, and our independent conviction was that this was the right course of action, but I would like to express my great pleasure that he joins with us in these assurances in the apparent oversight authority of the Senate which is the real protection of the country. I simply want to verify the concern that the distinguished Senator from New York has expressed and his perception which, as usual, is so keen in these matters—and I associate myself with them.

Mr. PERCY. I thank my distinguished colleague.

Mr. STENNIS. Mr. President, if the Senator will yield me half a minute, I should like to express myself on one point. I did not sign any of these bills. I recognize the importance of them but I also recognize the huge constitutional question involved and I have been very much concerned in trying to prepare myself. I am not now disposed to support the bill of the Senator from Illinois but I feel that certainly we should not take this up in the atmosphere of a rush, that

is, the rush of preadjournment, especially when we have all these other matters.

We know from experience that whatever the distinguished majority leader says he will promise, that is his bond and no one has any more doubt about what he will do, once he makes a promise. I hope that we see fit to settle it on the basis of his promise.

Mr. PERCY. Mr. President, I thank the Senator from Mississippi very much. We value his comments very much, indeed.

My second question to the distinguished majority leader concerns the authority of the Special Prosecutor. This was an integral part of Senate Resolution 105 in that the authority of the Special Prosecutor had to be adequate to carry out his responsibilities. We have seen the grave questions that this can cause.

I would ask the distinguished majority leader whether we need to discuss with Senator SAXBE during the course of his confirmation proceedings, which are going on now, the necessity for nailing down the authority of Mr. Jaworski. All three bills before the Senate this morning concur in this matter. They are almost identical as to the authority. There is no question but that there must be adequate authority. We have seen in the past how ineffective mere Federal regulations can be.

Sixty Senators have agreed on the question of authority by putting their names on the three different bills. This must be embodied in law and the Special Prosecutor has to be operating under statute rather than regulations which can be issued and which can be, as we have seen, withdrawn.

So, should we not at least receive from Senator SAXBE his assurances that he will not weaken or withdraw the regulations under which Mr. Jaworski now operates, and make that a condition precedent to a confirmation vote on Senator SAXBE, an assurance I have no doubt he would give? But, of course, it was that same assurance which the Senate received from Mr. Richardson that was the bond which held us together in good faith, and which in the end prevented Mr. Richardson from carrying out the order of the President to discharge Mr. Cox. That same bond should be established between our colleague, Senator SAXBE, and the Senate.

Mr. MANSFIELD. In response, may I say, it is my understanding—and the distinguished Senator from Indiana (Mr. BAYH) can confirm this, if he will—that that is one of the questions which will be put to Senator SAXBE at his confirmation hearings today.

Is that a correct statement, I ask the Senator from Indiana?

Mr. BAYH. Mr. President, I feel certain that that question will be asked. I am rather low on the totem pole of seniority, but if that question is not asked, at the time the question gets to me, I intend to ask it myself.

Mr. MANSFIELD. So, we have reassurance, which I think is doubly assuring, and everyone would want that question asked of Senator SAXBE. That question should be answered satisfactorily, to the end that Mr. Jaworski will have as great a degree of independence as possible, and to the end that insofar as the Attorney General is concerned, Mr. Jaworski will be protected fully, as Mr. Richardson attempted to protect Mr. Cox.

I think it would be the overwhelming sentiment of the Senate—if not its unanimous opinion—that that protection should be forthcoming.

But, may I point out that if that protection is not forthcoming, if there is another "Saturday night massacre," the Senate has at its disposal a number of bills which can be taken up immediately.

If we had had this item available at the time when Mr. Cox was dismissed, I have no doubt in my own mind that had the resolution been on the Senate calendar then, it would have been adopted overwhelmingly on the next legislative day. I hope that that answers the Senator's question.

Mr. PERCY. I thank the distinguished majority leader very much, indeed.

I would simply ask the Senator from Indiana that should the questioning get to him, and Mr. SAXBE has not been asked, would the Senator also put the question directly to Mr. SAXBE to get assurances that he would consult with the Senate before anything was done that would in any way restrict or limit the Special Prosecutor's authority or tenure? I think that if that refinement of the authority could be obtained, it would nail down securely what we have been seeking and eliminate the experience we have already gone through.

Mr. BAYH. That, too, is a question that will be asked. If it is not asked prior to my opportunity to ask questions, I will ask it myself. That, as well as the other question, is subject to the inadequacy that I intend to address myself to shortly. But I think these are good-faith efforts that can be made, short of the legislative process. If the Senate does not take a legislative step, then, of course, we would have to have a limitation to shore up and protect ourselves in other analyses, short of the element of the legislative process.

Mr. PERCY. I thank the distinguished Senator.

The next area I should like to explore is the question of access which the Special Prosecutor has to files, documents, and memoranda, all of which apply essentially to the responsibility and authority he has been given. This is a subject of great public debate, and it has been the subject of internal dissension and misunderstanding in the administration.

I believe that Members of the Senate, in their direct contact with the President and his chief of staff, General Haig, have reached a certain understanding.

We should have the understanding that the Special Prosecutor will get whatever he wants without having to go to court. We ought to try to nail this down in connection with Senator SAXBE's nomination, to make sure that whatever Mr. Jaworski feels he should have, he will not have to go to the courts; that he is fully empowered, notwithstanding any objection the President may have, to obtain what he needs. I hope that it would not be necessary, but we should have the understanding that it will have been worked out. If a matter is determined, in the sole discretion of the Special Prosecutor, to be necessary and vital to his responsibility, he would merely have to request that information and would then have direct access to it.

In conversation with General Haig, I raised the general question of national security. His reply seemed to indicate that he did not rebut that. But if there were any concern about the security clearance of the Special Prosecutor, then we had better obtain the necessary clearance for the Special Prosecutor.

But even if there are matters involving national security—and every Member of the Senate is cleared for top secret—I should think that a clearance would be readily obtainable for the Special Prosecutor; and in this case I could not imagine that it would be withheld. But I think the cloak of national security cannot be and should not be used to deprive the Special Prosecutor of having access to certain documents.

I once again turn to the majority leader and ask whether it is not reasonable that those assurances be obtained from Senator SAXBE, perhaps as the second in the chain of command here. Certainly, it would be a reassurance to the country and to the Senate that a satisfactory arrangement has been worked out. If he does not have firsthand knowledge from the President as to what this clearcut understanding was, which I understand was given by the President to Senator SCOTT, then it should be obtained by him during the course of these proceedings, so that it is clearly on the record and so that there can be no possibility of misunderstanding or miscalculation on this very crucial point.

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

Mr. PERCY. I yield.

Mr. MANSFIELD. May I say that, insofar as I know, Mr. Jaworski has shown no hesitation whatever in making his views known, that, if necessary, he would go to the courts and that he would exempt no person in that process. He has raised questions, too, about the definition of national intelligence or security matters as related to the tapes, pertinent questions, so I do not think he is going to be dissuaded by soft words but only on the basis of hard facts.

It appears to me, also, that the White House has shown a great deal more in the way of cooperation in its relationship with Mr. Jaworski than it did with Mr. Cox. Mr. Jaworski has had to wait a short while on occasion to have some of his requests fulfilled as expeditiously as he would like, but I think that is understandable in view of the condition which exists in the executive branch at the present time, based on the rapid turnover of lawyers or the displacement of lawyers or the coming in of a new crew, with the going out of an old one.

Those are matters which I think are being taken care of as well as they possibly can at the present time.

So far as Senator SAXBE is concerned, those of us who serve in this body have had a chance to get to know him intimately. He is a man who knows where he

is going, knows what he is doing. He is, in effect, a sort of swashbuckler among the Senators because of his style. But Senator SAXBE is no fool. I daresay that the questions being raised today have been raised in Senator SAXBE's mind already, that those questions will be asked by the members of the Judiciary Committee, and those questions will be answered to the satisfaction of that committee.

May I say that on the basis of what I have been able to hear as to what the committee is going to ask Senator SAXBE today, it is my belief that they are going to the tough areas relative to the prosecutor, relative to the Kent State shootings, and relative to other matters which are of vital interest to the committee, to the Senate, and to the American people.

I want to see the nomination of Senator SAXBE confirmed before we adjourn sine die, but I do not want to see him accorded any special favors by the Judiciary Committee because he happens to be a Member of the Senate. I think that BILL SAXBE does not expect any favors and would look upon any favors, as such, with disapproval.

The tough questions will be asked, and I think his nomination will be approved by the committee. It is my hope that, barring unforeseen events, we will be able to take up that nomination either later this week or the first part of next week and get it out of the way and send BILL SAXBE, regretfully, out of this Chamber to his new position as the Attorney General of the United States.

Mr. PERCY. I thank the majority leader.

I would only add this comment about the confirmation process. It is now underway. When Senator SAXBE's name was first put forward, I heard that we probably would confirm his nomination within 24 hours. I heard the same thing about JERRY FORD when he was nominated to be Vice President. The Senate and the House have rightly judged the mood of the country and accepted its own responsibility and submitted both nominations, because they are members of their own bodies, to the most careful scrutiny. We moved with deliberate speed in both cases, and I think the deliberate speed was called for. The Senate and the House have leaned over backward to show no favoritism, to make no assumptions, and to leave no stones unturned; and I think that is wise. But I hope the time schedule enunciated by the majority leader will be held to.

One further question I have regards the continuity of the work. This is a matter that I know some of us have discussed directly with the President, and he wants no interruption in the continuity of the work.

The case I have in mind is the possibility that the special prosecutor could be absent from his office through illness or for whatever reason, and that there might be an interruption in the work. We want to get this matter behind us, dealt with thoroughly and completely, but at the earliest possible opportunity, without any unnecessary interruptions.

All three bills that we have before us for consideration on the floor today provide for a Deputy Special Prosecutor. In virtually every department of Government there is a deputy to step in immediately and take the place of the administrator, the secretary, the director, whoever it may be.

Should we not encourage or ask Senator SAXBE today or tomorrow, during the course of his hearings, to ask or encourage Mr. Jaworski to designate a deputy who would be able to take over, if need be, so that at least these sections of the bills that we would have considered, which would have strengthened the Office of Special Prosecutor, would, in effect, be implemented, even though the proposed legislation might not be adopted?

Mr. MANSFIELD. May I say that I assume that, in effect, there is a Deputy Special Prosecutor at the present time who has the responsibilities, if not the title. Certainly, there must be someone in that team to whom Mr. Jaworski delegates responsibility on occasions. I see nothing untoward in the matter of the designation of a Deputy Special Prosecutor. I would hope that Senator SAXBE, upon the confirmation of his nomination, would give that matter his most serious and immediate consideration, and that, as the distinguished Senator from Illinois has indicated, he would discuss the situation with Mr. Jaworski, so that together they might see what they could work out to implement what the distinguished Senator has just suggested, which I think is most meritorious.

Mr. PERCY. I concur with the comments of the distinguished majority leader.

I feel that there must be, there should be, a deputy; but I—like the majority leader—am at a loss to name who it is and what the scope of his responsibility or authority is.

It would seem to the Senator from Illinois that so long as all three bills provide for a deputy, that deputy should be clearly named, that the Special Prosecutor should touch base with the Judiciary Committee—in effect, then, with the Senate—to identify that individual clearly, what his qualifications are, and to assure that the appointment of such an individual would reach a consensus of approval of the Judiciary Committee; and possibly then that the Senate, in some informal way, so that at least we know who it is and so that there would be no question about who would step in and take over in the event of some emergency. I feel we would agree on that and I would hope that would be carried forward. If our distinguished colleague from Indiana, who has been so deeply interested and involved within this important matter, would see that that were done in the hearings today or tomorrow I feel it would be very helpful, indeed.

The subject of dismissal is another matter I would like to address to the distinguished majority leader. I even ask to have placed in the RECORD—perhaps Senator SAXBE should be allowed to do so—the conditions clearly and unmistakably under which the Special Prosecutor could be dismissed, and these should include such definitive standards as malfeasance in office, neglect of duty, as well as some procedure for consulting with Congress before any dismissal occurs, so that there is no misunderstanding about the fallout that would result from our having again to go through what has been referred to by the majority leader and which is popularly called the Saturday massacre.

I would hope we could define that area. The purpose of this legislation was to make that unmistakably clear so that there could be no if's, and's, or but's about it, and no question in the event there was a breach.

If the Senator from Illinois could have assurance on that point, that it would be covered, I would feel better about passing on to other bills we have before us.

Mr. MANSFIELD. If the Senator will yield, that subject has been met in part, or almost in part, because the President has indicated that before any action would be taken seeking to dismiss Mr. Jaworski, consultation would be had with eight Members of Congress—the leadership in both parties, and I think the chairmen and the ranking Republican member in the two Judiciary Committees. I think that is a little too select to give the Senator my reaction. I think it does apply somewhat in connection with the discussion which the Senator has indicated. I do not know how many of the eight it would take either to affirm or deny such a decision, but as far as the Senator from Montana, now speaking, is concerned, who happens to be one of those designated eight, there would never again be a repetition of what happened to Mr. Cox on that Saturday in October.

The Senator has indicated that definitions ought to be spelled out, reasons should be given as to how, if a Special Prosecutor is to be dismissed, it should be reviewed. The only definition I know at the present time, assuming that the same terms apply to Mr. Jaworski as applied to Mr. Cox, he could only be dismissed for "great or gross improprieties." I do not think Mr. Archibald Cox committed any improprieties while he was the independent prosecutor.

Perhaps a definition of what that term means would be all to the good. I would hope, may I say to the distinguished Senator from Illinois, that the questions which he is raising this morning would be relayed—some of them will be relayed through the Senator from Indiana (Mr. BAYH)—but they should be relayed in toto to the chairman of the Committee on the Judiciary, the Senator from Mississippi (Mr. EASTLAND) so that the answers could be forthcoming from that committee as well as from the Senator from Montana.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. PERCY. I am happy to yield to the Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Murray Flander and John Flemming of my staff be permitted on the floor during the consideration of this matter.

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

Mr. PERCY. I thank the distinguished majority leader for that response. I do believe that as long as there is no precipitous action taken and it is understood clearly that a dismissal would not be effective until such time as there has been this consultation and consensus of the Senate, we would not have any misunderstanding.

My final question relates to the adjournment of Congress. As we discussed yesterday, should any precipitous change in the status of the Special Prosecutor occur while we are adjourned, the majority and minority leaders agree to call Congress immediately back into session. I want to make sure that that is understood. There is one remaining problem that could come up. If a vacancy should occur, there is no continuity provided under the present understanding we have. All three pieces of legislation agree that if there were a vacancy, in accordance with established procedures for filling vacancies in the office of U.S. attorneys, the court could appoint an individual to fill that as interim Special Prosecutor.

What provision would be made for filling a vacancy if it occurred under the present situation?

Mr. BAYH addressed the Chair.

Mr. MANSFIELD. If the Senator will allow me to answer, I believe these two appointments were made by the Attorney General and I would assume that the Attorney General, acting or otherwise, would undertake the same responsibility as Mr. Richardson did in the first place and Mr. Bork did in the second place.

Mr. PERCY. But the majority leader knows there have been many vacancies for weeks, months, and even for years, which were not filled.

In this most unlikely event, it is our job to think of every possible contingency and determine ahead of time what might be done, and the purpose of legislation is to provide for all those contingencies.

I am glad to yield to the Senator from Indiana on this point or any other point with respect to how the vacancy would be filled on any temporary or interim basis by the court.

Mr. BAYH. Mr. President, if the Senator will give me permission to respond, it is important for us to understand that, as is always the case, and I suppose this is just normal in human relations, there is a gulf here between what we might like to have happen and what will or can, indeed, happen under the law. Federal statutes give to Federal district judges the power to fill vacancies which exist—I think the terminology is temporary vacancies, in the Office of U.S. attorney. This is one of the bases for the constitutionality for the measure supported by the Senator from Indiana. There is no statutory requirement that the Attorney General fill a vacancy in the Office of Special Prosecutor, which is not a statutory office. So for us to expect that a Federal judge can use the authority he now has to fill a vacancy existing in the Office of the U.S. District Attorney, to fill a vacancy which might exist on some subsequent date in the Office of Special Prosecutor is expecting, I feel, something which is not only not unlikely to happen but also which is illegal, if any judge should try.

I hope that addresses the question to the Senator from Illinois, but that is just a very weak reed to have to lean on—in fact, it is nonexistent.

Mr. PERCY. It might be helpful to have an understanding as to what would happen if a vacancy should occur.

Mr. BAYH. I think that in the normal course of questions that would be asked more than one time to the Senator from Ohio (Mr. SAXBE), based on his assurance, which I think he has given us, which is as good an assurance as he can give; but the official life expectancy of any Attorney General, of course, is contingent on the desires of one man. I hope to address myself to the uncertainties of that one question, which is one of the real concerns I have.

Mr. PERCY. The majority leader, just yesterday in a colloquy, assured the Senate that because this matter was on the calendar, and would be carried on the calendar even though it were not taken up this year, it could be taken up on an emergency basis in the interim, and it could be taken up at any time next year.

Is it the intention of the majority leader and the joint leadership to see that this matter does come up some time next year and is disposed of, voted up or down, before the adjournment of this Congress, because we would have a gap between this Congress and the next Congress, at which time it would not be on the calendar and we could be somewhat immobilized?

Mr. MANSFIELD. All I can say is that the joint leadership would give that every consideration and it would depend upon circumstances. If there is any possibility of hanky-panky, these bills would be called up.

Mr. PERCY. I would now like to yield to my distinguished colleague from Tennessee (Mr. BAKER). I wish to express my appreciation for his yielding. Although we have not had a chance to consult, I have a feeling this will lead to a final question. I have withheld it. Can our distinguished friend give us his idea of working out some accord which would assure that we would have a bill which could be passed and could be agreed upon? If that is the next burning question, I simply want to associate myself with that question and respectfully request the Senator from Tennessee for his comment.

Mr. BAKER. Mr. President, if the Senator from Montana will yield briefly for that purpose, I must say I am pleased with the presentation of questions and the effort to get assurances from the leadership and others on the matters at hand. I commend the Senator from Illinois for his leadership role in the formulation of proposals that would have been before the Senate. I think we all owe the distinguished Senator from Illinois a deep debt of gratitude for his perseverance and scholarly research in these matters.

I was privileged to join with him in the formulation of an amendment which we would have offered and which would have been the synthesis of his ideas, my ideas, and the ideas of some others in this body. It would still be my hope that we could find a common ground, that all of us could find a basis for synthesizing a piece of proposed legislation which could be placed on the calendar that represented the viewpoints of all of us who feel that the principal requirement is for the independence of a Special Prosecutor protected with the full authority of the Congress of the United States.

I have already expressed to my distinguished colleague from Illinois, to the distinguished Senator from Indiana, to the distinguished Senator from Ohio, and, of course, to the joint leadership, my concern that we keep these matters on the calendar; that we proceed, as it appears now we will proceed, to hold these matters in abeyance as further assurance of the independence and the viability of the Special Prosecutor's staff.

So I have nothing further to add except to say that with the assurances that the leadership has given and with the expression of the further hope that we can still work out an accommodation of the points of view, if the distinguished majority leader asks unanimous consent to proceed in the way he has indicated, it will not be my intention to object.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator.

Mr. PERCY. Mr. President, one further question addressed to the majority leader: If it is possible—the Senator does not know whether it is, but if it is possible—between now and Monday for the distinguished Senator from Michigan, the distinguished Senator from Indiana, the distinguished Senator from Ohio, the distinguished Senator from Tennessee, and the Senator from Illinois to come together on a common bill that would embrace essentially the idea of the 60 Senators, who have cosponsored legislation on this matter, would the leadership be able to afford us the opportunity to enact that legislation in a very limited period of time—I should think a limit of 1 hour would be sufficient—if we could come to that piece of legislation by Monday, no later than Monday of this week? Would the distinguished majority leader then give consideration, after having looked at that legislation, to whether or not there could not be 1 hour, or whatever time the majority leader might wish, perhaps not to exceed 2 hours, for such legislation to be offered and considered by the Senate and voted up or down? It would not be our intention to bring it up unless we could come together on legislation that would be overwhelmingly adopted.

Mr. MANSFIELD. That is a most interesting suggestion, but the Senator from Montana now speaking would have to object. He would do so because it would be impossible to get unanimous consent, in his opinion. He would do so because time then does become a factor, and it would be impossible, in my opinion, to get the type of time limitation which the distinguished Senator has indicated.

The time factor has nothing to do with the decision made by the majority leader on yesterday, and what the

majority leader announced as his intention, but going into next Monday, it does become a time factor of significance, and I would be less than frank if I did not express my feelings on that subject, even though I feel as strongly, on the part of the Kennedy bill, as the Senator from Illinois feels on his bill, and as do the authors of the aforementioned bill feel.

This is not an easy position for me to be in, because what I am doing is going against my personal feelings, but I am doing it because I think I have certain responsibilities as the majority leader, and while the choice is difficult, the objective is clear and what my duty should be and is and will be likewise is clear.

I think it is in the best interest of the Senate that the proposal made by the Senator from Montana be acceded to with as much dispatch as possible, because, on the basis of the proposal made, what the Senate is doing is, in effect, giving the office of special independent prosecutor, Mr. Jaworski, and the staff which he inherited and kept, a vote of confidence. It is an indication that we are satisfied—and I certainly am—with the way Mr. Jaworski has been conducting his office and with the activities of the staff assigned to him.

I am satisfied he is getting a great deal more in the way of cooperation from the executive branch of the Government than did his predecessor, and I am satisfied that there will be no repetition of what happened to Mr. Cox on a Saturday night in October; and I make that statement and give that assurance on the basis of S. 2611 and S. 2642, both of which are now on the Senate Calendar, will remain on the Senate Calendar, and will be brought up in case an unusual circumstance comes into existence.

So, I would also state that as far as the Judiciary Committee was concerned—and I am repeating what I said yesterday—both of these bills, S. 2611 and S. 2642, came out of the Judiciary Committee without recommendation. Therefore, it becomes in the circumstances a matter for the full Senate to decide. And in so deciding, the leadership, which is usually, if not always, accorded the privilege of scheduling legislation, has in its collective judgment made the decision which was announced to the Senate yesterday and which is being discussed at the present time.

So, I hope that with that statement my feelings on this matter are clear.

Mr. President, I am prepared at this time to yield to the distinguished Senator from Ohio.

Mr. TAFT. Mr. President, I thank the distinguished majority leader for yielding to me.

I have listened with a great deal of interest to the discussion this morning. I think that we all agree that the independence of the Special Prosecutor is vital.

I would like to point out one problem that I see which arises from the closed action of the leadership on both sides. I may say, for reasons I will discuss, that I do not expect to object to that action at this point. However, the action that is being taken with these two bills, S. 2611 and S. 2642, in holding them on the calendar is in effect holding the sword of Damocles poised over the heads of the Special Prosecutor and the Attorney General, because basically, the responsibility for his removal and for his replacement would unfortunately be in the hands of the Attorney General.

When we talk about the Special Prosecutor, we are talking about a Special Prosecutor who would be under the executive branch and also the legislative branch.

However, I am talking about a Special Prosecutor who holds office with these pieces of legislation held over his head. He would be in the unfortunate position of being handicapped if he wanted to do something that the Senate did not want him to do.

I want to discuss later why I will go along at this time. However, I do not think we should ignore the fact that an independent Special Prosecutor could be just as much threatened in his independence by a threat that may exist under the threat of legislative action taken by the legislative branch as by the executive branch.

Mr. MANSFIELD. Mr. President, if the Senator will yield, may I say that my interpretation is exactly the opposite of that of the distinguished Senator from Ohio. This is not a sword of Damocles hanging over the head of the Attorney General, be he acting or otherwise, or the independent Special Prosecutor, either. As a matter of fact, it is an assurance of interest, and it is insurance that his independence will be maintained.

Mr. TAFT. So long as he does what the Senate wants him to do.

Mr. MANSFIELD. No.

Mr. TAFT. The minute that he does something that the Senate does not want, we can call up the legislation and take action on appointing a Special Prosecutor.

Mr. MANSFIELD. Not the Senate, but the executive branch. That is what happened before. The Senate has not interferred.

Mr. TAFT. But the Senate could.

Mr. MANSFIELD. The Senate has not interferred in any way, shape, or form with the Special Prosecutor. And it would not and should not.

Mr. TAFT. Mr. President, the Senate would have the power and the immediate power to appoint a Special Prosecutor. I want to find out because the time may come when the Special Prosecutor may make a decision and act in a manner which the Senate does not like, and the Senate may act on this legislation.

I do not say it is wrong. I think that the Special Prosecutor has conducted himself in an admirable way. However, I do not want to see hanging over his head, during the performance of his job as Special Prosecutor, legislation which would change the entire nature of his office.

Mr. MANSFIELD. The Senator and I disagree, because my interpretation is entirely opposite to that of the distinguished Senator from Ohio.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The hour of 11:45 a.m. having arrived, the morning hour has ended, and the Chair lays before the Senate the unfinished business which the clerk will report.

The legislative clerk read as follows:

Calendar No. 388 (S. 1868) a bill 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.

SPECIAL PROSECUTOR

Mr. MANSFIELD. Mr. President, may I say that I will never be a party to this Senate or any Senate of which I am a Member taking away the independence of an independent Special Prosecutor just because he does certain things. I do not agree with that. If he is going to be independent, he ought to be independent of both the legislative and the executive branch. And as far as I am concerned, he will be, and this will be assurance that he will be.

Mr. TAFT. Mr. President, I wonder if the majority leader would consider asking unanimous consent for additional time in the morning hour so that I could complete my remarks.

Mr. MANSFIELD. Yes, indeed. It was my intention to do so. However, first I would like to make a unanimous-consent request that the pending business be laid aside temporarily and that the Senate turn to the consideration of the supplemental appropriations bill, which the Senate on yesterday agreed could be taken up at an appropriate time.

Whether or not the request is granted, it is my intention to ask for at least an hour, or more if need be, so that this colloquy can be continued.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. So, with that in mind, I ask unanimous consent at this time that the pending business be laid aside temporarily and that the supplemental appropriations bill be laid before the Senate.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

Calendar No. 590 (H.R. 11576) a bill making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

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

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

SPECIAL PROSECUTOR

Mr. BAYH. Mr. President, I have been thinking about the independent prosecutor and thus may not have kept pace step by step with the substance of the legislation that is before the Senate in the last couple of minutes.

Would the Chair please explain where we are? When the clock struck 11:45 a.m., the unfinished business, the Rhodesian chrome bill, was made the pending business. Then the distinguished majority leader asked unanimous consent that we proceed to the consideration of the supplemental appropriations bill.

The Senator from Indiana was on the floor trying to deal with that particular request. Where are we now, or where am I now?

The PRESIDING OFFICER. The Senator asked unanimous consent that the Senate proceed to the consideration of the supplemental appropriations bill. And that request is subject to objection at this time.

Mr. BAYH. Then it is parliamentarily appropriate to interpose an objection at this moment?

The PRESIDING OFFICER. It is parliamentarily appropriate.

Mr. BAYH. Mr. President, with all due respect to our majority leader, I do interpose at least a temporary objection.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, it really makes no difference. All I was trying to do was to lay before the Senate a piece of legislation which the Senate had agreed to consider.

As I indicated previously, it was my intention, regardless of the outcome of the request, to ask unanimous consent for an extension of time in the morning hour to continue this colloquy on the matter that we have been discussing during the morning hour.

The PRESIDING OFFICER. Does the Senator make that unanimous-consent request?

Mr. MANSFIELD I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. CRANSTON. Mr. President, I reserve the right to object.

Mr. BAYH. Mr. President, I have no objection to that, I want to say to my distinguished majority leader.

The PRESIDING OFFICER Is there objection to the request of the Senator from Montana?

Mr. CRANSTON. Mr. President, reserving the right to object, I want it understood that if we have not completed that discussion and there are those who want to discuss it further, there will be a further time allowed at the end of the hour.

Mr. MANSFIELD. Ample opportunity will be afforded.

Mr. BAYH. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER The Senator will state it.

Mr. BAYH. Does the acceptance of this unanimous-consent request preclude any Member of this body from moving that the Senate proceed to the final disposition of the independent prosecutor bill pursuant to the unanimous-consent request?

The PRESIDING OFFICER. The Senator may move to proceed to the consideration of the bill.

Mr. MANSFIELD. Mr. President——

Mr. BAYH. In other words, a motion relative to the disposition of the independent prosecutor matter is appropriate and parliamentarily sound under the pending unanimous-consent request?

The PRESIDING OFFICER. The motion to take up that bill would be in order at any time.

Mr. MANSFIELD. Mr. President, the Senator is perfectly within his rights in raising the question, and the Chair answered the question correctly. But I would point out, in a modest way that the calling up of legislation has been, since time immemorial in the Senate, the prerogative of the leadership, and especially the majority leader.

Mr. BAYH. Mr. President, would——

Mr. MANSFIELD. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I would like to yield, for just 1 minute, to the Senator from Illinois, to make a brief comment on this independence question I just raised.

Mr. PERCY. I thank the Senator, because it will be necessary for the Senator from Illinois to go immediately for a markup to the Government Operations Committee, but I would like to comment on the majority leader's reference to an insurance policy.

An insurance policy is one thing if it has been executed, but what we are talking about is an insurance policy that has not been executed. If the house burns down or a person dies, the insurance is not paid out unless it has been executed, and what we are trying to accomplish is not just to have the policy over here in principle but not executed, but to bring us together in such a way that we really agree on the guidelines and rules so that it is unmistakably clear as to what will happen.

I have a feeling that under the conditions now set up by the majority leader, where some of the sponsors of the three bills could not seem to get together before, it may now be possible, rather than see all of this, after our months and months of work, go down the drain. It is possible that all of these forces could be brought together in a relatively short period of time and a piece of legislation brought forward that we could all agree upon.

With that comment, I yield back to and thank my distinguished colleague from Ohio.

Mr. MANSFIELD. Mr. President, if the Senator will allow me to yield on my time, I can only repeat the arguments I have made before, that this is assurance or insurance for Mr. Jaworski and the staff he has working for him as long as it is on the calendar. It is not, I repeat, it is not a sort of denigration. Quite the contrary.

Mr. TAFT. I thank the Senator. Let me just comment with regard to that point. While I certainly am reassured by the distinguished majority leader's point that as long as he is majority leader, there will always be this legislation pending in a way that will assure the independence and not interfere with the independence of the Special Prosecutor, I would point out, however, in the realities of the situation, that while I am sure the majority leader would stand by that assurance that has been made this morning, things can change and conditions can change, just as conditions have changed under existing circumstances, as the majority leader indicated this morning, when he stated that, in taking the steps he was taking, the majority leader was not necessarily following his personal predilections.

I can understand that. I think we have to look at the realities of the situation. I think it is vital that the Independent Prosecutor be truly independent, and we have to look at the question of what can make him independent.

The basic question, I think, is the removal power, and the removal power we have discussed a great deal in connection with these pieces of legislation insofar as the executive branch is concerned. We have not discussed it so far as the legislative branch is concerned.

The pendency of this legislation means there is at least the possibility that the Senate, or the House of Representatives, if it is following the same course, which it appears to be doing, is going to be retaining consideration on a very active basis of something that would give a power of removal.

I can understand the problem of the leadership, and as I say, I shall not object because I can sympathize with it. The reason I shall not object is because I see some dangers in this legislation which made me take the interest in it which I took in preparing the bill the committee has reported out, appearing before the committee, and submitting a lengthy legal brief.

We did have a reaction, and I think a considerable overreaction, to the Saturday night massacre situation. I can understand Congress reacting immediately, and a majority of my colleagues immediately agreed to sponsor a bill which would provide for appointment only by the court and removal only by the court, something I thought was patently unconstitutional, and still do.

I am glad to see that opinions are changing with regard to this. I do not say everyone's opinion is changing, but I think a little consideration and a little time taken to consider what the consequences would be has led to a change of climate with regard to what the Special Prosecutor legislation ought to be, so I am willing to take some more time, and I think it would be a good idea to take a little more time, and perhaps we cannot act as quickly as some would like to act on a compromise measure.

I think it is true that no bill is better than an unconstituitonal bill, so I shall go along with the leadership, but I do not think we have accepted a satisfactory situation in just leaving pending on the calendar the two bills which are there, without any intent, apparently, unless circumstance change and unless there is some indication from the executive branch or from some other cause that this independence is going to be interfered with, of removing the legisla-

tion from the calendar. I do not think it will work. I think we ought to get rid of it one way or the other. If we do not feel we ought to pass a Special Prosecutor bill at this time outlining the powers and spelling out what the appointment and removal circumstances are, we ought to get rid of these bills. We ought to send them back to committee and bury them for good.

I, for one, believe we ought to have a legislative framework within which it will work. I think Congress ought to properly do that. But I hope when we do so, we will consider the very serious consequences of acting in a way that could in any way be challenged under the Constitution.

I think S. 2642 is both constitutional and feasible. It was designed that way, studied that way, and proposed for that reason.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TAFT. Mr. President, I have completed my statement. If the majority leader wishes me to yield, I am delighted to yield at this point.

Mr. MANSFIELD. Mr. President, all I can say is that the Senator from Ohio may recall the biblical character, Lazarus, who rose from the dead. This is not dead; Lazarus will rise as the occasion calls for it.

Mr. TAFT. The reservation of the distinguished majority leader is what disturbs me: "If the situation calls for it." The very fact that those words are used, and the word "satisfactory" was used earlier in the colloquy, leads me to think there is some requirement of a particular type of performance on the part of the Special Prosecutor which will trigger or not trigger this legislation. I do not think that is the proper way for us to proceed. I think we ought to either act or not act with regard to this matter. As I say, the exigency of the moment in trying to wind up the session of the Senate I can understand.

Mr. MANSFIELD. That is not——

Mr. TAFT. I do not want to see hasty action by the Senate on this matter, because I think it is too important to take hasty action, but some action up or down ought to be taken on this issue.

Mr. MANSFIELD. The proposal of the majority leader is not based on the exigencies of the moment. It is not based on the fact that we are approaching a sine die next week. It is based on the realities of the situation as the majority leader sees it, after talking to many of these colleagues on both sides of the aisle. It is a considered decision which I think is in the best interest of all concerned. It certainly does not bury the legislation. It does not in any way hurt or damage the Office of the Independent Prosecutor but, in effect, serves as an assurance and as insurance that the independence which we want that Office to have will be retained.

I now yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I shall not detain the Senate very long. The Senator from Ohio just raised the question of the circumstances under which further action would be triggered. I think he said it would depend on the activities of the Special Prosecutor. I thought we might usefully discuss that for a moment.

Let me say a word, however, about the activities of the Senator from Ohio on this whole proceeding. He has, in many conversations with me, exhibited a deep interest and a profound knowledge of the principles that are in play here. It was an interesting illustration on the continuity of our historical traditions that he had to wrestle with some of the principles laid down by his grandfather in the Myers case. I think he has made a major contribution, as has the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. BAYH), and the Senator from Massachusetts (Mr. KENNEDY).

But, Mr. President, it seems to me that what the majority leader is telling us is that there is a trigger. It is important we understand what that trigger really is. There are various aspects of the bills. There is the question of how to appoint a Special Prosecutor. There is the question of how to remove the Special Prosecutor.

So, the real heart of the question is: What the Special Prosecutor will do? What is his authority? What are his responsibilities?

On the question of how to appoint a Special Prosecutor, there is of course a very wide area of disagreement, but I think that area, in large measure, is covered by the public perception; that is, how is the public going to view this man, and how is the public going to see his appointment as affecting his discretion and his independence?

To some extent, the same is true of the way a man is removed. How will the public view the threat of removal affecting his independence?

But the heart of it is, What is his access to evidence?

What is his right to pursue the judicial process?

What is his ability to carry out the functions that we understand he must discharge if the job is to be done?

I think, as I read what the majority leader is saying, it is in this area, that if there is any tampering, if in this area there is any restriction, if in this area there is any prohibition, then there will be no hesitation in the Senate. Is that right?

Mr. MANSFIELD. The Senator is correct. May I say, the questions which he raised can all be answered in the affirmative up to this time.

Mr. TAFT. Mr. President, I concur completely with what the distinguished Senator has said. Let me point out a few of the other kinds of decisions the Special Prosecutor may well be making on which he may receive criticism from this body, which might trigger legislation hanging over him as we pursue the course that we apparently are going to pursue.

The Cox case, with which the Senator is familiar, of course, completely verified what has long been understood to be the law, and that is on the question of signing indictments or not signing indictments, that the law enforcement officer, the Attorney General, the U.S. district attorneys, and, presumably in this area of activity, therefore the Special Prosecutor, has absolute discretion, not reviewable by anyone, basically, as to whether they decide to sign or not to sign particular indictments.

As to the entire area of the Watergate investigation, too, there is broad discretion, I think automatically to the Special Prosecutor, to decide what particular line of inquiry he will pursue, and will he or will he not be satisfied with a particular disclosure, say in regard to the ITT investigation. I do not think the Senate should tell him or attempt to second-guess the Special Prosecutor on these kinds of decisions.

I concur with the majority leader that we have an outstanding lawyer, that we have an outstanding man in the present position. But I do not necessarily expect to agree with everything he does or every decision that he makes. I do not think that any Senator should. We really should, rather, not expect to agree with every decision, but put him within a framework of independence in which he can move and use such discretion not subject to the pressures from the executive branch, or from Congress in making his decisions.

Mr. MANSFIELD. I have yet to hear a Senator on either side of the aisle second-guess either Mr. Cox while he was in office, or Mr. Jaworski, his successor.

Now I yield to the Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, the distinguished majority leader has taken the floor this morning, as he did yesterday afternoon, in response to many questions from a number of Members of this body dealing with the Special Prosecutor legislation. This particular legislation is of vital importance and consequence to many of my colleagues and to the American people.

I know that this has not been an easy decision for the majority leader to make, as I am familiar with his own deep convictions in relation to the legislation introduced to guarantee the independence of the Special Prosecutor. He is a cosponsor of one of the bills scheduled for consideration. He has been called upon to justify, to those who support various pieces of legislation, the leadership decision not to call up that bill, and I know that decision weighs very heavily on him. He has reached his conclusion reluctantly, but in the interests of this body, and he has justified that decision forcefully and eloquently.

Mr. President, I am willing to support that decision, although I am doing so reluctantly. I am reluctant because I have seen, during the course of our hearings in the Judiciary Committee—and in listening to the distinguished Senators from Illinois, Ohio, and Indiana who have spoken with great conviction and, I think, with a considerable amount of commitment, concern, awareness, and knowledge about these particular problems—that we have a situation in which the overwhelming majority of the Members of this body favor an independent Special Prosecutor. The overwhelming majority of the Members of this body want to permit that independent Special Prosecutor to pursue and investigate all the areas that he feels falls within the juris-

diction accorded him in the presently operative charter and in our proposed legislation.

I think the overwhelming consensus in this body is that the Special Prosecutor should be fired only for gross impropriety, a concept initially established in the guidelines set by the Judiciary Committee and reiterated as recently as one-half hour ago by Senator SAXBE in testimony before the Judiciary Committee. There is an overwhelming sense among Members that the Special Prosecutor should have access to all the evidence of any kind he believes of importance to the development of his case.

There is, however, a difference among the Members of this body on how to create the greatest degree of independence for the Special Prosecutor.

I stand as one of the primary sponsors of S. 2611, along with Senators HART and BAYH. I believe that court appointment of the Special Prosecutor is absolutely essential and in a few moments I will detail my reasons for this conviction. But, while I am completely satisfied as to the constitutionality of our approach providing for court-appointment of the Prosecutor, I recognize that there are other approaches suggested by my good friend from Illinois, who believes that the independence can be preserved by appointment by the President, and by the Senator from Ohio, who thinks that the appointment should be made by the Attorney General.

So we have a substantial division of opinion with regard to this question.

There is general concern among the membership that if we move into these areas, there are some constitutional questions which may be forthcoming. Questions have been raised about the constitutionality of S. 2611; also some very serious questions may be raised, even in the mind of Mr. Jaworski, with passage of any legislation that will permit the President or the Attorney General to appoint a new Special Prosecutor. It is understandable to think that perhaps Mr. Jaworski would feel that with enactment of any of these three approaches, his work in this area is being threatened and his continuity in danger of being interrupted. I do not agree with my colleagues on that matter. I do not agree with those who believe that the passage of S. 2611 would be disruptive. I do not believe that the passage of S. 2611 would throw the whole investigation, or any part of it, into turmoil. I think that during the course of our discussion and debate we have responded to and rebutted those kinds of suggestions. But I understand that some Members of this body continue to feel this way and I respect their views, even though I myself do not subscribe to them.

This Senator is not prepared to go ahead and look for compromises about how we can modify S. 2611, how we can shave the bill down and include various elements of either the Taft proposal or the Stevenson proposal or the Percy proposal, or to try to use any period of time over the next few days or few weeks to try to get a composite of all these proposals and come back here with something that is going to make some sense to a majority of the Members of the Senate. I stand for S. 2611, and I stand for it strongly. I believe that our bill is the best, the most effective, and the soundest constitutional way in which this job could be done. I understand that some of my colleagues disagree with that approach. They feel that if we move ahead and begin the discussion and the debate and begin to carve up these various proposals, the work that is being done by Mr. Jaworski—which has impressed me and which the majority leader accurately described yesterday as responsible and thoroughgoing and comprehensive—may be threatened.

So a judgment has to be made by each of us as to the best way to proceed, given the differing view among my colleagues. I believe the majority leader has given a fair judgment to these particular matters and has arrived at a reasonable leadership decision.

I continue to be strongly committed to S. 2611 and would like to see it passed. I have listened to the various arguments in the course of the hearings and worked with many other Members in the development of our report, which I think is one of the most comprehensive reports that have emerged from the Judiciary Committee, in support of S. 2611.

I know this leadership decision was not made easily, but I think it does preserve for those of us who believe strongly in S. 2611 and in court-appointment of the prosecutor our opportunities to obtain consideration for this legislation in the future, for the reasons which have been fully explored in the course of the debate this morning and which have been pinpointed, I think accurately, by the distinguished Senator from Maryland.

I am hopeful that the Special Prosecutor will continue to persevere and pursue his responsibilities with continuing vigor and independence.

I would hope that Mr. SAXBE, who in the last few hours has given the Judiciary Committee assurances concerning the independence of the Special Prosecutor—that the Independent Special Prosecutor will make the sole decision on the questions of evidence, on the questions of executive privilege, and on the questions of jurisdiction—will be prepared to appear before the Judiciary Committee if he is called upon by the White House, as Mr. Richardson was called to the White House, to intervene on jurisdictional matters. Mr. SAXBE has said that he will talk to the Judiciary Committee and explain to the committee when and if these kinds of issues are raised by the White House. He has indicated to the Judiciary Committee that the hiring and firing of staff will be left completely to the Special Prosecutor, and that he will have independence in every way.

It is true that members of the Judiciary Committee have heard that before. And we have been burned, and burned badly, even with those assurances. A strong case can be made, and I have made it and will continue to do so, that the best way of insuring needed independence is S. 2611. I regret that we will not have the opportunity to move to enactment of this measure.

I want to indicate to the distinguished majority leader that I think he has considered the various questions and issues and has made a responsible judgment. It is a judgment which I will support. The leadership has already indicated that, were there to be the interferences with the duties or jurisdiction or independence of Mr. Jaworski, the Senate would have an opportunity to act promptly and to exercise its will on either S. 2611 or the other proposals. I would hope that at any time when the leadership should call up this measure, we would still continue to have the same type of time agreement that was worked out previously, so that we could be assured of expeditious action.

So I thank the leader. I know it has been a difficult challenge and responsibility, in many respects one of the most difficult he has confronted in the leadership capacity. I will support his decision, but, if we are going to consider this issue, I, as one Senator, would argue, and argue strenuously and vigorously, that we move to the consideration and passage of S. 2611.

Let no one misunderstand the Senate's action today, however. We stand ready to take immediate legislative action at any time, should such action be made necessary by any attempted interference with the duties, jurisdiction, or independence of the Special Prosecutor, or by a failure of the Special Prosecutor himself to pursue his investigation with full vigor.

Perhaps other Senators would want to use the coming days to try to discuss some of the possible middle grounds. I am satisfied, however, after a thorough review, that we cannot compromise on the basic elements of S. 2611. I think the leader understands that this is the view of many Senators who are the principal sponsors of this measure and, because of the unfortunate stalemate we are in, he has reluctantly taken this course.

Mr. MANSFIELD. Mr. President, I thank the Senator from Massachusetts. The time limitation still holds, and will continue to hold.

If the distinguished Senator from California will allow me to yield first to the Republican leader, I shall then yield to him.

Mr. HUGH SCOTT. Mr. President, I realize that it is difficult for the distinguished majority leader to feel compelled—and he does so in all fairness—to displace the bill at this time, in view of the clear sentiment to that effect, I think, on both sides of the aisle.

I have myself been in a position of advocacy when I could have contemplated other alternatives with more equanimity. I think the distinguished Senator from Massachusetts (Mr. KENNEDY) has reacted very responsibly, and I understand the depth of his feeling.

But I do honestly believe that no good case can be served by actions which could have the possible effect of removing a good, just, fearless, and independent man who has gained the confidence

of Congress and the country as a Special Prosecutor.

There is no likelihood that I can foresee of the removal of this Special Prosecutor, because the consequences would far exceed any imaginable result that could be foreseen. So the proposed legislation is more cunctation.

Cunctation is defined as procrastination, delay, or needless passage of time. We do not think anything else could be served in view of the wide differences of opinion, in view of the long delay which would result from the legislative process, and the possible veto and difficulty of overriding the veto, the ambivalence of the position of the Special Prosecutor during the process of legal tactics to determine whether or not he is to continue or someone else is to continue, or the direction under which he is to continue.

I think we are going to have an Attorney General who will follow most faithfully the writ running to the Special Prosecutor who will be very conscientious of the wishes of Congress as to a complete, thorough, and independent investigation. So I do not think we have any where to go on this except to defer it to another day, and, therefore, it remains as a possible recourse should there be any failure in the present procedures, and I do not expect any such failure. I think we are going to see that the truth is known, that the truth, in a very important sense here, is going to make us all free, it is going to free us from our fears, our frustrations, and our anxieties; it is going to free us in strict accordance with the procedure of the democratic system of our Republic, namely through the processes of the courts, through the investigative processes of the legislature, and particularly through the broad writ which the Special Prosecutor has and, as I said, the great confidence which is vested in him.

The important thing is to get on with the whole debilitating problem and get it behind us, get it off the backs of people who still are charged and rightly are charged with the process of government, and let us go on with the other problems that face us from day to day—the problems of the energy crisis, the problems of legislation for those who are in need or lack in proper health care; for those who need housing; for those who need assurances of jobs; for those who need assurances of security and assurance of continued economic security in spite of increases in the cost of living. All of these are very real problems that affect the people very seriously. We need to get on with them and get off the backs of our people in government, and we do it by letting the truth be known, by searching fearlessly for it, seeking its release if it is imprisoned anywhere.

So I support the position taken by the distinguished majority leader, and I am glad to be associated with him in this decision.

Mr. MANSFIELD. Mr. President, I yield to the Senator from California.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CRANSTON. Mr. President, I, too, support reluctantly the decision of the distinguished majority leader and I concur in the views expressed by most Senators of the wisdom of the decision he has recommended to us. I would like to say this about the situation in which we find ourselves.

The desire of the leadership to suspend the consideration of legislation to create an independent special prosecutor highlights the need for Congress—quite apart from the matter of Leon Jaworski and the cases now under investigation—to consider establishing machinery on a permanent basis to institute independent investigations and prosecutions of allegations of wrongdoing by persons who hold high positions of power and trust in the executive branch.

We have learned from our efforts to create an independent special prosecutor that the matter is very complicated, very controversial, and that it involves deep constitutional issues.

We have seen how efforts to establish an ad hoc independent special prosecutor are particularly difficult when undertaken in the context of the politics and personalities of the moment.

We should not compel our country to improvise each time a crisis like Teapot Dome or Watergate develops.

Some ready and reliable way must be found to overcome the built-in conflicts of interest that appear to exist whenever the powerful are asked to investigate themselves.

Too often there has been an appearance that corruption in high places is being swept under the rug. Because of the very nature of the Department of Justice, with the Attorney General so often in recent years a chief campaign or political aide to a President, certain criminal and civil cases always are subject to question as to whether justice really is being done and whether the public interest is well and fully served.

These are serious questions which plague the administration of justice in all democratic and open societies.

We should come to grips with them, and seek solutions.

One possible solution would be to establish machinery for bringing into existence a Special Prosecutor when allegations or actual instances of high official misconduct come to light.

One way to implement this would be to create a permanent commission, independent, and bipartisan, appointed by the President with the advice and consent of the Senate. When certain types of allegations of official misconduct, abuse of public trust or political offenses come to light at a high level, the commission would designate a special prosecutor to investigate and prosecute offenses against the United States arising out of the events and allegations brought to the Commission's notice.

So that we may consider and study this matter further, I shall offer legislation establishing a study task force to consider this fundamental question:

How should the Nation prosecute offenses involving high levels of the executive branch, particularly when the Justice Department—its top officials appointed by and answerable to the White House—is caused upon to investigate itself and/or the White House.

Among the related questions which the study task force should consider would be:

What categories of possible violations of Federal law and other instances of official misconduct should be subject to the jurisdiction of a permanent prosecution machinery?

What would trigger action by that machinery?

Who would have standing to bring allegations before it?

Should there be a permanent prosecutor who serves for an extended term, such as 15 years? After thinking it over, I question whether we want a special prosecutor on hand all the time—busily looking for some high official to prosecute. That is why I presently favor instead creation of a permanent, independent and bipartisan commission empowered under specified and appropriate circumstances to designate a special prosecutor.

Should Congress confirm the prosecutor?

Under what conditions could the prosecutor be removed from office?

What safeguards would be necessary to protect against mischief or abuses by the permanent prosecutor or the permanent commission for appointment of a special prosecutor?

I have no instant answers to any of these questions. I do believe they, along with similar issues, should be studied by a task force consisting of experienced and able persons in the field of administration of justice.

I invite those Senators who have been particularly interested in the current problem, along with all others, to join me in this longer range effort.

I have confidence that we eventually will overcome the crisis of Watergate. Our system of government is strong enough to do that.

But the record of official misconduct during recent years is not good.

The restoration of public confidence in the administration of justice, and in our institutions responsible for order and justice under law, is vitally important to the future of our Nation. We must seek to establish some independent institution which would guarantee to the public that those in positions of high trust will not abuse that trust.

Mr. MANSFIELD. Mr. President, if the Senator from Indiana will allow me, I would like to yield to the Senator from Alabama and then the Senator from Indiana will have more time to speak in continuity.

Mr. BAYH. Very well.

Mr. ALLEN. I thank the Senator.

Mr. President, the Senator from Alabama is not one of the cosponsors of these Special Prosecutor bills and he probably is one of the few Members of the Senate who is not committed one way or the other with respect to these bills.

He does approve the idea of there being an independent, Special Prosecutor, and he believes that is exactly what we have now.

So the junior Senator from Alabama wants to applaud the request and action of the distinguished majority leader in asking that these bills will not come up

for consideration at this time, while at the same time holding them on the calendar under a time limitation that would guarantee quick action by the Senate in the event it is necessary to take action on this bill or on these bills.

Mr. President, the junior Senator from Alabama has not always voted in every instance in similar fashion as the distinguished majority leader, but his admiration and respect for the distinguished majority leader is boundless, and he applauds the action that he has taken.

It is far too seldom, in the opinion of the Senator from Alabama, that we see nonpolitical positions, statesmanlike positions such as the distinguished majority leader has taken in this instance. He has not taken the easy way out. He has taken the hard way out, because I do feel that the people of this country want to be assured that we do have an independent Special Prosecutor. But the distinguished majority leader, in asking that these bills not be considered at this time, has certainly taken a statesmanlike position, and the Senator from Alabama gives him his wholehearted support in that request.

It is hoped that these matters will not be pushed at this time, but that we proceed with the business of the Senate and the business of the Nation.

So, as long as we have an independent Special Prosecutor—and that is what we have now—what more could we want?

As long as that situation exists, why upset the applecart? Why take action that might reflect upon the role and the work of the independent Special Prosecutor that we now have? He is independent, as the Senator from Alabama sees it, and as long as he is exercising that independence, as long as he is acting in the manner in which he is now acting, I see very little reason to complain.

So I applaud and appreciate the action that the majority leader has taken in this instance, and I pledge him my wholehearted support.

Mr. MANSFIELD. I thank the distinguished Senator.

Mr. President, I yield to the distinguished Senator from Indiana (Mr. BAYH) and ask unanimous consent that the time be extended beyond the hour for as long as the distinguished Senator wants to speak.

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me 30 seconds?

Mr. BAYH. Mr. President, I am glad to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I want to join the Senator from Alabama in expressing complete support for the position taken by the majority leader.

I thank the Senator from Indiana for yielding.

Mr. BAYH. Mr. President, I appreciate the courtesy of our distinguished majority leader in making it possible for the Senator from Indiana to fully express himself on this matter.

I have said to our leader personally, and I would like to say for the record: I have always had and will have the greatest respect for him as the leader and a Member of this body. Beyond our professional responsibilities which throw us together and give us the privilege of serving in the Senate, I consider him a friend whose value judgments I find extremely helpful.

Because of this feeling, because of my desire to follow his leadership, I find myself in a very uncomfortable position, in which I feel obliged, in fulfilling my responsibility to do what I as one Senator thinks is correct, and to oppose the position which he, as the leader, feels is correct for the Senate.

In opposing his position, I in no way suggest that our responsibilities are the same. His is a broader responsibility to try to get the work of the Senate consummated, but I am sure he would be the first to suggest that each of us has his own individual responsibility to do what we think is right.

I feel that the leader is motivated, as he always is, by the best of intentions and the finest of motives; but I must say, in the light of everything that has happened over the past several months or few weeks, with all respect to my friend and my leader, I feel his decision is a mistake.

We have all gone through the trauma of Watergate and are familiar with it. There is no need for the Senator from Indiana to go through the horrible details of past transgressions or go into any lengthy discussion of the impact this has had on the people of this country.

May I say, before proceeding further, I do not know any more than the average citizen about what really happened with what we now call Watergate. I hope it is all going to come out in the wash ultimately. Some people are going to go to jail. Some people are going to be exonerated. What the impact of this whole mess is going to be on certain public officials is unknown to me. But if I am any judge at all of what the people I represent feel, or to a lesser degree what the people of this country feel, I think the most critical long-range damage that Watergate has done is its impact on the people's respect for the governmental process, on politicians and politics irrespective of political labels, on traditional governmental institutions that usually have worked pretty well, but which now enjoy little confidence from the people.

I have seen all sorts of figures on this. One I saw said that people gave the Senate of the United States a 30-percent confidence rating. They gave the President a 19-percent confidence rating. They gave the garbage collectors of the country a 50-percent confidence rating. Without looking at polls, I think most of us who read our mail—and that encompasses all of us—understand that there are a lot of people who say, "A plague on all your houses. We can't trust anybody."

I think that feeling increases our responsibility to take whatever steps we can to extricate ourselves from this quagmire. It is like being in a big pit of quicksand. No one can wave a wand and extricate us from the events of the past few months or years. But I feel that we have the responsibility to do what each of us can, step by step, to get out of the quicksand.

I have felt, and still feel very strongly, that independent prosecutor legislation, establishing believable, fail-safe protections as near as human beings can make them fail-safe establishing an office of independent Special Prosecutor is one small step on solid footing, one forceful bit of evidence to the people of the country that we have decided to move.

I suppose that the Senator from Indiana feels particularly strongly about this because of the privilege given him by the distinguished majority leader some 11 years ago to serve on the Judiciary Committee. That committee, of course, has dealt with a lot of these matters that are now before the Senate.

My memory is still vivid of Richardson hearings. We are all familiar with the sequence of events which led to the resignation of the previous two Attorneys General. So, Elliot Richardson came before our committee. The Senate almost to a man and the Judiciary Committee realized that this was an opportunity for us to take a step out of the quicksand. And so we asked Elliot Richardson the most penetrating examination and the most excruciating questioning.

I must say that I was extremely proud to see the way in which he handled himself before that committee. He went to some pains to work with many Senators on the committee to establish those independent guidelines under which the Office of Special Prosecutor would be conducted. He put them in the Federal Register so that they would have the force and effect of the law of the land. And then he went about his business of enforcing the commitment he had made to the country and to the Senate.

When the time came when he could no longer fulfill that commitment, he had courage enough to resign rather than to knuckle under.

We went through that period, and most of us were assured that we would not have to worry about less than an adequate, full, impartial investigation of Watergate. We put it out of our minds and put it behind us because we had had so many assurances.

We had had the statement of Mr. Elliot Richardson.

Mr. President, I ask unanimous consent to have the entire statement of Mr. Richardson printed in the RECORD.

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

STATEMENT OF ELLIOT RICHARDSON

I have given him absolute authority to make all decisions bearing upon the prosecution of the Watergate case and related matters. I have instructed him that if he should consider it appropriate, he has the authority to name a special supervising prosecutor for matters arising out of the case.

Whatever may appear to have been the case before, whatever improper activities may yet be discovered in connection with this whole sordid affair, I want the American people, I want you to know beyond the shadow of a doubt that during my terms as President, justice will be pursued fairly, fully, and im-

partially, no matter who is involved. . . . (9 Presidential Documents 434–435.)

Mr. BAYH. Mr. President, in the final analysis when he was asked if it was possible for the President to intervene in the way in which the Office of Special Prosecutor would be handled, he said: "It just will not happen."

We heard the President of the United States say:

I will give him absolute authority to make all decisions. Justice will be pursued fairly, fully, and impartially no matter who is involved.

We were at a committee hearing and we heard the distinguished minority leader—a very honest, reputable man—come straight from the White House and quote the words of the President in which he said:

Now, the President this morning made it clear to me that he will in no way intervene in the selection of the prosecutor nor in the conduct of his office, nor in his final report; that the investigation must proceed without fear or favor to the full and complete truth and toward the final fixing of responsibility through the judicial process . . . We start with the assurances that the President of the United States wishes a complete, total, absolute and utter investigation to the end, to the truth, and to the ultimate consequences. (Richardson Hearings at 46–46.)

Here is a man who is honest and reputable. He told the commitee what he had just been told by the President. We believed it. And Mr. Cox and Mr. Richardson proceeded. And we put Watergate further out of our minds until October 20.

On October 20, the foundation of this country was shaken as it has seldom been shaken before. We were confronted with the President not only going back on his word, but coming just to the brink of putting himself above the law in saying, "I am going to refuse to obey a court order."

Even the strongest supporters of the President were quick to say, "Wait just a minute."

One of the best examples I can cite is the fact that we saw an outpouring of public demand the likes of which I have not seen in my 12 years in the Senate. Telegrams and letters poured into Washington. They were most derogatory with respect to the conduct of the President. The people said that the President should be impeached. As a result, the President changed his mind.

As the majority leader had said much earlier, if we had had an independent Special Prosecutor bill before the Senate at that moment, it would have probably passed by a sizable margin.

We have traditionally in the Senate responded to the wishes of the people. We introduced the bills that were before the Senate. We held hearings, extensive hearings. We had constitutional authorities travel from all over the country and stress their support for the vehicle which is preferred by the Senator from Indiana, S. 2611. That measure is supported by the heads of our most prestigious law schools and by the American Bar Association Board of Governors, who are not known for taking hasty action. S. 2611 measure was unanimously supported.

We had 100 Members of the House and some 60 Members of the Senate on one bill or another.

We responded. However, I am concerned that once again we have sort of adopted the philosophy of the squeaking wheel where when the wheel squeaks we respond, and when it stops squeaking we forget about the imperfections.

With all respect to those who do not feel as strongly about this matter as I, that is exactly where we are now. The Senate is not as concerned, not because the basic, underlying imperfections which shook the country have been perfected. There have been some factual changes. However, the same potential for danger is there. Yet, it is not quite so obvious. And because it is not quite so obvious, we are about to take steps which would prohibit us from keeping the same danger, not from just lurking, not from just being apparent, but from being real.

Some facts have changed. We have had the appointment of a good man as independent prosecutor. We have had the nomination, and I think we shortly will have the confirmation, of another good man as Attorney General.

We have had the special prosecutor pursue with vigor and diligence and with his significant legal skills the conduct of the Watergate investigation, maintaining the staff that had already been developed, requesting from the White House evidence and getting some of it, causing consternation in the White House.

So there are those who, because other business is more pressing, suggest that we can afford to postpone until a later date the ultimate action of passing a truly independent prosecutor bill.

Mr. President, I speak only as one voice in the Senate, but I want this record to show that the facts which exist now are almost identical with the facts that existed 2 months ago. Two months is not a very long period of time, unless it is 2 weeks before adjournment.

Two months ago any of us could have stood where the Senator from Indiana is now standing and said, "A good man is serving as independent prosecutor. A good man is pursuing independently the Watergate case. A good man is demanding evidence from the White House. A good man is causing consternation down at the White House. And a good man is serving as Attorney General."

We could have said then, as we say now, "Independent guidelines are governing him. They are in the Federal Register. They have the effect of law."

Yet we found out, less than 2 months ago, that when one man, the President of the United States, decides to eradicate all of these actions and remove all of those public servants who are doing a good job, he can do so.

I am not about to take this opportunity to examine the reasons why the President changed his mind between the unequivocal statement he made to Senator SCOTT and the unequivocal statement he made on television to the American people, and the actions he took on October 20. Suffice it to say he as President thought he should take the action he did, and there was no qualification, no restraint that could be imposed upon him to prohibit him from taking that action.

So we saw a good man, Archibald Cox, go. We saw a good man, Elliot Richardson, go. And we saw a good man, William Ruckelshaus, go.

So we have had some temporary relief again. We have had, I repeat, some temporary relief. What concerns me, Mr. President, is that we are on a sort of roller coaster. We are up one minute and down the next. It seems to me we ought to try to put this roller coaster at a reasonably even level on the track.

We are on a roller coaster, and each dip goes farther down. The President's Saturday night massacre, we were going down. He announces he is going to release the tapes, we are going up. He announces that two of the tapes do not exist, we are going down. He appoints Jaworski, we are going up. We find out Rose Mary Woods had a little problem with the foot pedal, we are going down.

Mr. President, I just wish that we would take the steps necessary to do what we can to slow down the roller coaster. We are told that it cannot happen again. We are told here this morning by well-intentioned colleagues, some of whom are supporting the bill, who have been avid supporters of the bill, real tigers in putting it together, and men of unquestionable good conscience and motives, "Let's ask this question of Mr. SAXBE. Let's ask that question. Senator BAYH are you going to ask this question?"

Mr. President, nobody in this body can conceive of a question that was not asked of Elliot Richardson, and we got the right answers. And not only did we get the right answers when the questions were asked him, when the time came to stand up and be counted, Elliot Richardson resigned.

But that did not keep this country from being thrown into a kind of cataclysmic chaos the like of which we cannot afford in the future. And I am concerned, really concerned, about where we are headed.

We can get all of the same assurances from SAXBE, and I think he will respond, in the event he is forced to do so, as Elliot Richardson did. But I wonder why it is not possible for us to do a little more self-examination here. Maybe I am so immersed in this issue that I get a little extreme in my judgment, but I just get tired of reading those letters from constitutents. They used to be from a few kids on the campuses who wanted to stop the war in Vietnam. Now they are from a lot broader cross-section of my State. They are saying some very derogatory things about governmental institutions that I hold dear. They are saying some very derogatory things about the Congress of the United States. They are saying some very derogatory things about the Senate, which I love.

They talk, and we have talked. How many of us have not made statements on this floor about the danger of too much power moving down to 1600 Pennsylvania Avenue, and that it is time to reassert ourselves in a whole wide variety of areas? Because of the leadership of our distinguished majority leader and some other Members of this body, we started.

We passed war-powers bill. But that is just a first step. We have to set a record that is a consistent record of taking the steps necessary to reassert to powers of the Congress, of taking the steps necessary to solve some of the problems or prevent some of the problems before they happen.

I do not know how many people have written me saying, "Why don't you do something? Why didn't you do something back then? Won't somebody stand up?"

Perhaps this judgment on the part of some who write is too harsh, because I think most of us here are trying to do something, trying to stand up. But I fear that once in a while we give in too easily, and I feel, with all respect to those who disagree, that this is one of those instances where we are giving in too easily. And we are not only giving in too easily, we are giving in in an area where it seems to me the track record is pretty clear that we have a significant problem.

War-making powers, impoundment of appropriations, those are pretty complicated problems. There is no easy solution, no easy definition of what Congress should do to prohibit the executive branch from doing thus and so. But on this one, Mr. President, we know what the problem is. Anyone knows who can remember for 7 weeks—7 weeks ago last Saturday. We know what the problem is, we know the steps to be taken, we know the objectives. And yet, for reasons that are sincere reasons to those who propose them, we are not taking these steps.

Mr. President, I did not know whether to laugh or cry when I read the editorial yesterday morning in the Washington Post—a newspaper which I think is one of the most conscientious journals in this country. I do not lessen that assessment because they come down on the opposite side of this issue from the Senator from Indiana.

But what really pains was not their objection to an Independent Prosecutor as contained in S. 2611 or any Independent Prosecutor but, as I recall that editorial, what pains them were its closing sentences:

> Congress is known for a certain skill at putting off and putting over what it does not wish to bring to a final vote. Finding ways to do just that in this manner should not strain its inventiveness.

Mr. HOLLINGS. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. HOLLINGS. I wonder whether the Senator would consider the idea, that what has really occurred is a change of circumstances in that there now persists general confidence in the Special Prosecutor. At the time of the "Saturday night massacre," everyone was alarmed. We thought, as did the Senator from Indiana, that legislation was necessary to establish confidence.

However, now that the Special Prosecutor, Mr. Jaworski, a former president of the American Bar Association, has been appointed, he does appear to have independence and he does have integrity. This was the thrust of the Senator's bill.

Could it now be that legislation, rather than establishing confidence after the ensuing weeks and the performance of Mr. Jaworski, will shake confidence?

Specifically, how would I react if I were Mr. Jaworski, knowing that I was operating under the law, and knowing that even the judges who testified with respect to this appointment of the prosecutor had raised legal questions about its constitutionality. Would Mr. Jaworski then say, "I was doing all right, making my motions and doing my job. I was acting independently, and I did not have that special congressional caveat to worry about. Then along comes detailed congressional legislation that would restrict me or subject me to questions."

So again, turning back to the public—and the Senator from Indiana and I have our interest in the people of America, they wonder whom to have confidence in up here in Washington.

Now the people seem to have someone who is coming through. They have confidence in Mr. Jaworski. Evidently he is one the White House is responding to, and the Justice Department and the judiciary are responding as well. Only generally have the media been critical, but they are responding. Even Members of Congress, Senate and House Members, say they have confidence in Mr. Jaworski.

Then, all of a sudden, in comes a bill that would shake that confidence in Mr. Jaworski.

Is that not the case we have here? We are not trying to avoid the issue—or whatever that critical remark was—we do have the "courage" to move forward. But courage must be tempered with wisdom and commonsense to recognize the facts as they face us. Many times, yes, legislation will give the people confidence, but other times legislation can shake their confidence. I think we face a situation now where we need future senatorial leadership on this point. If the legislation were necessary later on, let us act then. We are not politically maneuvering now but rather, we are really holding it in abeyance. We are saying that for now it is working well under the present law, without the threat of a judicial contest and the other uncertainties of new legislation.

So why say now that what is really needed is special legislation?

Many who have been following us say, "Congress does not believe in him." So it could be that we would lose the gentleman and, rather than creating confidence, we could be shaking it; and, rather than having a Special Prosecutor that the Senator from Indiana and many of the rest of us does have confidence in, we would have to start all over again with a newcomer.

Mr. BAYH. Mr. President, I think it is possible for reasonable men to look at the situation and come to the conclusion the Senator from South Carolina does. I am sure he does that with the purest of motives and from the depth of his conscience.

The Senator from Indiana, however, looks at this same situation and comes to a different conclusion.

As I have said before my colleague was on the floor, I think we have confidence in Mr. Jaworski right now. But by looking at the polls—if they are any indication—we will find that 80 percent of the people think we should have an independent prosecutor.

I am concerned about what we do here. I am sure the Senator from South Carolina has made more than one statement about judges getting involved in the legislative process. So I think we have a responsibility doing what we think is right.

There is nothing in the bill sponsored by the Senator from Indiana, S. 2611, to keep Mr. Jaworski from continuing to operate as an independent prosecutor. In fact, one of the pending bills—and I think a proposed amendment by the Senator from Illinois—would suggest that we put into statutory law the present office and then have another enclosure, such as S. 2611, in the event he is discharged.

The Senator from Indiana does not feel that providing an independent mandate for a man now doing a good job, keeping the same thing from happening to him that happened to Mr. Cox, can be suggested as less than confidence.

It is like the fellow who gives his wife a house and then comes along and later says, "Here is the deed."

I think that is what we are doing.

Mr. President, let me proceed and not detain the Senate any longer than my conscience really would allow, to give a final description of this matter.

There are a number of reasons given to put this matter off, all of which I accept as being advanced for the most appropriate motives. One is, as the distinguished Senator from South Carolina has said, that to the people this legislation would weaken confidence in Mr. Jaworski.

As I have said, Mr. Jaworski is just as strong now as Mr. Cox was 8 weeks ago—no less, no more.

So I think contrary, to my friend from South Carolina, and others who share his view, that instead of weakening Mr. Jaworski, we are strengthening him. We are saying, and everyone else is saying, "Mr. Jaworski is doing a great job. Let us put on the books, in a statute, a mandate to let him continue to do that great job."

Others say that to try, and to fail, or to be less than unanimous, will strengthen the hopes of the President that he might get involved in various adventures because he sees that we do not have the votes necessary to pass this measure.

Mr. President, I hope there is no one here who believes that the White House cannot count. The White House knows where we are on this right now. So I fear that we already have to face up to the fact that the White House knows we do not have the votes, apparently, to pass this.

There are even some who suggest—I doubt if very many will confess it openly—every time some people say to me, "BIRCH, just back off this thing. Don't you know that if we go ahead this way the President might do again what he did with Mr. Cox, and that is all we would need to impeach him?"

Mr. President, you know, if we are going to impeach the President, we will impeach him on what he does. I think for any of us to suggest that we should be a part of this business in order to shore up the chinks in our armor to keep the President from yielding to temptation or being less than responsible.

I listened with a great deal of interest to the statements that have been made. I know that the majority leader and others feel very strongly—they are honest and sincere in their beliefs—that by taking this matter off the calendar and putting it on the shelf, with time limits, that this will be an incentive to insure the independence of Mr. Jaworski and cause the President to be thoughtful before he dabbles once again with that independence. Well, Mr. President, I think we all have gone through some rather frustrating moments in the legislative process before a measure could be passed. We do have time limits. Steps can be taken. It has to pass the House, and the President can veto it. Then there are no time limits. Then we require a two-thirds vote. The distinguished Senator from Alabama has proved that it is difficult to get two-thirds of the U.S. Senate to agree to certain things.

In the meantime, more time passes, just as it has since October 20.

One last general thought: I had hoped that the Senate would move on this measure, not because I thought Mr. Jaworski was not doing a good job at this moment or would continue to do a good job; not because I thought the President was conspiring to find ways to remove him, as he did in fact remove Mr. Cox. I do not know if the President has that in mind at this moment. But I looked upon this legislation, and I still look upon it, as an ounce of prevention, as a step necessary to shore up a rather significant hole in our roof or crack in our foundation before the rains or the earthquakes come.

I do not know why our Nation as a whole, from a governmental standpoint, is not able to come to grips with preventive legislation, instead of always rushing out to try to put out the fire, to still the emergency. That, as I see it, is exactly what we are asking for. We have a number of alternatives.

I feel very strongly, of course, about S. 2611. There are others. We had hoped to have a couple of days to see whether we could find some way to meld these together, but apparently this is not possible. With the differences that exist in the bill, I think it is important to recognize that three-fourths of the provisions in those bills—all of them—are identical.

I am concerned not just with the independent prosecutor, not just with justice, not just with the need to go ahead and see that those who are guilty are convicted, which I think is important from the standpoint of shoring up faith. We have to recognize that if the time comes when the President says to Mr. Jaworski, "No more papers; this has gone too far," and certain defendants, such as Mr. Mitchell and Mr. Stans, have asked for papers that cannot be delivered by the prosecutor because of White House inaction, then in most cases the courts are going to throw those cases right out of court. I do not need to go into any vivid description of what that does to the confidence of our people in their system of justice.

I am concerned not only about conviction; I am concerned about the exoneration of those who are innocent. After he had been discharged, Archibald Cox said, "You know, Senator, I investigated this case or that case, and I did not think the things that had been published or printed in the news media were substantial. I did not think there was a good case, I did not think probable cause existed. I thought that person was not guilty." When Archibald Cox makes that decision, nobody is going to question it.

But even with Leon Jaworski doing the best job he can, I think many people out there have become so cynical that they look at the record and say, "Here is a man who was appointed by the President. He can be fired by the President. Who are you kidding? I read the newspaper, I believe that man is guilty, and there must be some sort of shady deal, or he certainly would have been put on the blocks before now."

Last, Mr. President, I am concerned about making our whole system believable. I do not want the people of this country to believe that it is possible for what I just described to happen. The reason we were relying upon an independent prosecutor appointed by a three-judge court is that many of us were more concerned about the believability of the results than we were about the results themselves. We did not want the people of the country to believe that a Prosecutor was operating who could be hired and fired by the President. Just as strongly, we in Congress felt that we did not want that Prosecutor out there responsible to Congress, controlled by the Democrats, hired and fired by the Democrats; because we knew that some people would say, "That is just a vindictive effort to get the Republican President."

That is why we chose the vehicle of the courts. Whether it is that vehicle or another, I think the most important reason we need to proceed to enact statutory legislation now is to make the outcome of the Watergate matter believable, to give that prosecutor the authority, in fact and in appearance, to follow those tracks wherever they lead, no matter to whose door, and to let justice prevail, so that everybody in the country will be able to believe the result.

That is why the Senator from Indiana feels so strongly that we should proceed and regrets deeply that we are not operating under the unanimous-consent agreement which has been set aside.

Mr. HATHAWAY. Mr. President, I wholeheartedly endorse the remarks of the Senator from Indiana (Mr. BAYH). I want to put myself on record as being strongly opposed to the shelving of consideration of the matter of the appointment of the Special Prosecutor. Although I agree with the opinion of the distinguished majority leader that the present Special Prosecutor and the Attorney General-designate are men of impeccable character and high integrity, I do not feel that this justifies deferring action on this subject.

Most of the arguments on this matter have turned on the question of which of the various proposals assures the prosecutor of the highest degree of independence while at the same time falling within the limitations of the Constitution. For a number of reasons, I feel that the bill introduced by Senators HART and BAYH best fits these standards. But there is a more subtle and, I think, more important reason for the passage of some legislation in this area at the present time.

The point is that despite any assurances, despite any agreements, despite any arrangements, we still have an investigator being asked to investigate the man who hired him and who, in every real sense, is still his boss. Thus stated, the situation just does not "feel" right to me, nor, I suspect, to the American people. And our most important task at this time is to restore the faith of these people in their National Government. Mr. Jaworski can do the most aggressive job possible in this matter and a substantial number of people will not believe it because he is the man handpicked by the President after the inexcusable firing of Archibald Cox. We can spin arguments here for days on end, but the present arrangement simply does not make sense to the ordinary citizen.

I would think the President and his supporters would be strong advocates for moving this legislation as expeditiously as possible. If Mr. Jaworski ends up giving the President a clean bill of health, this measure is the best available defense to the inevitable cry of "whitewash". Without this protection, confidence in any result favorable to the President will be limited, at best.

In making decisions on matters such as this, I think it is important to put ourselves in the position of the people who do not know our friend Bill Saxbe and have not had the opportunity to question Leon Jaworski. They can only go on what the situation looks like and how it squares with their everyday experience. It is in this context that I think our failure to act on this measure is so untimely and unfortunate. The confidence of the people in their institutions of government is a fragile thing and yet it is the cement which binds our entire system. This administration has done irreparable damage to this bond between the citizens and their leaders; it behooves us to prevent any further widening of the breach.

Mr. MANSFIELD. Mr. President, first let me say, to wind up this discussion, that I know, personally, how deeply the distinguished Senator from Indiana feels about the resolution which bears his name, with others, S. 2611, and how deeply involved he has been in this whole situation.

I thank him for his consideration. I appreciate his feelings. I am glad he has spoken out. I hope that out of this colloquy today will come the possibility, in the not too distant future, to bring this matter to the floor for consideration.

Mr. McCLELLAN. Mr. President, I had intended to submit my views on the Special Prosecutor bills upon their consideration by the Senate. In view of the action taken today to delay their consider-

ation, I would like to have included in the RECORD the letter I am sending to the desk in order to make my position clear.

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

U.S. SENATE,
Washington, D.C., November 27, 1973.

Mr. and Mrs. VAN WEATHERSBY,
Mutual of New York,
Little Rock, Ark.

DEAR MR. AND MRS. WEATHERSBY: This acknowledges your letter of November 21st.

With regard to a Special Prosecutor for the Watergate cases and other alleged violations of law by members of this Administration, I assume that you know the Senate Judiciary Committee has reported without recommendation two separate bills to the Senate. Within 10 days, the Senate will begin considering these measures.

The principal issue and difference between the two proposals is that of a court-appointed Special Prosecutor and one appointed by the Executive Branch of the Government—either by the President with Senate confirmation or by a court without Senate confirmation. A very grave constitutional question has been raised regarding the proposed court-appointed Special Prosecutor. As you may know, within the last 10 days, two Federal District Judges here in Washington, before whom cases are pending, have stated that a court-appointed Special Prosecutor is unconstitutional; that the responsibility for seeing that the laws are faithfully executed is placed specifically in the Executive Branch of the Government (rather than in the Judiciary) by the Constitution. Thus, if the Congress passes and the President signs into law a measure authorizing the courts to make such an appointment, we definitely incur the risk of later having all the work of a Special Prosecutor—including indictments and convictions which he may secure—vitiated by the Supreme Court. This risk, I think, is too great for us to take.

With respect to a Special Prosecutor appointed by the Executive Branch of the Government—either by the President or the Attorney General—there seems to be no risk of unconstitutionality. Such an appointment, however, could involve some risk—might leave some doubt—as to whether such an appointee would be completely independent and free to discharge his duties without any hindrance or restraint by the Attorney General and the President.

In these circumstances, we have to make a choice. I firmly believe that the court-appointed Special Prosecutor would be unconstitutional, and, therefore, I shall be compelled to vote for a Special Prosecutor appointed by the Executive Branch of the Government—either by the President or the Attorney General.

This is an unfortunate situation, but it can be made more tragic if we follow a course that would ultimately result in obstructing rather than promoting the processes of justice.

I appreciate hearing from you, and with kindest regards, I am

Sincerely yours,

JOHN MCCLELLAN.

SUPPLEMENTAL APPROPRIATIONS, 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent at this time that the pending business be laid aside temporarily and that, in accordance with the agreement reached in the Senate on yesterday, the Senate proceed to the consideration of Calendar No. 590, H.R. 11576.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Arkansas (Mr. MCCLELLAN) will yield briefly, at this time I wish to call up Calendar No. 586, H.R. 3490, which has been cleared all the way around.

Mr. MCCLELLAN. I yield.

REMOVAL OF RESTRICTION ON CHANGE OF SALARY OF FULL-TIME REFEREES IN BANKRUPTCY

The bill (H.R. 3490) to amend section 40b of the Bankruptcy Act (11 U.S.C. 68(b)) to remove the restriction on change of salary of full-time referees was considered, ordered to a third reading, read the third time, and passed.

SUPPLEMENTAL APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

Mr. MCCLELLAN. Mr. President, in the pending measure the committee recommends a grand total of new budget obligational authority amounting to $1,808,925,386, which is an increase of $274,741,500 over the estimate and $375,889,668 over the sum allowed by the House.

The estimates considered by the committee amounted to $1,534,183,886, which sum is $105,393,668 more than the estimates which were considered by the House, totaling $1,428,790,218.

The major increases made by the committee over the budget estimates are found in four chapters of the bill. In chapter III, which covers the appropriations for the Department of the Interior, the committee has increased the budget estimate for the Office of Oil and Gas by $52 million. This addition to the budget request is provided as contingency funding and is subject to the enactment of S. 2589 or similar legislation authorizing State and Federal programs to deal with the energy shortage.

In chapter IV of the bill covering appropriations for the Department of Health, Education, and Welfare the committee has increased the appropriation for social and rehabilitation services by $52,572,000 over the budget estimate, and in the same chapter has provided increases above the estimate for health services delivery amounting to $30,105,000 and for health services planning and development $29,500,000.

In chapter VI of the bill the committee has increased the amount requested for the Corps of Engineers by $23,500,000 for flood control and coastal emergencies and for the Mississippi River and its tributaries.

In chapter VII of the bill, which provides appropriations which are $60,933,000 above the budget estimate in total, the committee has made available for the Economic Development Administration funds totaling $81,500,000 for which no budget estimate had been submitted.

Mr. President, approximately 50 percent of the funds recommended in the bill, totaling $833,648,000 are made available for programs which were not acted upon when the regular appropriation bills were considered because of a lack of legislative authorization. These items include $752,668,000 for social and rehabilitation services of the Department of Health, Education, and Welfare; $49,395,000 for the domestic volunteer programs of ACTION; and $31,585,000 for the traffic and highway safety programs of the Department of Transportation.

Also contained in the pending measure is $40 million to implement title IX of the Older Americans Comprehensive Services amendments of 1973 and $30,105,000 to carry out the provisions of the new maternal and child health legislation.

The sum of $149,673,000 is recommended by the committee for our Federal energy program and the related research and development. Included in this sum is $75,576,000 for the Office of Oil and Gas and $30,200,000 for the Office of Coal Research in the Department of the Interior. For the establishment of the new Federal Energy Office created by Executive Order No. 1174, dated December 4, 1973, the committee recommends an appropriation of $9,360,000, and for the civilian reactor research and development and reactor safety research programs of the Atomic Energy Commission the bill contains an appropriations of $5,800,000.

For the legislative branch, the committee recommends an appropriation of $30,809,085, which includes $20,900,000 for the extension of the New Senate Office Building.

Mr. President, to cover the costs of processing an increasing volume of taxpayers' inquiries and returns, the committee recommends an appropriation of $25 million, and for the U.S. Postal Service, in order to provide for the public service costs for free and reduced-rate mail which will be generated by the increase in postal rates which becomes effective January 5, 1974, the committee recommends an appropriation of $100 million.

For the civil works programs of the Corps of Engineers the committee recommends an appropriation of $132,100,000. This sum includes $17,500,000 to repair completed projects of the Corps of Engineers which were damaged by high water and erosion during recent storms and floods; $100 million to replenish the emergency fund, of which $92 million has been allocated for known emergency requirements in the Mississippi River basin; $1 million for emergency activities at other locations; and $7 million for direct replenishment of the emergency fund.

Mr. President, for the operation, repair, and maintenance of public buildings, the committee recommends in the bill a total of $112,863,000, which sum is $11,283,000 over the House allowance but $8,165,000 below the estimate.

To cover the U.S. share of the cost of the U.N. Mid-East Peace-Keeping Force, the committee recommends an appropriation of $17,337,000. This amount is 29 percent of the first assessment of $60 million which has been levied by the U.N. General Assembly for the estimated costs for 1 year. Also included for international organizations and programs is $900,000 to cover the costs of the U.S. participation in the Middle East Peace Conference, which is scheduled to convene in Geneva on December 18, 1973, and $800,000 for the additional U.S. share of the Continuing Conference on Security and Cooperation in Europe.

For the planning, technical assistance, and research of the Economic Development Administration of the Department of Commerce, the committee recommends an appropriation of $81,500,000, and has also included the following language in the bill for this item:

To be expended for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended: *Provided*, That no restrictions shall be imposed in the authorization, designation, and funding of such new Economic Development Districts which meet the requirements of 42 U.S.C. 3171 as amended.

Finally, Mr. President, for claims and judgments the committee recommends an appropriation of $57,352,301.

I have endeavored to summarize the main items appearing in the measure that is presently pending. For a detailed explanation of each of the items contained in the bill I would suggest that Senators consult the report which is on each desk.

Mr. President, I yield to the distinguished Senator from North Dakota.

Mr. YOUNG. 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. YOUNG. 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. YOUNG. Mr. President, over the last several weeks I have worked closely with the distinguished chairman of the Senate Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), as we have jointly worked together, not only in the development of this bill, but of the defense appropriations bill as well. These have been gruelling weeks for both of us, throughout which the chairman has maintained his high dedication to the defense of our Nation, and the integrity of the budget. I am sure I speak for all the members of the Committee on Appropriations when I commend our chairman for his outstanding leadership on these two important and critical appropriations bills.

Mr. President, as the chairman has indicated, the committee is recommending appropriations of $1,808,925,386 in the supplemental appropriations bill, which is $274,741,500 more than the budget estimate, and $375,889,668 over the amount passed by the House. I will not duplicate the fine presentation made by our chairman, but I would stress a few points.

First of all, some of the major amounts in this bill are items that could not be appropriated for in the regular appropriations acts, because the authorizing legislation was not completed at the time the regular appropriations bill was before the Senate. An outstanding example of this is the $752,668,000 included in the bill to carry out the Vocational Rehabilitation Act of 1973. The committee has increased the amount for the basic State grants, because of the change in the formula in the new law, and the recent revision of the estimates of the capacity of the States, to provide a higher level of matching funds. I am personally gratified by the committee's action with regard to the Heart of America Human Services Center in Rugby, N. Dak.

The committee has also quickly moved to provide the necessary funds to meet the critical energy situation. In addition to the $55 million that was approved by the House, the committee has provided an additional $52 million for the Office of Oil and Gas to establish an energy emergency contingency fund; and the full amount of the request for the new Federal Energy Administration. In a related action the committee added $38,900,000 to the Economic Development Administration to meet the anticipated displacement of workers due to the energy crisis.

On behalf of the minority, I endorse the supplemental appropriations bill to the Senate as a good bill and recommend its immediate adoption.

Mr. PASTORE. Mr. President, the part of the bill that has to do with funding for the Departments of State, Justice, Commerce, the judiciary, and related agencies comes within the jurisdiction of the subcommittee of which I am the chairman. I wish to make a statement on that part of the bill.

Chapter VII of this supplemental recommends a total of $129,895,000 for the Departments of State, Justice, Commerce, the judiciary and related agencies. This sum is $60,933,000 above the budget estimate and $97,308,000 above the House allowance, of which $92,515,000 were contained in supplemental estimates that the House did not consider.

DEPARTMENT OF STATE

For the Department of State the committee recommends a total of $19,037,000, which was not considered by the House. This amount is $8,520,000 under the budget estimate.

For "Salaries and expenses—General administration," the committee heard a series of some 15 miscellaneous requests for $7 million, of which the committee recommends disapproval due to lack of authorization.

For "Acquisition, operation, and maintenance of buildings abroad" the supplemental estimate was $1,520,000, which the committee recommends disaproval of due to lack of authorization.

Under "Contributions to international organizations," the committee recommends the supplemental estimate of $17,337,000, even though this request was not authorized. This is the U.S. assessment by the U.N. for the Middle East peacekeeping force.

For "International conferences and contingencies" the committee recommends the supplemental estimate of $1,700,000. This consists of two items:

First, $800,000 for this Nation's share of the Continuing Conference on Security and Cooperation in Europe.

Second, $900,000 for the cost of U.S. participation in the Mideast Peace Conference.

DEPARTMENT OF JUSTICE

For the Department of Justice the committee recommends a total of $13,800,000. This sum is $871,000 below the budget estimate and $500,000 above the House allowance.

"Salaries and expenses, general administration." The committee recommends the House allowance of $600,000 to provide funds to enable the Board of Parole 44 additional positions needed for their regionalization plan.

"Salaries and expenses, U.S. attorneys and marshals." The committee recommends $2,100,000 to provide funds necessary to meet a promotion plan approved by the Civil Service Commission and for security equipment for Federal courtrooms.

"Salaries and expenses, community relations service." The committee recommends $500,000, the supplemental estimate, which will provide funds to pay for on-board personnel through June 30, 1974.

"Salaries and expenses, Immigration and Naturalization Service." The committee recommends the supplemental estimate of $3,600,000, which provides for 300 new positions, automotive equipment, and other miscellaneous supportive costs.

"Salaries and expenses, Bureau of Prisons." The committee recommends $7 million, which was the House allowance. This sum will allow the Bureau to accept and operate the health center at Lexington, Ky., effective January 1, 1974.

It further provides for other increased costs due to its inability to obtain surplus commodities and a larger prison population.

DEPARTMENT OF COMMERCE

For the Department of Commerce the committee recommends a total of $96,381,000. This sum is $80,919,000 over the budget estimate. The amount approved is $77,641,000 above the House allowance of which $75,150,000 was not considered by the House.

"EDA—Planning, Technical Assistance and Research"—$81,500,000 was recommended by the committee for public works grants and loans for construction and expansion of public works projects that offer substantial employment potential. The committee feels this additional funding is of particular importance at this time because of the growing unemployment problem attributed to the energy crisis.

"Salaries and Expenses, Domestic and International Business Administration." The committee recommends $2,100,000,

which will enable the Department to, first, expand its Commercial Office in Moscow; second, monitor its short supply export control program; and third, allow funds for increased costs overseas.

"Participation in U.S. Expositions (Arctic Winter Games)." The committee recommends $150,000 for the United States' share of administering the Arctic winter games to be held in Anchorage in March 1974.

"Salaries and Expenses, United States Travel Service." The committee recommends the supplemental estimate of $2,344,000, which sum would permit the Travel Service to develop low-cost tour packages with wholesalers abroad.

"National Oceanic and Atmospheric Administration." The committee recommends the House allowance of $10,287,000, which will provide for, first, disaster aid for shellfish resources to five States; and second, replacement of the ITOS satellite which failed on launch.

THE JUDICIARY

For the Judiciary the committee recommends $422,000 for renovating and remodeling the cafeteria located in the Supreme Court Building. The recommendation is the supplemental estimate and the House allowance.

RELATED AGENCIES

For the related agencies funded under this chapter the committee recommends $255,000. This sum is $10,595,000 under the budget estimate and $130,000 over the House allowance.

"Salaries and Expenses, Foreign Claims Settlement Commission." The committee recommends the supplemental estimate of $105,000 to provide additional staff needed to process an unexpectedly large number of Micronesian claims from the Trust Territory.

"Board for International Radio Broadcasting." For the Board the committee recommends the sum of $150,000 to finance operating expenses for the second half of this fiscal year.

"International Radio Broadcasting Activities." The committee recommends disapproval of the supplemental estimate of $4,970,000 at this time. We suggest that the agency first take steps in initiating the consolidation of the two radios involved from available funds before requesting a supplemental appropriation.

"USIA—Special International Exhibitions." The committee recommends the disapproval of this nonauthorized item of $5,600,000 due to the indefiniteness of the opening date and existing energy problems.

I am perfectly willing to answer any question by any Senator on any one of these subjects.

Mr. BIBLE. Mr. President, I serve as chairman of the Subcommittee on Interior and Related Agencies on the appropriation bill which is before us today, namely, the supplemental appropriation bill, which is the pending business.

CHAPTER III—INTERIOR AND RELATED AGENCIES

The Interior and Related Agencies Chapter contains mostly energy supplementals, Mr. President. We are recommending a total of $163,923,000 in new budget authority. That is an increase of $65,045,000 over the budget and $75,792,000 over the House allowance.

CONTINGENCY FUND

Most of this increase—$52 million—is for a contingency fund for the Office of Petroleum Allocation. This is the new agency charged with administering current mandatory and voluntary fuel allocations. Pending legislation could well enlarge its responsibilities, and this fund is to be appropriated contingent upon enactment of that legislation. Further, the committee report requires the Department to obtain House and Senate Appropriations Committee approval before utilizing any of the fund.

Such things as gasoline rationing and State assistance may become necessary in the near future, and this fund would be available for those contingencies.

OTHER INCREASES

If we disregard this contingency fund, the Interior portion is $13,045,000 over the budget and $23,792,000 over the House. And most of the increase over the House is made up of late-arriving budget estimates that were not considered by that body.

The other major increases in the budget are as follows:

Bureau of Land Management—$1 million for range fire rehabilitation; $350,000 for coal leasing; and $500,000 for staff housing in remote areas of Alaska.

Bureau of Indian Affairs—a total $3,457,000 over the budget Indian college scholarships—Montoya, and four needed construction items.

Trust Territory of the Pacific—$1,860,000 for increased cost of bridge construction and purchase of school buses.

Bureau of Mines—$2 million to complete most of the construction now underway on the Beckley Mine Health and Safety Academy.

Office of Coal Research—$2 million to accelerate research on MHD.

Offices of the Secretary and Solicitor—$500,000 for more legal staff to reduce the mounting caseload of appeals from coal mine health and safety penalties.

Forest Service—$1,850,000 mostly for salvage of timber destroyed by the tussock moth and for research on controlling this destructive insect.

BUDGET REDUCTIONS

Somewhat offsetting these increases are recommended reductions amounting to almost $500,000. These are from relatively small savings in several of the agencies that have little effect on their ongoing programs.

LANGUAGE IN THE BILL

We have recommended considerable language in the bill. The main additions relate to a proposed advance from the Alaska Native Fund; a ban on the use of any appropriated funds to close down the Roswell, N. Mex., desalting facility; and retention of language carried in the regular 1974 appropriation that prohibits changes in regional boundaries of the Forest Service and forbids the export of logs cut from Federal timberlands. And, of course, we have the usual contingency language for any programs for which authorizing legislation has not yet been enacted.

If any Senator has a question on chapter 3 at this time, or if a Senator wishes to ask a question later, I shall be glad to remain for the purpose of attempting to answer those questions.

I yield the floor.

Mr. McCLELLAN. 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. PASTORE. 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. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that the bill as thus amended be regarded, for the purpose of amendment, as original text, provided that no point of order shall have been considered to have been waived by reason of agreement to this request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 1, in line 3, after the comma, insert "and shall be made available for expenditure except as specifically provided by law,".

On page 2, beginning with line 3, insert:

AGRICULTURAL RESEARCH SERVICE

For an additional amount for the "Agricultural Research Service", $500,000.

On page 2, in line 8, strike out "$1,000,000" and insert in lieu thereof "$1,628,000".

On page 3, beginning with line 1, insert:

VETERANS' ADMINISTRATION

ADMINISTRATIVE PROVISIONS

SEC. 201. No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act.

On page 3, in line 15, strike out "$8,150,000" and insert in lieu thereof "$8,500,000."

On page 3, beginning with line 16, insert:

CONSTRUCTION AND MAINTENANCE

For an additional amount for "Construction and Maintenance", $500,000.

BUREAU OF INDIAN AFFAIRS

EDUCATION AND WELFARE SERVICES

For an additional amount for "Education and Welfare Services", $2,240,000.

RESOURCES MANAGEMENT

For an additional amount for "Resources Management", $197,000.

CONSTRUCTION

For an additional amount for "Construction", $1,020,000, to remain available until expended: *Provided*, That $343,000 shall be available to assist the Pyramid Lake Paiute Tribe of Indians in the construction of a fish hatchery and related facilities for the restoration of the Pyramid Lake fishery pur-

suant to the Washoe Act (43 U.S.C. 614): *Provided further*, That $320,000 shall be available to assist the Wind River Education Association in the construction of facilities at the Ethete, Wyoming, High School: *Provided further*, That $2,700,000 of the amount appropriated under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1974, shall be available for assistance to the Ramah Navajo School Board, Incorporated, New Mexico, for the construction of school facilities.

ALASKA NATIVE FUND

In addition to any advances heretofore authorized to be made from the Alaska Native Fund, an additional $1,000,000 shall be available during the current fiscal year and prior to the first regular distribution pursuant to section 6 of the Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 82–203), for distribution by the Secretary of the Interior among the Regional Corporations established pursuant to section 7 of said Act, which the Secretary shall determine to be necessary for the organization of such Regional Corporation and the Village Corporations within such region, and to identify land for such Corporations pursuant to said Act, and to repay loans and other obligations incurred prior to May 27, 1972, for such purposes: *Provided*, That such advances shall not be subject to the provisions of section 7(j) of said Act but shall be charged to and accounted for by such Regional and Village Corporations in computing the distributions pursuant to section 7(j) required after the first regular receipt of moneys from the Alaska Native Fund under section 6 of said Act: *Provided further*, That no part of the money so advanced shall be used for the organization of a Village Corporation that had less than twenty-five Native residents living within such village according to the 1970 census.

On page 5, in line 21, strike out "$8,410,000" and insert in lieu thereof "$10,110,000".

On page 6, in line 4, strike out "$4,170,000" and insert in lieu thereof "$6,170,000".

On page 6, in line 8, strike out "$26,100,000" and insert "$30,200,000, to remain available until expended".

On page 6, line 14, strike out "$21,145,000" and insert:

$75,576,000: *Provided*, That $52,000,000 of the funds made available in this paragraph shall be set aside as a contingency reserve and shall be available for obligation only upon the enactment into law of S. 2589, Ninety-third Congress, or similar legislation.

On page 6, in line 22, strike out "$500,000" and insert in lieu thereof "$450,000".

On page 6, beginning with line 23, insert:

NATIONAL PARK SERVICE

PLANNING AND CONSTRUCTION

For an additional amount for "Planning and Construction", $12,000, to remain available until expended: *Provided*, That this amount shall not be available for obligation except upon the enactment into law of legislation authorizing the addition of the names of the States of Alaska and Hawaii to the list of States inscribed upon the walls of the Lincoln National Memorial.

OFFICE OF SALINE WATER

SALARIES AND EXPENSES

None of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriation Act, 1974, shall be used to close or deactivate the Roswell, New Mexico, test facility.

On page 7, in line 15, strike out "$8,595,000" and insert in lieu thereof "$9,445,000".

On page 7, in line 18, strike out "$400,000" and insert in lieu thereof "$543,000".

On page 7, beginning with line 19, insert:

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $999,000.

On page 8, at the end of line 6, strike out "$8,590,000" and insert:

$8,550,000; and for "Forest research", $240,000: *Provided*, That none of the funds made available in this paragraph shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and national forest system administration of the Forest Service, Department of Agriculture, without the consent of the Committees on Appropriations of the United States Senate and House of Representatives and the Committee on Agriculture and Forestry of the United States Senate and the Committee on Agriculture of the House of Representatives.

On page 9, beginning with line 1, insert:

HISTORICAL AND MEMORIAL COMMISSIONS

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

SALARIES AND EXPENSES

For expenses to carry out the provisions of the Act of July 4, 1966 (Public Law 89–491), as amended, $7,100,000.

On page 9, beginning with line 13, insert:

MANPOWER ADMINISTRATION

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title IX of the Older Americans Comprehensive Services Amendments of 1973, $40,000,000.

On page 10, in line 7, after the comma, insert "$36,500,000 of which $9,500,000 shall remain available until expended".

On page 10, in line 10, after the comma, strike out "$9,500,000 to remain available until expended." and insert:

And $27,000,000 for carrying out the provisions of Public Law 93–154, of which $7,000,000 shall be derived by transfer from funds previously appropriated for emergency medical services activities.

HEALTH SERVICES DELIVERY

For an additional amount for "Health services delivery", for carrying out section 516 of Public Law 93–53, $30,105,000.

NATIONAL INSTITUTES OF HEALTH

HEALTH MANPOWER

For an additional amount of "Health manpower", $5,000,000 to be available for obligation only upon enactment into law of authorizing legislation.

OFFICE OF EDUCATION

EMERGENCY SCHOOL ASSISTANCE

For an additional amount for "Emergency school assistance", $12,447,000, of which $6,223,500 shall be used to carry out section 708 and $6,223,500 shall be used to carry out section 709 of the Emergency School Aid Act.

On page 11, at the beginning of line 12, strike out "$707,538,000" and insert in lieu thereof "$752,668,000".

On page 11, at the end of line 12, strike out "$609,000,000" and insert in lieu thereof "$650,000,000".

On page 11, at the beginning of line 14, strike out "$6,870,000 shall be for grants under section 110(b)," and insert "$6,000,000 to remain available until expended shall be for facilities construction as authorized by section 301, and".

On page 11, in line 25, strike out "$46,319,000" and insert in lieu thereof "$49,395,000".

On page 12, beginning in line 1, insert:

ADMINISTRATIVE PROVISIONS

IMPOUNDMENT OF APPROPRIATED FUNDS

SEC. 401. Any funds necessary to be appropriated for full obligation of a fiscal year 1973 appropriation determined to have been unlawfully impounded by the executive branch of the United States Government in a civil action filed on or before June 30, 1974, are hereby appropriated out of any money in the Treasury not otherwise appropriated. Such appropriations shall remain available for obligation through the later of the day on which a final judicial determination finding the impoundment legal is made or one year following the day on which the impoundment is found illegal.

CONTINUING APPROPRIATIONS

SEC. 402. For continuing through June 30, 1974, the activities of the Cabinet Committee on Opportunities for Spanish-speaking people and activities under the Manpower Development and Training Act of 1962, as amended, and title I and title IIIB of the Economic Opportunity Act of 1964, as amended, for which provision was made under the joint resolution of July 1, 1972, Public Law 92–334, as amended, and the Supplemental Appropriations Act, 1973, Public Law 92–607, such amounts as may be necessary but at a rate for operations not in excess of the current rate: *Provided*, That the current rate for operations shall be defined as that permitted by such appropriations for fiscal year 1973: *Provided further*, That expenditures made pursuant to this section shall be charged to the applicable appropriation fund, or authorization whenever a bill in which such applicable appropriation fund, or authorization is contained is enacted into law: *Provided further*, That section 103 of Public Law 93–52 shall apply to this appropriation.

On page 13, beginning in line 10, insert:

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SECRETARY

For an additional amount for "Office of the Secretary", $36,480: *Provided*, That effective December 1, 1973, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is increased by $62,415: *Provided further*, That effective July 1, 1974, the allowance for clerical assistance and readjustment of salaries in the Disbursing Office is decreased by $17,100.

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of Sergeant at Arms and Doorkeeper", $46,055: *Provided*, That effective December 1, 1973, the Sergeant at Arms may appoint and fix the compensation of one additional senior programer analyst at not to exceed $22,515 per annum, two additional programer analysts at not to exceed $17,385 per annum each, and two additional mail specialists at not to exceed $10,830 per annum each.

CONTINGENT EXPENSES OF THE SENATE

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", $115,000.

For an additional amount for "Miscellaneous Items", fiscal year 1973, $875,000.

ADMINISTRATIVE PROVISIONS

Section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended and as modified by the order of the President pro tempore of the Senate of October 4, 1973, is amended as follows:

(1) In paragraph (1), strike out "ranging from $18,525 to" and insert in lieu thereof "at not to exceed".

(2) In paragraph (2)(A), strike out "$8,265 to" each place it appears therein and insert in lieu thereof "not to exceed".

(3) In paragraph (2)(B), strike out "$18,240 to", "$14,250 to", and "$8,265 to" and insert in lieu thereof in each place "not to exceed".

On page 16, beginning with line 12, insert:

SENATE OFFICE BUILDINGS

For an additional amount for "Senate Office Buildings", $117,000.

CONSTRUCTION OF AN EXTENSION TO THE NEW SENATE OFFICE BUILDING

For an additional amount for "Construction of an Extension to the New Senate Office Building", including extension of the Senate subway transportation system, construction of additional floor levels on the rear center wing of the Dirksen Office Building, changes to the Dirksen and Russell Office Buildings to provide improved means of circulation to, in, and through those buildings and the extension, and other changes required to properly correlate use of the three buildings, $20,900,000, to remain available until expended.

On page 17, in line 22, strike out "$5,500,000" and insert in lieu thereof "$16,500,000".

On page 18, in line 17, strike out "$7,600,000" and insert in lieu thereof "$14,600,000".

On page 19, beginning in line 2, insert:

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations", to be available without regard to the provision under this heading in the Department of State Appropriation Act, 1973, $17,337,000: *Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For an additional amount for "International conferences and contingencies", $1,700,000, of which $800,000 shall remain available until December 31, 1974, and not to exceed $15,000 may be expended for representation allowances as authorized by section 901 of the Act of August 13, 1946, as amended (22 U.S.C. 1131) and for official entertainment.

On page 20, beginning in line 5, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For an additional amount for "Salaries and Expenses", $500,000.

On page 20, beginning with line 22, insert:

DEVELOPMENT FACILITIES

For additional amount for "Development Facilities", $38,900,000.

On page 21, beginning with line 1, insert:

INDUSTRIAL DEVELOPMENT LOANS AND GUARANTEES

For an additional amount for "Industrial Development Loans and Guarantees", $28,700,000.

On page 20, beginning with line 6, insert: "sistance, and research," $13,900,000, of which $6,500,000, shall be expended for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended: *Provided*, That no restrictions shall be imposed in the authorization, designation, and funding of such new Economic Development Districts which meet the requirements of 42 U.S.C. 3171, as amended."

On page 21, beginning with line 21, insert:

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for Federal participation in the 1974 Arctic Winter Games, as authorized by Public Law 93-144, November 1, 1973, $150,000.

On page 22, beginning with line 1, insert:

UNITED STATES TRAVEL SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,344,000.

On page 22, beginning with line 19, insert:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

The figure of $1,700,000 contained in the paragraph "Equal Employment Opportunity Commission, Salaries and Expenses", in Public Law 93-162, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, is hereby increased to $3,700,000.

FOREIGN CLAIMS SETTLEMENT COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses," $105,000.

INTERNATIONAL RADIO BROADCASTING

On page 23, in line 16, strike out "$30,570,000" and insert "$31,585,000".

On page 23, in line 16, strike out the colon and *"Provided*, That this appropriation shall be available only upon the enactment into law of authorizing legislation by the Ninety-third Congress."

On page 23, in line 24, strike out "$2,000,000" and insert in lieu thereof "$2,525,000".

On page 24, in line 4, strike out "$7,000,000" and insert in lieu thereof "$2,300,000".

On page 24, strike out the comma and "of which not to exceed $100,000 shall be available for payment for rental space in connection with preclearance operations" and insert a colon and *"Provided*, That none of the funds made available under this or any other Act shall be obligated or expended to change the boundaries of the Pembina, North Dakota Customs District (Region IX), without the consent of the Committee on Appropriations of the United States Senate and House of Representatives."

On page 24, in line 15, strike out "$26,800,000" and insert in lieu thereof "$25,000,000".

On page 24, beginning with line 18, insert:

PRESIDENTIAL ELECTION CAMPAIGN FUND

For the Presidential Election Campaign Fund, the amounts designated to such fund by individuals under section 6096 of the Internal Revenue Code of 1954, as of the date of enactment of this Act are hereby appropriated to the Fund.

On page 25, in line 4, strike out "$110,000,000" and insert in lieu thereof "$100,000,000".

On page 25, in line 9, after the word "including" insert "personnel".

On page 25, at the end of line 9, strike out "as authorized by U.S.C. 3109," and insert "without regard to the provisions of law regulating the employment and compensation of persons in the Government service, and not to exceed $1,000 for official entertainment,".

On page 25, at the beginning of line 17, strike out "$1,500,000" and insert:

$1,250,000: *Provided*, That of the amount heretofore and herein appropriated for "Salaries and expenses" for the current fiscal year, the limitation for personal services as authorized by title 5, United States Code, section 3109, at which per diem rates for individuals, as the President may specify, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service is $3,850,000 and the limitation on travel is $100,000: *Provided further*, That the Committees on Appropriations of the Senate and House of Representatives shall be furnished quarterly with a detailed accounting of all expenditures made from this account.

FEDERAL ENERGY OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Office established by Executive Order Numbered 11748, dated December 4, 1973, including hire of passenger motor vehicles, reimbursements to the Emergency Fund of the President for allocations to the Office, and services as authorized by title 5, United States Code, section 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS-18, $9,360,000.

On page 26, in line 20, strike out "$760,000" and insert in lieu thereof "$500,000".

On page 26, in line 25, strike out "$82,400,000" and insert in lieu thereof "$91,000,000".

On page 27, in line 7, strike out "$19,000,000" and insert:

$21,683,000, to remain available until expended.

CONSTRUCTION, PUBLIC BUILDINGS PROJECTS

An amount of $1,290,000 heretofore appropriated under this heading shall be available until expended for construction, pursuant to the Public Buildings Act of 1959, as amended (40 U.S.C. 601-615), of the Post Office, Courthouse, and Federal Office Building, Elkins, West Virginia, in addition to the amount appropriated in the Treasury, Postal Service, and General Government Appropriation Act, 1972, for this project: *Provided*, That this amount may be increased by not to exceed 10 per centum to the extent that savings are effected in other projects.

On page 27, in line 23, after "$7,000,000" insert a comma and "of which $1,000,000 shall remain available until expended".

On page 28, in line 4, strike out "$3,-

000,000" and insert in lieu thereof "$4,000,000".

On page 28, in line 11, strike out "$1,000,000" and insert "$1,200,000".

On page 28, beginning with line 13, insert:

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SEC. 901. No appropriated funds shall be available for the purpose of defraying any expenses (including expenses for the payment of the salary of any person) incurred in connection with the transfer of title of all (or any portion) of the Sand Point Naval Facility, Seattle, Washington, to any person or entity for aviation use unless and until (A) the Administrator of General Services has transferred to the National Oceanic and Atmospheric Administration title to that portion of such facility as has been requested by the National Oceanic and Atmospheric Administration; and (B) the City of Seattle, Washington, and the County of King in the State of Washington, and the State of Washington have each approved a plan for aviation use of a portion of such facility.

On page 29, at the beginning of line 10, insert "Senate Document Number 93–49 and".

On page 29, at the end of line 11, strike out "$47,011,168" and insert in lieu thereof "$57,352,301".

On page 30, at the end of line 9, after "meridian" insert "in the contiguous forty-eight States".

On page 30, beginning with line 13, insert "*Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs."

Mr. McCLELLAN. Mr. President, as a result of certain errors of omission and commission that occurred in the printing of the bill—it was done rather hurriedly overnight—it is necessary that there be certain corrections made in the bill. Therefore, I ask unanimous consent that the following technical amendments to the bill be adopted. I send those amendments to the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk proceeded to state the amendments.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 6, line 4, after "$6,170,000"," insert the following: ", of which $2,000,000 shall remain available until expended".

On page 9, line 2, strike out "Commission", and insert in lieu thereof "Administration".

On page 9, strike out lines 5 and 6, and in lieu thereof insert the following: "December 11, 1973 (Public Law 93–179), $7,100,000."

On page 10, line 17, strike out Public Law 93–53 and insert "the Social Security Act".

On page 21, line 6, insert, before the figure "$13,900,000" the figure "$6,500,000" in roman line type.

On page 21, line 6, the words "assistance and research", now shown in the bill in italicized type be changed to roman type as these words were part of the House-passed bill.

On page 21, line 19, before the figure "$2,100,000 insert the figure "$1,953,000" in line type.

On page 21, line 19, the figure "$2,100,000" should be in bill type italic.

On page 23, line 10, before the figure "$150,000", insert the figure "$125,000" in line type.

On page 23, line 10, the figure "$150,000" should be in bill type italic.

On page 25, after line 15, insert: "For an additional amount for 'Salaries and expenses' ", $10,000,000."

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Secretary of the Senate in the engrossment of the Senate amendments be authorized to make any technical and clerical corrections.

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

LABOR-HEW CHAPTER OF FISCAL YEAR 1974 SUPPLEMENTAL APPROPRIATIONS BILL (H.R. 11576)

Mr. MAGNUSON. Mr. President, I would like to take a few minutes to very briefly highlight the labor and health, education, and welfare chapter of H.R. 11576—the first supplemental appropriations bill for fiscal year 1974.

The Senator from Arkansas, the distinguished committee chairman, did an excellent job of summarizing the bill in terms of dollars and cents. That is important. But I would like to go one step further and ask my colleagues here to think of this portion of the bill, not only in terms of dollars, but in terms of the people—the mothers, the infant children, the crippled children, the disabled citizens, and the elderly—who will benefit. This is the section of the bill about which citizens are writing to us. To their credit, they are urging the Congress to pay increased attention—and to give a higher priority to funding for programs that meet pressing human needs—and to up the Federal contribution so that people can better help themselves.

The bill includes $40 million to launch the older Americans community service employment program. Over 5 million American citizens over age 55 are living in poverty. These older Americans continue to be the group hit hardest by inflation, recession, and layoffs. According to the manpower report of the President, this group encounters special difficulties and problems which separate them from the general affluence and well-being of American life. But what has been the administration's response to the need outlined in the President's own manpower report? One statistic provides that answer. In fiscal year 1972, the Department of Labor has reported that of all the new enrollees in all Federal manpower and training programs, only 1.7 percent were persons 55 and older.

The failure of existing Federal manpower programs to respond to the needs of the elderly and the continuing dismal economic condition of the elderly which is further compounded by the administration's latest "first"—a freezing inflationary recession—has prompted Congress to respond with this program to provide useful public service employment for 18,000 low-income persons 55 and older. These jobs include serving hot meals to other elderly citizens, work in day care centers and hospitals—people helping people to meet human needs.

The bill also includes $27 million to implement the provisions of the Emergency Medical Services Systems Act. Only after this authorizing legislation was once vetoed, did the President finally and reluctantly sign this new act. We all know that there are thousands of people who go without medical attention because the doctor cannot or will not come when called. The situation in hospital emergency rooms is a national disgrace. Out-of-hospital emergency services are in such a deplorable state of readiness that two-thirds of the 1,000 people who die every day of heart attacks do so before they reach a hospital.

While we are the richest Nation in the world, we rank 22d in life expectancy for men and 7th for women—and the administration's initial response to this is a veto of the Emergency Medical Services Act that would authorize programs to do something positive in this area. And even though the President signed the authorizing legislation the second time around, we are still waiting for his budget request to implement this program. How long must we wait. People are dying. Our answer is that we can afford to wait no longer—and so the committee has included $27 million to launch this program without waiting for a budget request. Some will try to twist our actions and call us a "spendthrift Congress" because we refuse to wait—and wait—for a budget request from the administration. But I say it is the Congress who is honestly and sincerely working for the improved health of the American people—and refusing to drag its feet in meeting the needs of the living.

The United States ranks 16th in infant mortality. In this country, thousands of premature infants—infants who would otherwise grow to strong and healthy men and women—expire, needlessly, at the outset of life. Or they become crippled because of a lack of specialized care. This, in itself, is a great sadness. But what is doubly sad is that it does not have to be this way. We have the technology—and in some parts of the country, we have in operation the intensive care units that will save the lives of these premature newborn infants. We need more of these units—especially in areas of the country where there is above-average incidence of infant mortality. We also need to do more to prevent unnecessary maternal death, to care for the crippled children and to keep the infants—once we have saved them—strong and healthy.

Health—especially of mothers and children—should be a priority second to none in this country. But our ranking as 16th in infant mortality indicates we are not placing the emphasis on this area that we should. Consequently, the committee has included $30,105,000 in the bill for increased efforts in the area of maternal and child health.

The largest single item in the Labor-HEW section of the bill relates to the

programs authorized by the Rehabilitation Act of 1973. Here again we are faced with the late enactment of the authorizing legislation—this time because the President vetoed this legislation—not once, but twice.

The committee has included $752 million to implement the provisions of the Vocational Rehabilitation Act which is the principal mechanism by which the Federal Government participates in the rehabilitation of our disabled citizens. These are our citizens who—having been disabled—are trying their very best to get as well as they possibly can so they can take their places again in family life, in work, and in the community. The correspondence we receive from our constituents tells us of the heroic efforts some have made to come back from disability—and to find their place again. These efforts are matched by the patience, skill, understanding, and courage of those who work in the field of rehabilitation and make it all happen. But they need our help—and Congress is responding—not with vetoes—but rather with compassion and the appropriation of the badly needed funds.

In this part of the bill, we have provided for the basic State matching grants to assist the States in carrying out their rehabilitation programs. We have also provided for the research and training programs so that we can have the vitally needed people to work in the rehabilitation programs—and the new methods and devices so that the rehabilitation programs can bring back to useful lives more and more of our disabled citizens.

In addition, Mr. President, this section of the bill includes additional educational funds and the funds necessary to allow the Action agency to operate.

Also, it was necessary to add language to chapter IV of the bill to extend appropriations at the level provided in the current continuing resolution for manpower training programs and the Cabinet Committee for Spanish-speaking people. We were unable to consider appropriations for these activities because of a lack of authorizing legislation.

The continuing resolution language is intended to provide funding at the fiscal year 1973 appropriation level. In the case of manpower training services, this would be $1,549,416,000, which would include funding for the summer neighborhood youth corps program, as well as the in-school and out-of-school components of NYC.

As soon as the new comprehensive manpower legislation, now in a House-Senate conference, is enacted into law, however, Congress may want to consider a different level of appropriations.

Finally, Mr. President, this bill runs the whole gamut—from health care for new born infants to the needs of the elderly—from the health of mothers and education of children to rehabilitation of the disabled citizen—all are the human needs of the living. The people are counting on us to give them a measure of assistance so that they can become independent and strong. What could be more important to this Nation? What could have a higher priority?

Mr. PASTORE. 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. PASTORE. 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. JAVITS. Mr. President, I have two matters which I wish to raise in connection with this appropriation. I shall raise them in reverse order as I need a document which is not yet before me on the latter question.

The first question relates to page 34 of the committee's report on this supplemental appropriation bill with the heading "Continuing Appropriations."

It deals primarily with the manpower programs. I wish to report to the Senate, as the committee here is very critical and quite correctly, I think, of the delay in respect of a definitive bill on manpower training which becomes uniquely important as we are now really concerned about the employment and economic dislocation attributable to the fuel crisis.

I wish to report to the Senate that the House and Senate conferees are meeting, and they may agree as early as today, if not today, certainly tomorrow.

The anticipation of the final action of the conferees, as I see it, is that it would include action on the overall provision for manpower training of at least $1.5 billion at the appropriation rate of fiscal year 1973. It would include also some form of public service employment, which is especially important now. The money for public employment may be on a such sums basis except for the first year when it is likely there will be a specific sum.

I wish to note that the amount now provided may well not accommodate the programs as they will be agreed to, in which case an effort will be made at the earliest opportunity to get the necessary appropriation for that purpose.

Mr. President, there is one other point which is very important, and that is that the $1.5 billion which is continued contains $237 million for the Neighborhood Youth Corps summer program. That is the same rate for the Neighborhood Youth Corps activity which was carried on in 1973.

In 1974, it is expected, according to the way I read the conference, that their disposition will be to carry on the same size program. And as I say, even the $1.5 billion, which is the rate of current expenditure involving that particular provision, is the minimum amount required for that purpose, and even that, probably is inadequate in terms of rising costs and the situation that may result from the energy crisis.

I would like to tell the Appropriations Committee, if I may ask the indulgence of the chairman, the senior Senator from Arkansas, that we tried to act upon that measure a lot earlier than we have in the past.

Mr. McCLELLAN. Mr. President, I did not hear the Senator from New York.

Mr. JAVITS. Mr. President, we are now acting on the basic Neighborhood Youth Corps summer program a lot earlier than we have in the last few years.

Mr. McCLELLAN. Mr. President, we cannot act until the House acts. I hope the Senator understands that.

Mr. JAVITS. Mr. President, I understand. But the funds necessary to maintain the summer program at at least the 1973 level are in this bill.

Mr. McCLELLAN. That is my understanding.

Mr. JAVITS. Mr. President, I thank the Senator from Arkansas. I make the point—because this is the place in which I can make it—that heretofore the results of that program have been affected because of the resulting inefficiency which comes in when we are uncertain until the last minute whether the resources will be available.

That is a report that I feel the managers of the conference wish to have since they had called rather sharp attention to this matter.

Mr. President, I had in mind raising another matter. However, as there is another Senator on the floor with that amendment, I will desist for the moment.

Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Arkansas yield for a question?

Mr. McCLELLAN. I yield.

Mr. HARRY F. BYRD, JR. Mr. President, I note that there has been an increase proposed for the international organizations in conference to $17,337,000.

Do I correctly understand from the committee report that that $17,337,000 is earmarked for and can be used only for the Mideast peacekeeping operations?

Mr. McCLELLAN. I think that is correct. If the Senator would permit me, I will yield to the Senator from Rhode Island (Mr. PASTORE) who handled that part of the bill so that he might answer the Senator.

Mr. PASTORE. Mr. President, the Senator from Virginia is absolutely correct. This is an assessment made by the United Nations. It is 29 percent of the total figure that will be the cost of maintaining the supervisory forces of the United Nations in the Mideast.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the Senator from Rhode Island if the U.S. share of the United Nations' assessment was not reduced to 25 percent, rather than 29 percent.

Mr. PASTORE. The Senator from Virginia is correct. It was reduced to 25 percent so far as the maintenance of the United Nations' cost.

I raised that question quite explicitly at the hearings. I understand there was quite a dispute over the matter. And naturally because the United States would be the one country most concerned of all the countries concerned in seeing to it that they had a cease-fire that was enforceable, we were more or less obliged to go to the 29-percent figure.

I was not too happy with that, as I know the Senator from Virginia is not. However, we did go into it quite thoroughly, and that was the end result.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Rhode

Island. I understand the $17,337,000 to be earmarked for a specific purpose.

Mr. PASTORE. The Senator is correct. That is for the maintenance of the international peacekeeping force in the Mideast.

Mr. HARRY F. BYRD, JR. I note that the committee recommended a supplemental estimate of $1,700,000 for international conferences and continuances. And from that amount will come $900,000 for the cost of the U.S. participation in the Mideast.

Mr. PASTORE. The Mideast conference will be held at Geneva. The Senator is correct.

Mr. HARRY F. BYRD, JR. Mr. President, it is a very important conference and I am not going to worry about the exact number of dollars. However, I wonder how that conference would cost the United States $900,000.

Mr. PASTORE. Mr. President, as a matter of fact, I had a staff member call the Department and tell them to sharpen their pencils and get down to a minimum figure.

They came up to us with a large number of requests, some of which we had not received an estimate on until the day before we marked up the bill. We disallowed all of them with the exception of two. We allowed the two items that have been mentioned by the Senator from Virginia. And the reason that we allowed them was because we considered them to be of immediate urgency.

In all of the others, we have taken the position written into the report, that we dislike this idea of sending up a request when there is no authorization and not even an estimate.

I am going to take these two items to conference and see how the House might feel about it. I do not know how they will feel. However, we tried to get them to give us a more definitive figure. This figure is a guess. There is no question about that. However, we have no way of disputing it one way or the other.

Mr. HARRY F. BYRD, JR. As I recall the original request for this item—I am taking it from memory, and I may be in error—was $203 million. That is the total for the contributions to international organizations, $203 million. Now we are giving them the 1974 appropriation, which was $200 million, then we add to that this $1.7 million, which gets it to practically $2.2 million, which is just about what they asked for in the first place.

Mr. PASTORE. That is correct. The point, I understand, is that there is a 5-months extension of the conference with reference to a continuing conference on security cooperation in Europe. That is how they justified it; they are going to be there a little longer.

Mr. HARRY F. BYRD, JR. The amount they spent last year for this purpose, according to my memory—and if I am in error the Senator will correct me—was $186 million. So we are providing some $16 million more, leaving out the Mideast peacekeeping. We are leaving that out entirely in my consideration here, but leaving that out we are still providing $16 million more.

Mr. PASTORE. Not in this bill.

Mr. HARRY F. BYRD, JR. More than was spent last year, according to my recollection.

Mr. PASTORE. The Senator means including the regular appropriation bill?

Mr. HARRY F. BYRD, JR. The regular appropriation bill plus the supplemental.

Mr. PASTORE. I am in no position to dispute the Senator, because I do not have the figures here, but if he says so it must be so.

Mr. HARRY F. BYRD, JR. I am taking it from memory, but I believe it is correct.

Mr. PASTORE. I am in no position to dispute the Senator. There are manifold items in the appropriation, as the Senator knows.

Mr. HARRY F. BYRD, JR. Of course there are. I am just hoping next year we can start putting the lid on, and not increasing these amounts each year, but let them tighten their belts some, as I believe everyone else is going to have to tighten his belt.

Mr. PASTORE. The Senator is correct, and let me say that the Senator from Virginia has been very friendly, kindly, and considerate in that respect.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JAVITS. Mr. President, with reference to the other thought I had in mind, first I would like to thank the Appropriations Committee and its chairman, the Senator from Arkansas (Mr. MCCLELLAN) for including an additional provision for the Employment Standards Administration, which reviews minimum wage and other standards. We discussed it on the regular appropriation bill, and I was assured that the Appropriations Committee would look into the matter, and now the committee has provided for $2.8 million as a transfer from the special benefits account, which does allow the filling of key positions to increase enforcement activities and strengthen minimum wage claim processing and for other safeguards which the Fair Labor Standards Act sets up. This is all gratifying, and I thank the committee and its chairman.

The other matter I had in mind to discuss, Mr. President, was to direct the Senate's attention to the item for international organizations, which has just been under discussion in another respect, found at page 51 of the report.

It will be noted there that the appropriation was $200 million. When it was before the House of Representatives, the appropriation requested was $202 million, approximately, of which $2,287,000 was to represent the amount which was needed to complete our dues paying to the International Labor Organization. That item, which is about 30 percent of that budget, was cut out.

The distinguished Senator from Rhode Island has assured me that if it was cut out in the House of Representatives, it would be restored in the Senate. But after consulting with him and the Department, I am convinced—and I am very grateful to him for his usual diligent and skillful attention, which he gives to all these matters—that it is better to have the supplemental estimate in the President's budget, which I am assured by the Department will be there in January, for the $2,287,000, and that thereby the Senate's position would be strengthened, if there is a budget estimate.

The facts are that as of January 1, 1974, the United States will be in arrears for the last quarter of calendar year 1973. In the second supplemental, on July 1, 1973, $8,700,000 was provided. This, with the $6,422,000 contained in the regular fiscal year appropriation, totaled $15,122,000.

The Department feels that the delay of a few months in the payment of the $2,287,000 is preferable, although naturally it is not the optimum, to running the risk of putting it in in the Senate, without having a budget estimate, and facing difficulties with the other body.

For the information of Senators, I hope all will remember that the ILO is a tripartite international organization that has been functioning for 50 years, consisting of labor, management, and government; that it is one of the longest standing, most durable, and most useful international organizations. It deals with the feeling which so many of us have about international competition, and the urgency to raise, not only on humane grounds and development grounds but on competitive grounds, the labor standards in other countries.

Mr. PASTORE. Mr. President, I agree with everything the distinguished Senator from New York has said. It is true that when this matter was discussed on this floor between us on November 14 of this year, I said:

> Mr. President, the House was adamant on this. I do not agree with it. We are pursuing it further and have been assured by the State Department that they are working on a budget estimate to be submitted in the next supplemental. I would hope, at that time, that we can restore the $2,287,000. I think it is an obligation that is owed by the U.S. Government. This is a good project. It promotes international liaison with reference to labor relations. It would be rather unfortunate if we sustained such a drastic cut.
>
> I might say to my colleague from New York that I hope we can remedy that situation the next time.

We did consult with the State Department, and they advised us, as the Senator has already pointed out, that after consultation with OMB, they had decided to include it as a supplemental estimate in the President's budget in January. I think, as the Senator has already stated, that if we have an estimate we are on stronger and more sound ground when we go to conference.

I want to say that it is important for us to live up to our obligations, because for a long time we have been trying to get our allies not to be neglectful in paying their dues. We are not going to be very forceful in asking them to come up with their dues when we are always in arrears. We have to pay it sooner or later, and the sooner the better; our relationship will be that much better off.

I thank the Senator from New York for bringing this matter to our attention.

Mr. JAVITS. Mr. President, in other

respects the Appropriation Committee has been very careful in taking care of many matters which do not involve a lot of money, but which have been left hanging. I would like to call a matter to the attention of the Senate again which I think the Senate should be aware of, and that is the United States Travel Service.

Here we have, I believe, as much as a $2.5 billion gap between the amount spent abroad by all Americans who go abroad and the amount which is spent by foreign tourists here. Yet our appropriation for inducing travel to the United States, which should be the greatest attraction on earth for many reasons, comes to something in the area of $11 or $12 million, and even that is cut and cut and cut, notwithstanding the very favorable cost-benefit ratio.

So it is particularly gratifying, I say to the Senator from Arkansas, that this committee has restored here in the Senate what the House of Representatives denied, a supplemental appropriation of $2.3 million.

I mention it, as I say, because it is not a great deal of money. But we should understand, this kind of situation, where the enormous basic imbalance for us in our balance of payments is almost accounted for entirely in many years by the imbalance in the exchange and travel between ourselves and foreign countries. Yet to sell America in terms of being a travel attraction, we are always so careful about a few million dollars when the cost-to-benefit ratio is 100 to 1.

Finally, I would also like to commend the committee for following the House committee in recommending that the Corps of Engineers use $60,000, from available funds, to initiate the beach erosion portion of the East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York project. This is an emergency and needs to proceed as soon as possible so the beaches in that area can be saved from certain destruction.

Mr. PASTORE. Here again, this comes under part of the budget for which I have some responsibility. The amount sought by the administration was $2,234,000 and the House denied it completely. They knocked it all out.

I quite agree that we in the United States spend less in 1 whole year to promote tourism than some small countries spend in 1 month. We have got to admit—and we are not bragging when we say it—that we have the most beautiful and diversified country in the world. There is so much to see here, our shores, our hills, our mountains, our projects—including Las Vegas, Nev.

Mr. BIBLE. Mr. President, will the Senator from Rhode Island yield right there?

Mr. PASTORE. We should attract a lot of foreign money but we cannot do it just by wishful thinking. We have got to promote it and the only way we can promote it is by spending a few dollars. It is an easy task. They are coming along very well in the department and I would hope this will give them an assist.

Now I yield to the Senator from Nevada.

Mr. BIBLE. I wanted to thank the distinguished Senator from Rhode Island for his kind mention of my great and beautiful State. He has visited it often. I am sure that with this little additional plug, we will have half of Rhode Island coming to Nevada. We have almost half of Rhode Island there now. [Laughter.]

Mr. PASTORE. I must say that when I first came to your State, all I saw was desert.

Mr. BIBLE. The Senator missed the best part of it.

Mr. PERCY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. DOMENICI). The amendment will be stated.

The second assistant legislative clerk read as follows:

At the appropriate place in the bill, insert the following:

MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

For carrying out section 421 of the Older Americans Act of 1965 (as amended Public Law 93-29) $7,500.000.

Mr. PERCY. Mr. President, this amendment appropriates $7.5 million for the remainder of fiscal year 1974 to fund title IV(C) of the Older Americans Act providing for multidisciplinary centers of gerontology.

In establishing a new program of grants to public and private nonprofit agencies, organizations, and institutions for multidisciplinary centers, the Congress recognized the need for a new effort to bring together the many fields of knowledge relevant to aging and the aged into coherent programs of research, training, and community service. This effort is needed not only because of the immediate benefits for the elderly from bringing together all the disciplines concerned wtih their problems, but also because of our Nation's long-term need for more knowledge and more manpower in gerontology.

I think we can all agree that multidisciplinary centers of gerontology are worthy of our support. And I think the very best argument that can be made in favor of these centers is to quote from the authorizing legislation, Public Law 93-29: A multidisciplinary center of gerontology shall

(A) recruit and train personnel at the professional and subprofessional levels,

(B) conduct basic and applied research on work, leisure, and education of older people, living arrangements of older people, social services for older people, the economics of aging, and other related areas,

(C) provide consultation to public and voluntary organizations with respect to the needs of older people and in planning and developing services for them,

(D) serve as a repository of information and knowledge with respect to the areas for which it conducts basic and applied research,

(E) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges or universities,

(F) help to develop training programs on aging in schools of social work, public health care administration, education, and in other such schools at colleges and universities, and

(G) create opportunities for innovative, multidisciplinary efforts in teaching, research, and demonstration projects with respect to aging.

The question we must decide today is what priority to attach to this program in the face of conflicting demands for limited resources.

I believe funding for this program deserves a very high priority. I can think of few programs from which a modest investment is likely to yield a higher return. Multidisciplinary centers will produce immediate dividends in terms of providing services to the elderly in the surrounding community as well as in terms of serving as a repository of information and knowledge about the aged. Moreover, multidisciplinary centers will yield future dividends in terms of findings from collaborative research efforts, training of new and badly needed professional and subprofessional personnel, and helping to sensitize new generations of students to the problems of the aged and aging by incorporating this subject into courses in biological, behavioral and social sciences.

Mr. President, I know that the Administration on Aging has already received numerous inquiries about this newly authorized program. I know many educational institutions are prepared to submit applications for project grants. I am sure that Commissioner Flemming and his colleagues in the AOA want to be responsive to these requests. But no funds were requested to implement title IV(C).

I urge the Senate to approve $7.5 million for this program. On the basis of an estimated annual need for $1.5 million for each of 10 multidisciplinary centers—one in each HEW region—$7.5 million should be sufficient to launch the program in the remaining 6 months of the fiscal year.

Mr. President, we have a Special Committee on Aging which has devoted itself to studying the problems of the aged. As a result of service on that committee for the past several years, I have come to the conclusion that the aging and the aged of this country are the most neglected minority this country has.

The distinguished Senator from Utah (Mr. Moss) and I have held field hearings of the Subcommittee on Long-Term Care. We have conducted hearings about nursing homes for the aged. The Select Committee on Nutrition and Human Needs has certainly studied the nutrition program for the elderly. We are simply aghast at the lack of attention we provide, and at the lack of a central focus to bring to bear all of the knowledge required to make life livable and to make the so-called golden years a little more golden than they are right now.

We put people in "warehouses for the dying," as they are called. We put the elderly on the shelf and, really, do little or nothing for them.

The great neglect we have for training personnel to know how to take care of the aging is, I think, a crying shame.

The Senate and the House, in its wisdom, has seen fit to authorize a modest program in this field that would coordinate the work of our great universities

and our communities, that would encourage them to coordinate all their disciplines and skills and focus them on the problems of the aging. It would provide the guidance and the research needed in spending most efficiently and effectively the billions of dollars we are spending on the aged now.

I have a letter from Arthur Flemming to the chancellor of the Chicago Circle campus of the University of Illinois where he commended the University and said:

> I am delighted to know that you are utilizing University resources to establish such a multidisciplinary center to perform research and training in the area of the aging.

He goes on to point out that there simply is not the funding to provide any kind of assistance in this field even when we have great universities the administrations of which are willing now to devote a certain amount of their research and resources, energy, effort, and time to the field. We need this program so that we can find better answers than we now have to the health needs, the recreational needs, the transportation needs of the elderly and in order to put all the disciplines together in this effort. I would say an investment of $7.5 million in multidisciplinary centers for the remainder of the fiscal year is well worth the investment and would be one of the best investments we could make at this time.

The distinguished Senator from New Hampshire and the distinguished Senator from Washington have provided leadership in this area of helping the aged in every way possible. We do have authorizing legislation. I would simply urge my colleagues to consider now whether we can afford to wait, to lose another year, before we provide modest funding where there is adequate authorization and where the need has been clearly demonstrated.

Certainly, the distinguished Senator from Washington knows that at the University of Washington, at Seattle, are outstanding experts in this field, just as we have in Chicago, who are anxious to move ahead, anxious to do something in this field; but they need a little seed money and encouragement and help, and they will back this up with the talent, the time, the energy, and the effort.

I wish it had been possible to discuss this matter in greater detail earlier with my distinguished colleagues. I offer this amendment with the hope that this is not going to be a budget-busting amendment. The Senator from Illinois commits himself to finding $7.5 million in some other area of lower priority, even if it comes out of some funds for Illinois. I cannot imagine that we could ever find a higher priority than of assisting those who want to help the aging but who need a little encouragement now, encouragement which we can provide by approving these modest funds.

I ask unanimous consent that the Senator from Florida (Mr. CHILES) be added as a cosponsor of the amendment.

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

Mr. MAGNUSON. Mr. President, the Senator from Illinois proposes an amendment, and I am sure the Senator from New Hampshire will agree on this, in a field where much more must be done. Our problem was that this is a brand new program, and we had little time to take a look at it. The Senator from Illinois submitted a statement to the committee on this item after we were into the markup process. In fact, we did not get a specific money request until yesterday. We knew after the legislation was passed, that this issue would come up. Personally, I do not think $7.5 million is enough to do the kind of job we should be doing throughout the United States, but at least it would be a start. So, if the Senator from New Hampshire, the Senator from Arkansas, and the Senator from North Dakota have no objection, I would be glad to accept the amendment.

I think we ought to say that this is enough to begin the program. We hope to end up with 10 centers that will address themselves to the needs of the elderly in a comprehensive fashion. But we should begin now and I think $7.5 million will be enough to do that. By the time we return, with the regular appropriation or the second or third supplemental, we will see how they are operating.

This field was never neglected by our committee, but we never had specific authorization to do anything. I think we can take the $7.5 million, because if it is spread out over 10 centers over the remaining months in this fiscal year this will provide $750,000 for each region.

If there is no objection from the Senator from Arkansas, the Senator from New Hampshire, and the Senator from North Dakota, we will take it to conference and see how the House feels about it.

Mr. McCLELLAN. Mr. President, I am perfectly willing to defer to the judgment of the distinguished Senator from Washington, the chairman of the subcommittee that handles this matter.

I only want to make this observation: The Committee on Appropriations has a tremendous responsibility, particularly in this time of great demands upon our Treasury and upon the resources of this Nation. It would be helpful to the Committee on Appropriations if Senators who have projects of this nature, or who have in mind appropriations that should be made, get the facts to us, before the committee. Let us have it, and let us have an opportunity to go into it thoroughly before we come to the floor. Let us have the opportunity to weigh the merits of the matter and to measure the request for funds against other demands that are being made upon our Government.

In that way it will be helpful to us. It will be a more orderly procedure and better results will be achieved. I am not saying this directly or primarily to the Senator from Illinois. I am saying it as a matter of policy and with the hope and expectation to get the best and maximum cooperation.

Often with respect to amendments that come to the floor, we have no opportunity to consider them and if we had considered them we probably would bring them here with the appropriation bill. I know that many times Senators are preoccupied and these matters do not come to their attention until the bill is about to be reported. I am appealing to Senators to get their requests before the Committee on Appropriations and give the committee the opportunity to get the information to make a proper evaluation and a correct judgment on the question and then we more often will bring the matter to the floor and not have to be concerned about whether it does or does not have merit and what priority it should have related to other matters.

I have no objection at all to the amendment.

Mr. PERCY. Mr. President, if the Senator will yield for a response, I am very sympathetic with the opinions he just expressed. I would like to point out first that last week the Senator from Illinois did submit written testimony to the committee urging that this appropriation be made in this bill. Unfortunately, I was not able to appear in person, but the testimony was submitted. The priority I attach to it would have suggested that I present it earlier.

Second, insofar as the question of whether $7.5 million would even start adequately the 10 centers that are authorized, I want to note that certain regions are ahead of others, and that it would be imprudent to simply spread funds across the board.

Mr. MAGNUSON. Yes, but our ultimate goal would be to attack this problem across the Nation.

Mr. PERCY. The money would be there to be used in the way it can be best used this fiscal year.

Finally, with respect to the comment by the distinguished chairman of the committee, I have indicated I will try to find $7.5 million somewhere else because I believe we must hold down spending levels. I am a cosponsor of the budget reform bill which is designed to accomplish just that purpose.

Mr. MAGNUSON. When the Senator talks about "some place else," he is talking about other programs that other Senators feel just as keenly about as the Senator from Illinois feels about this one.

In other words, in HEW there is no "some place else." We just have to do the best we can to establish these priorities and we even have to cut some place else to get a bill to the White House we hope he will sign.

But to be honest about this, the House probably will take it and we will urge them to take a position on this to set these pilot things going, and then we will take a look at the ultimate goal, with which I heartily agree.

Mr. PERCY. I thank the Senator. I ask unanimous consent that some further material in support of my amendment, including a letter from Dr. Ethel Shanas, president of the Gerontological Society, be incorporated in the RECORD at this time.

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

GERONTOLOGICAL SOCIETY,
Washington, D.C., December 12, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR PERCY: The Gerontological Society is fully behind you in your efforts to win a $7.5 million appropriation for multidisciplinary centers of gerontology.

from this project as sponsor and managing contractor, claiming breach of contract by the Veterans' Administration.

Donovan Construction agreed to take over the contract and complete the work at its own expense, in the expectation that a reasonable settlement of its claim for compensation could be negotiated with the Veterans' Administration. Reportedly, the VA agreed that if the Donovan firm had also left this project, requiring the VA to negotiate a new contract, the final cost would have been for higher than the claim submitted by the Donovan Construction Co.

I know nothing about the Blackhawk firm, but I do know something about the Donovan Construction Co. which has had 80 years of respected and reputable service in the Midwest, with its main offices in the city of St. Paul, Minn.

The Donovan Co. has taken the Veterans' Administration's chestnuts out of the fire and saved them millions of dollars. But the Donovan Co., in the process of saving the Veterans' Administration millions of dollars by completing the project has suffered a substantial loss of its own. It has asked the Veterans' Administration for compensation. There was a good deal of argument back and forth as to the amount and finally an amount was agreed on and the VA is ready to pay the amount.

Now I see language added in the bill reported to the Senate—this was just brought to my attention today—which would deny the VA authority to make these payments, even though the audits have been made—one was made by the VA itself and another certified audit was made by the company.

In the letter that I received from the Donovan Construction Co., it says:

> We invested over $8 million in the completion of the work, and the Veterans Administration has been completely satisfied with our performance. They have also agreed that if we had walked off the job and forced the VA to re-let the work, it would have cost between $5 and $7 million more than it cost Donovan. In effect, we saved the VA this amount. In September, 1972, we submitted a claim for $16,539,000.

That was argued and negotiated and finally a figure was agreed on—I think the figure was about $10,300,000. The Donovan Co. makes note of the fact that it still will lose several million dollars on the project.

The only thing I want to say is that the interest runs at the rate of over $1,700 a day on this claim to the Government. The longer it is prolonged or extended, the greater the cost to the Government will be.

The point I make is that the Government itself does not deny the claim is valid. The audit has been made and the agreement has been arrived at. Now there is language in this bill which would indicate that that agreement will be nullified. I understand the reason for it. I am not saying it should not be done in the future.

It seems to me that if something like this, however, has been agreed on, and no questionable activity, has occurred, but everything is entirely above-board and validated, then final payment should be made by the VA without further delay.

The Donovan Construction Co. did not make any campaign contributions—we checked that out. They are a decent and reputable firm that the Government insists on breaking. This has got to stop.

The Government of the United States is a big and powerful organization. However, I am not going to stand here as a Senator from Minnesota and permit the Government of the United States, by an act of Congress or otherwise, to take a firm which has been in business for over 80 years, which has paid its taxes, and is a respectable firm and has never been in trouble with the law, which has fulfilled dozens of Government contracts and has performed this contract below the bid price, only to have the Government of the United States now tell the Donovan Co. to close its doors, shut up, and go broke. It is not going to happen.

So I should like, first of all, to converse a little bit with the chairman before I take what I consider to be appropriate procedural action.

Mr. McCLELLAN. The chairman will be delighted to converse with the distinguished Senator from Minnesota. However, this matter was handled under the subchairmanship of the Senator from Wisconsin (Mr. PROXMIRE)——

Mr. HUMPHREY. I understand that.

Mr. McCLELLAN. Who submitted the report to the full committee. I have no information about it other than what was contained in the report. Senator PROXMIRE made some brief statement, I believe, in committee, about it. He felt that the audits should be made before the claim was settled. We went along with him without any contention about it because he was the one who held the hearings and made the study.

I understand that the Senator from Wisconsin is on his way over here now. In the meantime, I will chat with the Senator until the Senator from Wisconsin gets here and then let the Senator make his explanation about it. If it is a valid claim of course it should be paid, and the sooner we pay it the more interest we will save. Certainly, any claim arising out of providing the services and facilities necessary to take care of our veterans, I think, has an appeal to all of us and we want to pay it.

Mr. HUMPHREY. Right.

Mr. McCLELLAN. We want to get the facilities going and to keep them operating, to make improvements and expansions if necessary, in order to accommodate our obligations to our veterans. But I am frank to admit that I have no information about this matter and I do not know how to discuss it with the Senator from Minnesota except to say that we relied on the recommendations of the subcommittee, the subcommittee chaired by Senator PROXMIRE. I think he will be here in a moment. So if the Senator will yield for that purpose, I can suggest the absence of a quorum and we can wait for him.

Mr. HUMPHREY. Let me say one other word about it, and we can then wait for the Senator from Wisconsin to come to the Chamber.

I know there was a concern, and it is a legitimate concern; namely, that this amount of money, if taken out of funds already appropriated to the VA, might result in a slowdown of some other project. Without going into personalities, I know another one of our colleagues raised this issue with Senator PROXMIRE, because he was concerned over the building of hospitals in a particular State. I am aware of that. Therefore, I do not have any basic disagreement with the language added to this bill in terms of its being prospective, applied to future policy. In fact, I will support the language as future policy. But when I note here, for example, that there was a certified audit made as to what was involved, prior to final settlement, then I believe the obligations have been fully met and payment by the VA should be finalized.

Mr. McCLELLAN. He says in this language that it has not been audited independently as to the appropriateness of the expenditures which have not been provided for specifically in an appropriation act. This is what the language says.

Mr. HUMPHREY. I think that is true, Senator. It was not provided for specifically in the Appropriation Act. The audit was made by the VA and another one was made outside. There were two audits. One was made by the company that makes the claim and the other was made by the VA that has the responsibility for the reimbursement.

I want to make it clear that I am not talking about the Blackhawk firm. They withdrew from the project. The question was whether the hospital was to be left without completed work, and would have to be started anew, or whether the second partner in the joint venture would continue to do the work, because the Donovan Co. has never failed to fulfill a single contract. I have checked them carefully, and they happen to be a reputable company.

I have seen this happen before, where this big Government takes some company in my part of the country that is not as big as General Motors and moves in on them and breaks their back. I did not come to the Senate of the United States to see the Government of the United States liquidate enterprise in the State of Minnesota. I am going to do all I can to see that justice is done.

Mr. McCLELLAN. I think Senator PROXMIRE should speak to this matter. It is his judgment, and it was incorporated in the report on his motion.

Mr. HUMPHREY. Perhaps we should have a quorum call for the moment.

Mr. MANSFIELD. Mr. President, will the Senator withhold that?

Mr. HUMPHREY. Yes.

UNANIMOUS-CONSENT AGREEMENT ON CLOTURE MOTIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the hour of debate on cloture with respect to S. 1868, the so-called Rhodesian chrome bill, begin at 12 noon tomorrow, and that immediately after the vote on S. 1868, 1 hour be set aside, under the cloture rule, for the legal services-OEO bill, S. 2686.

Mr. McCLELLAN. Does the Senator mean under the cloture rule?

Mr. MANSFIELD. Under the cloture rule.

Mr. McCLELLAN. There would be two cloture votes tomorrow?

Mr. MANSFIELD. Two cloture votes, one following the other, and the rollcall votes will be automatic.

The PRESIDING OFFICER. How is the time to be divided?

Mr. MANSFIELD. Between the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Minnesota (Mr. HUMPHREY), on the chrome bill; and on the legal services bill, between the Senator from Minnesota (Mr. MONDALE), or his designee, and the Senator from North Carolina (Mr. HELMS), or his designee.

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

Mr. MANSFIELD subsequently said: Mr. President, I should like to change the unanimous-consent request which the Senate acceded to earlier today and have just 1 hour on both cloture motions; to have the time started at 12 o'clock, the first vote to occur after the quorum call, at about 1:10 p.m. or 1:15 p.m., to be immediately followed by a vote on the legal services bill.

Mr. CURTIS and Mr. BEALL reserved the right to object.

Mr. CURTIS. Mr. President, the Senator referred to the bills dealing with chrome and the legal services?

Mr. MANSFIELD. Yes.

Mr. CURTIS. This one bill will be 1 hour devoted to the discussion?

Mr. MANSFIELD. Both. But if there is any argument, I would just as soon let it go.

Mr. CURTIS. I have no objection.

Mr. MANSFIELD. It is immaterial. I thought it might speed up things.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. BEALL. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I withhold my request temporarily.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent, on behalf of the majority leader, having cleared the matter with the principals involved in each of the two cloture votes, that on tomorrow, debate on each of the motions to invoke cloture be limited to 30 minutes, and that the 30 minutes on the motion to invoke cloture on the bill (S. 1868) begin running at 12 o'clock noon; that at the hour of 12:30 p.m. the automatic quorum call occur under the rule, and that upon the completion of the vote to invoke cloture on S. 1868, provided that motion does not carry, the one-half hour on the motion to invoke cloture on S. 2686 then begin running, at the conclusion of which half-hour there can be no automatic quorum call, and that the vote on the motion to invoke cloture on S. 2686 occur at that time.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, as to the time reference, at what approximate hour does the Senator from West Virginia anticipate the vote on the legal services measure would occur?

Mr. ROBERT C. BYRD. Mr. President, let me state for the RECORD a little more comprehensive answer than the able Senator is requiring.

The vote to invoke cloture on the Rhodesian chrome bill (S. 1868) would occur immediately following the establishment of a quorum, which vote would be at about 12:45, give or take a little, and the vote on the motion to invoke cloture on the legal services bill would occur, then, at about the hour of 1:30 p.m.

Mr. HELMS. If the Senator will yield further, certainly our side does not intend to delay the Senate. It is interesting, however, that a cloture motion was filed prior to our even having fired our first shot. All the talking had been done by those who now would shut off debate on the measure. They have been filibustering their own bill. But that is all right; we will deal with all that as best we can.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virigina? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has an order been entered designating the Senators who are to be in control of time on both motions?

The PRESIDING OFFICER. Yes, such an order has been entered.

Mr. ROBERT C. BYRD. I thank the Chair, and I thank the Senator from Wisconsin again.

SUPPLEMENTAL APPROPRIATIONS, 1974

The Senate continued with the consideration of the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1974

DEPARTMENT OF LABOR, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

Mr. CRANSTON. Mr. President, I would like first to congratulate Senator MAGNUSON—the distinguished chairman of the Appropriations Committee Subcommittee on Labor and Health, Education, and Welfare and Related Agencies—on his continued courageous defense of the social needs of the people of this country's uphill fight against drastic budget cutbacks in domestic programs which have consistently been proposed by the present administration. The Nixon administration's fiscal year 1974 supplemental Labor-HEW budget recommendations once again indicate its failure to attach adequate importance and priority to the areas of social concern served by the programs under this chapter.

I submit that the President's budget recommendations are false economy indeed and have a short-fuse potential for tragic effects on Americans. I believe the efforts of Senator MAGNUSON and his colleagues on the subcommittee and the full committee to insure that Labor-HEW supplemental appropriations reflect the "real" priorities and needs of the people is deserving of great praise.

The Labor-HEW programs in the supplemental appropriations bill, H.R. 11576, we are considering today—particularly, community service employment for older Americans, emergency medical services, social and rehabilitation services, social and rehabilitation services, and the Action agency—deal with service that can alleviate many of the severe burdens that are thrust upon individuals by illness, unemployment, disability, the lack of opportunities for full participation in a complex society, and the pervasive debilitation of the poverty environment. Each dollar placed in these programs promises a return, with interest, to the national economy through the resulting increase in the productivity of each individual assisted.

Mr. President, as the Senate committee report (No. 93–614) notes on page 4:

> Approximately 50 percent, $833,648,000, of the funds recommended in the bill are made available for programs which were not acted upon when the regular appropriations bills were considered because of a lack of legislative authorization. Included among the deferred items is $752,668,000 which has been appropriated for the Social and Rehabilitation Services of the Department of Health, Education and Welfare. For the operating expenses of the domestic programs of ACTION, which was deferred in the regular appropriation bill, $49,395,000 is recommended. . . .
>
> The Committee has also provided in this bill $40 million to implement Title IX of the Older Americans Comprehensive Services Amendments of 1973 and $30,105,000 to carry out the provisions of the new maternal and child health legislation.

BUDGET PRIORITIES

Mr. President, the administration defends the cutbacks in individual programs as representing an anti-inflationary effort to control Government spending. I, too, firmly believe that we must control budget expenditures—that we must place a lid on Government spending. But I do not believe in the priorities of this administration about where those budget cuts should be made. I believe that there is room within a responsible budget ceiling for adequate vocational rehabilitation services—so that handicapped persons can be insured every possible opportunity with respect to their lives as well as their livelihood to attain self-sufficiency and independence—long before there is room for funds for another Trident submarine. I believe that there is room within a responsible budget ceiling to fund emergency medical services in all the communities of our Nation—long before there is room for funds for the SAM–D missile. I believe that there is room within a responsible budget ceiling for funds for job creation for low-income older Americans 55 years of age and older—long before there is room for funds for another CVN–70 nuclear-powered aircraft carrier.

OLDER AMERICANS PROGRAMS

The committee report has included funding—$40 million—for the newly enacted older Americans community service employment program authorized under title IX of the Older Americans Comprehensive Service Amendments of 1973 (Public Law 93–29), which I cosponsored. Having made a like recommendation in testimony to the commit-

the likelihood of noncompliance, and the difficulty of enforcement are too great to make this measure practicable." 38 FR 30632 (November 6, 1973). Accordingly, the California plan was promulgated containing the second strategy.

The Clean Air Act places the responsibility for developing implementation plans on the State governments in the first instance. If the State of California, or local governments such as cities, come up with measures that would achieve significant VMT reduction, their measures will be accepted and this plan or any future EPA plan will be withdrawn to the extent warranted.

4. In all the hearings EPA has held on transportation control plans, a recurring theme has been that VMT reductions will only be acceptable if mass transit is improved at the same time.

If the present energy crisis leads to drastic restrictions on gasoline supply, the California transportation control plan will actually help alleviate the crisis by providing mass transit funds, express bus lanes, computerized carpool systems and so forth.

Particularly in California, if the transportation control plans are to produce anything like the degree of VMT reduction that Congress contemplated might be necessary, mass transit must be significantly expanded. A phased system of surcharges on automobile use is a uniquely effective regulatory instrument for accomplishing both these goals. The same surcharge that discourages automobile use in a gradual and flexible way by making it more expensive can also raise the revenue to expand mass transit to accommodate the displaced travel demand. Once mass transit has been expanded, a further VMT reduction by increasing the surcharge will be possible, and this in turn will provide revenue to increase mass transit still more. Under the EPA plan, the surcharge revenues could be used for capital expansion, operating subsidies, or any other approvable transit-related purpose.

5. Employers who provide parking spaces for their employees, particularly those who provide free parking spaces, encourage the use of single-passenger automobiles by commuters as against the use of less-polluting forms of transportation. Such employers may therefore be made responsible for the pollution their own actions have induced, and may be regulated as "indirect sources" of air pollution as that term is defined in the General Preamble. Such employers are also the persons best equipped to encourage shifts in the pattern of commuter travel, since for them the data and the administrative machinery necessary to an effective program to regulate such travel are to a considerable extent already in existence. Though additional expense to employers might result, that expense is expected to fall well within the range of expenses that pollution abatement requirements will impose on such industries as, for example, electric power generation and the manufacture of new automobiles.

In the course of this rule making, EPA will wish to have factors which may have been overlooked or undervalued brought to its attention. Detailed public comment is of the greatest importance to the development of revised, workable, and publicly acceptable transportation control measures. Comment is particularly invited on the following points:

1. Is a comprehensive system of surcharges on free and commercial parking an acceptable means of obtaining significant VMT reduction? Is there another preferable system? Specifically, are any of the following preferable: (i) Cutbacks on gasoline supply (ii) surcharges on gasoline sales (iii) directly requiring reductions in the number of parking spaces (iv) far more widespread or more rapid conversion of streets to the exclusive use of busses and carpools?

2. Are the surcharge rates in the regulations as they stand too high? Would they impose intolerable competitive or financial burdens on a significant number of businesses, even though all businesses that maintain their own parking facilities would be equally burdened? Would certain categories of noncommercial activities be intolerably burdened? What degree of VMT reduction would result from implementing the present surcharge schedules? Would this be more than is economically or socially tolerable?

3. Would the revenues generated by implementing the surcharge on the schedule promulgated be more than can usefully be spent on mass transit in the three regions affected? For the first few years, would this be the case? In each of the three regions affected, what are the total, long-term funding requirements for the kind of mass transit system capable of eventually absorbing a 20 percent VMT reduction? Of absorbing a 40 percent VMT reduction?

4. If there is to be a system of parking surcharges, and if it is to be phased in, is the current approach of phasing it into the large cities first the best approach? Specifically, would it be preferable to phase it in (i) throughout the regions in question, but at a reduced level? If so, what levels should be chosen? (ii) in areas "adequately served by mass transit"? In areas "potentially adequately served by mass transit"? If one of these last two approaches were adopted, how would these areas be determined? Given the current inadequacy of mass transit in these regions, what assurance would there be that such a surcharge would have a significant impact on VMT in its first years? If it would not, how could it be phased so as to provide assurance that after a few years it would have a significant impact? (iii) in areas to be designated by the affected localities? If this were done, what guidelines could be established to make sure each of these localities would designate more than a minimum area? Should they, for example, be required to designate a certain minimum percentage of the parking spaces within their boundaries for surcharge?

5. The regulation surcharging free parking spaces on an annual basis was adopted to avoid the potentially severe administrative burdens that could result from compelling all free parking spaces to switch to commercial operation. If such a switch was required, would the administrative burdens in fact be severe? Would they be justified by the increased VMT reduction that could be expected to result from surcharging the motorist directly, rather than only surcharging those who provide the parking spaces? If, even so, the administrative burdens would be too severe, could they be reduced to an acceptable level by exempting certain categories of spaces from surcharge entirely (for example, on-street parking)? If one or more such exemptions were established, what alternate form of regulations of the exempted spaces should be adopted to avoid inequitable treatment of the spaces still subject to surcharge? To ensure that the surcharges remaining would in fact lead to a VMT reduction, and not simply to a switch of parking to unregulated spaces?

6. Based on all the factors outlined above, precisely how should the surcharge provisions be revised? If they are to be abandoned, precisely what form of regulation should be substituted for them?

7. Should a system of surcharges on employee parking be retained? Is it administratively practicable? If it is not, how can it be modified to be made administratively practicable? In general, is the use of fees on employee parking to reduce VMT a good idea? Is the schedule of fees contained in § 52.250 as it now stands too steep? If undue expense might result in some cases, how could that be mitigated? If the surcharge levels are to be relaxed, should the relaxation (a) reduce the maximum surcharge level (b) allow more smaller employers from some or all of the time for its implementation (c) exempt requirements imposed on larger ones?

8. Is a requirement that employee use of mass transit be subsidized administratively practicable? If not, how can it be amended so as to become practicable? Would such a subsidy program be too expensive either (a) in itself, or (b) if financed in part out of revenues from surcharges on employee parking? How does any expense of such a program compare with the expense of maintaining employee parking facilities? With other pollution abatement expenses imposed on industry?

9. What other measures by employers should be suggested or required? Should greater emphasis be placed on measures of the employer's own choosing? If a greater degree of freedom were allowed, what enforceable assurance would there be that employers subject to this regulation would do their part in meeting the requirements of the Clean Air Act?

10. Should all residential parking spaces be exempted from review under § 52.251? Alternatively, should all such spaces be reviewed? If they are to be reviewed, should review be under a different standard?

11. Is the 50-space cut-off for review under § 52.251 too low? If it is, what should the minimum cut-off number be? Whatever minimum cut-off number is established, should lots under that number be reviewed under a less stringent test? If so, what should the test be? Should such smaller lots be reviewed at the option of the Administrator in certain areas or circumstances? If so, how should those areas or circumstances be determined?

SPECIFIC PROPOSED AMENDMENTS

EPA currently intends to modify the California transportation control plan as set forth in the succeeding paragraphs. Public comment on these proposals is invited. The change proposed in paragraphs 2 and 3 of this section may be promulgated at any time after January 10, 1974.

1. "Residential parking spaces" were exempted from surcharge to avoid surcharging the parking spaces where motor vehicles are stored when they are not in use. In conformity with this logic, it is proposed to include in this exemption the spaces where fleet vehicles owned by businesses, governments, car rental agencies, and the like are parked when not in use.

2. The current EPA regulation for review of new parking spaces requires that all lots over 50 spaces receive a permit. EPA proposes to amend this requirement to limit the permit requirement to lots of 250 or more, except to the extent that the Administrator may determine that lots between 50 and 250 spaces in a certain area to be designated by him are having a significant adverse impact on the regional transportation control strategy.

3. Section 52.251 requires review of any "parking facility" which has more than 50 spaces. The most natural reading of this language is that if more than 50 spaces are located in one place, for example, an apartment house parking lot, review is required, while if they are scattered in small groups throughout an area, as they would be in a subdivision, review is not required. To eliminate this inconsistency, EPA currently intends to eliminate all residential parking facilities from review and such an amendment is proposed.

4. Section 52.250 in its present form would require even an employer with many times more employees than parking spaces to pay the mass transit fees of all its employees whenever it maintained more than the minimum number of parking spaces. Since this particular class of employers will, almost by definition, be doing more than most others to discourage single-car commuting, such a result is unjust, and was not intended. One way of avoiding it would be to provide that mass transit subsidies could not exceed the revenues collected from park-

ing surcharges, or could not exceed some multiple of that amount such as 1.5 or 2. Such an amendment is proposed.

SPECIFIC AMENDMENTS TO BE PROMULGATED

The following specific amendments to the regulations covered by this notice will be promulgated shortly:

1. The definition of "employer" in § 52.247 covers any person who employs "50 or more persons." The reference to 50 or more persons has no regulatory significance, since the employer regulation itself, § 52.250, reads exclusively in terms of the number of employee parking spaces maintained. This reference will be eliminated.

2. Read literally, § 52.250 would apply to any employer with more than 700 (or 70) spaces, even if those spaces were in several different locations. Since it is intended that an incentive program is only required to the extent that the individual employment facility itself has more than the minimum number of spaces in one location, this will be clarified.

3. Section 52.250 should have included a provision allowing any individual employer to submit to the Administrator an alternate mass transit incentive plan which the Administrator could approve upon finding that it would have the same VMT reduction potential as the measures prescribed by the regulation itself. Such a provision will be added.

4. The parking review regulation, as required by court order, applies to all parking facilities for which a construction contract had not been signed as of August 15, 1973. In many instances, builders subject to review under this provision will have made substantial commitments in good faith before August 15, even though no contract was signed. For such situations, it is EPA's intent to consider the difficulty to the builder based on actions taken before August 15 of modifying his design, and to weigh such factors against the Air quality or VMT reduction benefits of such modification in determining whether to approve an application. An amendment to make this explicit will be added.

5. It is the Agency's intent that churches be exempted from surcharge since they are used mainly on weekends when oxidant readings are relatively low. This will be clarified.

6. It is the Agency's intent to exempt from surcharge any parking by emergency vehicles. "Emergency vehicles" will be defined as "any ambulance, police car, rescue truck, piece of fire fighting equipment, or any other vehicle customarily used for the emergency protection of life or property."

7. In many areas of California, it would be impossible to determine a "commercial rate" by the method specified by § 52.250 (a) (2) without looking to parking facilities located many miles away from the employer in question. Such cases, when they arise, indicate that most parking in the vicinity of the employer is in fact free, and that there is accordingly no meaningful commercial rate to apply. This section will be amended to clarify that if no "commercial rate" can be determined by looking only to facilities of 100 or more spaces within two miles of the employment facility in question, the employer may consider the "commercial rate" to be zero and collect only the surcharge.

Public hearings will be held on this proposal in each of the five affected Regions early next year at times and places to be announced later. All public comment received up to thirty days after the close of the last such hearing will be considered in developing revised regulations.

This notice of proposed rulemaking is issued under authority of sections 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5 and 1857g(a).

JOHN QUARLES,
Acting Administrator.

December 6, 1973.

[FR Doc.73-26266 Filed 12-10-73;8:45am]

Mr. President, I urge the Senate conferees to hold fast to my amendment in their conference with the House. I assure my colleagues that the Subcommittee on Air and Water Pollution will consider the implications of parking regulation and surcharges at an early date next year.

Mr. MUSKIE. At this point I yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I would like to ask the Senator one question. Does the Environmental Protection Agency contend, and does the Senator agree with it if it does, that it has the power or authority to tax automobiles for parking any place?

Mr. MUSKIE. EPA has, of course, asserted that authority. I think its right to do so is debatable.

Mr. McCLELLAN. Well, I——

Mr. MUSKIE. May I finish?

Mr. McCLELLAN. Yes.

Mr. MUSKIE. It is the intention of my subcommittee to hold hearings on that question, and I would be surprised if the tax-writing committees of Congress did not also conduct hearings on that issue.

My objection to this language is that it is an attempt by means of a floor amendment in the House of Representatives to resolve an issue that the appropriate committees of Congress have not had an opportunity to study. With respect to the surcharge by EPA——

Mr. McCLELLAN. Let me interrupt to say that I agree with the Senator on that issue. The appropriate committees should have the jurisdiction, of course. I do not think that it was ever intended for the Environmental Protection Agency to have this taxing power.

Mr. MUSKIE. May I further state, in answer to the Senator from Arkansas, that there is published in the Federal Register, dated Tuesday, December 11, 1973, an order by EPA delaying the use of the surcharge in Los Angeles, and I read this much of the order:

This notice of proposed rulemaking announces deferral of all steps in the implementation of the surcharge regulations for a period of 6 months, or until they can be reconsidered and amended in an orderly manner, whichever period is longer. In addition, a deferral of 1 year in the date for imposing any surcharge, however modified, on free and commercial parking spaces will be promulgated.

So, by action of EPA, we are given the time to consider this issue in an orderly way. May I say to the distinguished Senator from Arkansas, I think we ought to take that time to consider it.

Mr. McCLELLAN. I appreciate the Senator's giving us that information. I just wanted to state for the record personally that I do not believe it was ever the intent of Congress to empower this Environmental Protection Agency to impose a tax on the parking of automobiles anywhere. I could be wrong, but I do not believe that was the intent, and since it is suspended, and the efforts they have been making now are suspended by Executive order, it does give Congress time to evaluate this problem and determine whether it wishes to empower the agency to impose such a tax. In the meantime, it will not be done.

Mr. MUSKIE. That is right. May I say, in addition, to the Senator that frankly I did not envision the use of this means to control parking, and to control the use of vehicles through the use of such controls. So I think it is an issue. Since it was not discussed or envisioned at the time, I think we do need to evaluate it in hearings. And let me say I appreciate the understanding of the distinguished Senator from Arkansas and the distinguished Senator from Wyoming on this point.

I understand fully, as all of us do, that changing our style of moving about in the cities is not going to be comfortable. Those changes are now imposed not only by the environmental crisis, but also by the energy crisis, so we are going to have to take a long look at them. But I think we ought to do it as a result of the rational hearings process, and I am deeply grateful for the understanding of both my colleagues.

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

Mr. MUSKIE. I yield.

Mr. McGEE. Mr. President, I have discussed this matter with the ranking minority member of the subcommittee, the Senator from Hawaii (Mr. FONG). We have discussed it together with the chairman of the full committee (Mr. McCLELLAN) and we are prepared to accept the Senator's proposal here on this matter and get on to other matters.

Mr. MUSKIE. I appreciate that cooperation. I am ready to yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE).

The amendment was agreed to.

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

Mr. McCLELLAN. I yield.

Mr. HUMPHREY. I should like to inquire of the distinguished chairman about a provision in the bill, referred to in the committee report, page 11, where I notice language relating to the Veterans' Administration—the middle of the page. It prohibits the Veterans' Administration from making any settlement of any cost overruns in construction contracts.

The reason I make inquiry about this matter is that one of the large construction companies in the State of Minnesota has completed a project for the Veterans' Administration; a project, by the way, which has saved the Veterans' Administration millions of dollars, simply because the prime contractor has withdrawn and told the Veterans' Administra they were sick and tired of its harassment, and the other contractor in this joint venture completed the project and submitted a claim which eliminated any profit.

The background of this matter is that the Donovan Construction Co. of St. Paul, Minn., joined the Blackhawk Plumbing and Heating Co. of Florida in a joint venture in 1966 to build a Veterans' Administration hospital at Hines, Ill.

I will not burden the Senate with details except to say that the Blackhawk Plumbing and Heating firm withdrew

Mr. McCLELLAN. We will get $2 for $1.

Mr. JACKSON. The Senator is correct.

Mr. McCLELLAN. How is that returned?

Mr. JACKSON. Under title 10 of the United States Code, the money will go into the miscellaneous receipts of the Treasury.

Mr. McCLELLAN. Over what period of time?

Mr. JACKSON. One year's production will bring in $127 million.

Mr. McCLELLAN. It will be 1 year before production reaches that level.

Mr. JACKSON. It will be $127 million a year as a result of this investment. There is no other way in which we can handle it other than on that basis.

Mr. McCLELLAN. Mr. President, I would hope that the documentation covering these estimates will be made available to us and that we will have them at the time of the conference, because we have gone far over the budget in this bill. We have put in a number of items that were not budgeted in order to try to meet different situations.

I am pretty sure that when we get into conference something will have to take a cut.

Mr. JACKSON. I agree.

Mr. McCLELLAN. We had better get that fortified, reinforced, nailed down, and everything else.

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

Mr. McCLELLAN. I yield.

Mr. JACKSON. Mr. President, we will at least discharge our responsibilities here to see to it that the Senate has done everything in its power to act, even though we have not had a final communication from the executive branch.

I will see if we cannot get the necessary letter from the OMB or from the White House tomorrow, so that when the Senator is in conference he will be in a position to support what is being done here as the official position of the administration. We know that this is also the position of the Defense Department.

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

Mr. JACKSON. I yield.

Mr. STEVENS. Mr. President, I have visited the Office of Naval Petroleum Reserves also. I am quite interested in the development of Naval Reserve No. 4. Does the Senator envision, as I understand it, plans of the Naval Petroleum Reserve, that the exploration of Naval Petroleum Reserve No. 4 would be contracted out to those people conducting the seismic work and exploration work in the Arctic?

Mr. JACKSON. It is my understanding that it is all let out on contract.

Mr. STEVENS. Mr. President, I want to support the amendment. I want to say that it will take a great deal of money after Elk Hill is brought into production to explore our Naval Reserve No. 4 in Alaska, some 24 million acres.

I think the estimate is conservative. I would have given an estimate of 16 billion barrels of oil from the Naval Petroleum Reserve No. 4. The real thing there is gas. I think it is highly important that we get started as soon as possible to determine the amount of natural gas and petroleum in Naval Reserve No. 4. It will have a great deal to do with the gasoline from Prudhoe Bay. It is our hope that there are two reserves there in the Prudhoe Bay.

I think that the amount given to start up our Naval Reserve No. 4 is conservative. This is the sort of opening gun to determine the reserve up there.

Mr. JACKSON. Yes. The bulk of the funds here, as the Senators knows goes to Petroleum No. 1, Elk Hills.

Mr. STEVENS. There is $12 million left in the Senator's request?

Mr. JACKSON. $7.5 million for Alaska.

Mr. STEVENS. And that is just a starting up.

Mr. JACKSON. That is exploratory work, and the cost in Alaska over a 10-year period—that is, a 10-year exploration program for Petroleum Reserve No. 4—has been estimated at $157 million.

Mr. STEVENS. I think that is conservative, too. However, at least that would give us more of a firm estimate on what is there.

I am hopeful that the administration will come up with a request for the full amount.

I know that we have discussed the amount in the revolving fund. It has not yet been authorized to use the money from Elk Hill.

Mr. JACKSON. The Senator is correct. That revolving fund has been a matter of great controversy in the history of the Naval Petroleum Reserves. Representative Vinson, the daddy of all of this, opposed legislation in the past, when he was in Congress, that would in effect put money for the Naval Reserves in a revolving fund. It has been his position, and that position has been the stand taken by Representative HÉBERT, the chairman of the House Armed Services Committee, that the money should go into miscellaneous receipts in the Treasury of the United States and that Congress should retain control of the appropriations.

There is nothing in this amendment that changes that in any respect.

Mr. STEVENS. Mr. President, as one who drafted the legislation which was stopped by Representative Vinson, I know the history. I wish we had that because the greatest spot on the Earth as far as oil and gas is concerned is the North Slope. We do not yet know the scope or extent of it.

Mr. JACKSON. I agree. I think that one key point should not be overlooked. Although we have legislation pending in my committee to authorize the setting up of a strategic reserve, the United States does not now have any readily available strategic reserve. A strategic reserve, of course, is critical in the decisionmaking process in the energy field.

Had we had a 90-strategic reserve when the shutdown occurred in the Mideast, it would have given us greater flexibility of response than we had otherwise.

By developing and exploring Petroleum Reserve No. 1 at Elk Hill, we will have a reserve that will be immediately available, from which we can get the oil flowing immediately to meet the energy requirements of our Government.

I believe this is a matter of the utmost urgency. I would not have offered this amendment to fund production from Elk Hills except for the general crisis in which we find ourselves.

I must say that the chairman is absolutely correct. I will insist that we get the appropriate documents and letters from the administration to support this appropriation. But I do not want the Congress be accused of not taking advantage of the opportunity to start 160,000 barrels of oil a day flowing in 90 days. That is a fair amount of oil.

All we are saying is that, in light of the problems we face, we should have the capacity to open a spigot and have oil available. Now, we do not even have a spigot.

Mr. PASTORE. The Senator is correct.

Mr. YOUNG. Mr. President, this is an unusually big budget estimate. The crisis is so urgent that we must do something. I think there is great merit in the amendment the Senator is offering. The sooner we get the reserves, the better.

I would be perfectly willing to take the amendment to conference.

Mr. JACKSON. Mr. President, I appreciate the Senator's position. I also appreciate the position of the chairman of the committee. I expect that the administration should provide us, without delay, with the necessary documentation in support of this request.

This appropriation is a must. It is essential to our long range energy picture, and I trust that the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I send an amendment to 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 2 strike lines 13 through 16.

Mr. MUSKIE. Mr. President, this is an amendment which I discussed——

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maine has the floor.

Mr. MUSKIE. This is an amendment which I have discussed with the distinguished Senator from Wyoming (Mr. McGEE). It has to do with language which is present on page 2 of the bill, lines 13 through 16. I understand that Senator McGEE will be on the floor shortly. The language reads as follows:

No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax, limit, or otherwise regulate parking facilities.

Mr. President, I oppose this language for several reasons. First of all, it is legislation on an appropriation bill, which is not reachable on the Senate floor by a point of order, as I understand from the Parliamentarian, because it is language that was put in the bill by the House of Representatives.

Second, as to its merits, this language

raises a number of issues in connection with the Clean Air Act of 1970—some of them controversial—which are going to be tackled in the course of the regular legislative process, and ought not to be resolved by such indirect and peripheral means.

What is involved in this language, Mr. President, is the whole question of how we regulate traffic in our central cities to minimize the air pollution impact upon life in those cities. What this amendment would do would be to take out of the hands of people the effective power needed to control that traffic.

Mr. President, when the Clean Air Act was adopted, language was included in the committee report which indicated our understanding of the degree to which our ability to move around in the cities would be affected by the health objective of the Clean Air Act. Let me read from that report:

If the Nation is to continue to depend on individual use motor vehicles, such vehicles must meet high standards. The bill recognizes that a generation, or 10 years' production, of motor vehicles will be required to meet the proposed standards. During that time, as much as 75 percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill.

So, Mr. President, we fully understood in 1970 that if we were to meet the health standards of the act, something would have to be done to lessen traffic.

Some of the means were provided by the Clean Air Act. We established standards for new cars to meet. If those standards had been met, if they could have been met, the controls necessary by other means would have been minimized. But already the Administrator of EPA has granted the extensions which he has the power under the act to grant. There is pressure here in Congress, in both bodies, to further relax those standards on new cars.

If those efforts succeed, then what will be required is even more stringent controls upon the use of automobiles that are already in the hands of consumers.

We simply cannot have it both ways. So the pressure will be on mayors and city councils, as well as EPA, to find other ways to restrict the use of the automobile in central cities.

I do not intend to belabor the issue; I was simply using some time until the distinguished Senator from Wyoming could reach the floor. I ask unanimous consent to have printed in the RECORD, Mr. President, further legislative history to illuminate the point which I have been making.

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

PARKING RESTRICTIONS AND THE CLEAN AIR ACT

The Committee on Public Works has been reviewing the activities of EPA regarding transportation control plans, parking restrictions, and related activities for quite some time. While these tools for achieving clean air require continual refinement, it would be premature to take action at this time that would totally block the use of these strategies.

To improve air quality and conserve energy, it is necessary to achieve large increases in the use of transit and carpools in cities and corresponding decreases in the use of low occupancy automobiles.

If Congress enacts a prohibition on the use of EPA funds for any charges, limitations, reviews or controls of any kind on parking, the transportation control plans currently projected for metropolitan areas around the country will be largely negated and the achievement of air quality standards will be drastically set back. Experience to date in U.S. cities indicates that when mass transit has the ability to compete with the auto in terms of quality and cost, substantial numbers of travelers switch from the auto to mass transit.

Plans for 23 of the 31 metropolitan areas requiring transportation controls now include parking restrictions of some type. Over half of the plans include parking controls suggested by local authorities, not EPA.

If the parking measures are not implemented, the expected shifts to carpools and mass transit will not materialize. Furthermore, the incentive for the planned transit improvements would be diminished since transit companies would no longer have any assurance of increased ridership which they need to justify new buses and equipment. Planned reductions in gasoline consumption and improvements in air quality therefore would not take place.

As a result, the ability of at least 15 major cities ever to achieve the air quality levels needed to protect public health would be severely impaired.

EPA is showing increased sensitivity to the need to be reasonable in using parking restrictions as a strategy for achieving clean air.

EPA yesterday promulgated regulations delaying for one year the California parking surcharge.

The agency is now considering exempting parking lots under 250 spaces from their review. The present cutoff is 50.

EPA regulations were issued Nov. 12 controlling parking in California. They applied to projects all the way back to Aug. 15. EPA is very close to a decision to rescind this retroactivity.

There are indications that EPA will consider the amount of money spent on a new parking facility in determing whether or not to apply their review for cases that fall into a grey area as to when the project actually began.

(Environmental Protection Agency [40 CFR Part 52])

CALIFORNIA TRANSPORTATION CONTROL PLAN—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

This notice of proposed rulemaking is issued for reconsideration and amendment of five regulations contained in the California transportation control plan promulgated by EPA on November 12, 1973, 38 FR 31232. These regulations, 40 CFR 52.247 through 52.251, would establish a comprehensive program to reduce automobile traffic in the three most heavily polluted California Air Quality Control Regions through the control of practically all existing and future parking spaces. Two of them would apply in all five Regions covered by the plan. The basic means of regulation would be surcharges imposed on all free and commercial parking spaces by the relevant local government, and on non-carpool employee parking by the relevant employer. In addition, a permit would be required to construct any new parking facility over 50 spaces. All surcharges would be collected either by the relevant local government or the relevant employer. All net revenues over and above the cost of collection would be spent on improving mass transit.

This notice of proposed rulemaking announces deferral of all steps in the implementation of the surcharge regulations—40 CFR 52.248, 52.249, and 52.250—for a period of six months or until they can be reconsidered and amended in an orderly manner, whichever period is longer. In addition, a deferral of one year in the date for imposing any surcharge, however modified, on free and commercial parking spaces will be promulgated.

Public reaction to these particular measures since the plan was announced has been intense. The surcharges in particular have been widely criticized as arbitrary, illegal, administratively burdensome, and economically disastrous. A great many petitions for judicial review of the EPA promulgation have been filed.

In the preamble to EPA's November 12 promulgation, the Administrator recognized that "many aspects of the surcharge and employer incentive regulations are new and indeed unprecedented," and promised to revise them if revision were appropriate in the light of comments received. 38 FR 31237. This notice of proposed rulemaking is being issued to assist that public comment process.

This notice is divided into three parts. The first, which is designed to help EPA obtain the necessary information for comprehensive modifications to the regulations, gives background and asks specific questions. The second part contains more specific proposals for comments, based on the regulations as they now stand. The third describes corrective, technical, or clarifying amendments which EPA will make shortly to the regulations. Persons affected may proceed as if these had already been made.

The latter two categories of proposals are designed to focus attention on the problems of detail that must be considered in developing any revised transportation control plan for California. Comprehensive changes made in the regulations as they now stand may well render many of the proposals in these categories moot.

BACKGROUND AND SPECIFIC QUESTIONS

To assist public comment on the regulations covered by this Notice, and to assist EPA in making revisions that may well be substantial, an explanation of the reasons behind their promulgation, and a list of questions concerning them are set out below.

In promulgating these regulations, EPA was guided by the following considerations:

1. The Clean Air Act requires all measures that are "reasonably available" to be put into effect to achieve air quality standards before 1977. "Transportation controls" are specifically mentioned in both the Act and its legislative history. Though a measure that would lead to major economic or social dislocation cannot be considered "reasonably available," the intent of the Clean Air Act is unmistakably to require significant changes in habits and travel patterns as a means of achieving the standards.

2. California has the country's worst automobile-caused air pollution problem. The peak readings of photochemical oxidants in Los Angeles, San Diego, and San Francisco are all higher than have been recorded anywhere else in the country; the reading for Los Angeles is almost twice as high. In addition, the problem in California is caused almost exclusively by automobiles.

3. Studies have repeatedly indicated that shifts away from single-passenger automobiles and towards carpools and mass transit are unlikely to occur without both significant disincentives to the use of the former and significant incentives to the use of the latter.

Particularly in regions of spread-out development the only two methods that appear to be capable of obtaining a significant VMT reduction are (i) comprehensive restrictions on the sale of gasoline and (ii) comprehensive restrictions on parking. The first alternative was proposed for comment in many Regions, including the five California regions, and rejected because the Administrator found that "The possibilities of evasion,

This funding is absolutely essential in our judgment because of the low priority assigned to research and training in the field of aging. Moreover, the current expansion of social services for the elderly provides further compelling reason for stepping up our research and training efforts to meet the manpower and information needs essential for the smooth operation of these programs.

Sincerely,

ETHEL SHANAS, Ph. D.,
President.

JANUARY 18, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Given our mutual interests in the welfare of older people, I'm writing to express my concern over the rumors that training grants to universities for the training of graduate students are likely to be cut in the 1974 Federal budget, and that this will apply equally to training programs in the field of aging.

I realize some of the complications involved in budget decisions, and recognize some of the arguments against so-called "categorical" support programs, yet training-grant support plays a particular strategic role in the training of researchers, teachers, and professionals in aging. For many years it has been apparent that the bottleneck in research, teaching, and professional service to older people has been the shortage of trained manpower; and the NICHD-supported and AOA-supported training programs, small in number as they are, have been of great importance in beginning to alleviate the shortages.

Unlike the situation in other areas where manpower needs can be met through free market exchanges as students gravitate toward fields where jobs are known to exist, the field of aging has long had trouble attracting students. There are a number of reasons for this, not least the negative attitudes toward aging on the part of many young people, and the mistaken perception that gerontology is merely one sub-field of social welfare. Not until financial support became available were first-rate students lured into the social sciences and the biological sciences to pursue the study of aging; and in the professional fields, only schools of social work seem yet to be attracting students in aging.

At the same time, manpower shortages are increasing rather than decreasing. To take a specific example: If the amendments to the Older Americans Act passed by Congress in 1972 had gone into effect, it was estimated that some 2,500 to 3,000 trained people would have been needed at once to staff only the state agencies alone.

I hope it is relevant to say also that the field of aging should not be regarded as a "categorical" field like, say, drug addiction or delinquency or cancer. The problems of aging will never be "solved"; they affect every member of the society, young and old; and increasing numbers of older people in the population affect every social, economic, and political institution. Thus an enlightened public policy means that greater attention must be paid to the field of aging and to the needs for personnel. Now that a small growth in trained manpower is at last beginning to appear, it would be disastrous to cut away its major support.

I hope you will do all you can to maintain training-grant support to universities in the field of aging.

With my thanks for your consideration of this matter,

Sincerely yours,

BERNICE NEUGARTEN,
Professor and Chairman, Former President, Gerontological Society.

GERONTOLOGICAL SOCIETY,
Washington, D.C., February 7, 1973.

Hon. CASPAR WEINBERGER,
Secretary Designate,
Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. WEINBERGER: The Gerontological Society wishes to express its interest in advancing training and research in problems of aging and to express its concern for newspaper accounts of impending budget cuts in training and research. The White House Conference of December 1971 documented impressive needs for trained personnel at all levels—scientific, teaching, professional, and direct services to the elderly performed by para-professional personnel. Surveys have indicated a distinct lack of activity in institutions of higher learning and supporting government agencies creating the trained personnel to meet present and future needs.

If we do not encourage a significant expansion of educational and training activities in the field of aging we will not have the manpower resources to meet identified personnel requirements. Furthermore, we will be embarrassing our prospects for an improvement in the quality of life for our future retired and senior citizens and our capacity to respond to the needs of the elderly if we do not vigorously support training in the field of aging. Because the income of our retired population is low with respect to the rest of the population, it is extremely doubtful that personnel will be able to recover the cost of their education in an equitable manner from their salaries, e.g., to pay off educational loans.

The Gerontological Society specifically wishes to express its concern about voiced cuts in budget for training. The Society is a multi-scientific and professional organization devoted to study in education on problems of aging. The officers and members sincerely trust that you will join with us in our desire to advance in a substantial manner education and training programs in the field of aging.

We would be pleased to meet with you at your convenience to discuss these concerns.

Sincerely yours,

JAMES E. BIRREN,
Past President.

THE FUTURE OF GERONTOLOGICAL RESEARCH

(An excerpt from a lecture by Leonard Mayflick winner of the Gerontological Society's Kleemeier Award)

The future of basic biological research in gerontology in this country is far from bright. Despite the universality of the phenomenon, it is not a field that has attracted many bright, young investigators. Good professional reputations are not easily obtained. Of even greater importance is the fact that funding for research in this field has been abysmal. It is, however, true that the degree of funding is probably consonant with the degree of scientific interest the field enjoys generally.

Nevertheless interest in gerontological research will not come about unless adequate funding is known to exist. Even if a major new development were to come out of some laboratory that had profound impact on gerontological thought, few talented people could reasonably be expected to enter a field where new funds are virtually unattainable. A recent example of the magnetic qualities of research fund availability are the legions of investigators who, overnight, became cancer biologists when the news that a hundred million new dollars was likely to become available. How many would become gerontologists if the funds were so earmarked?

In the fiscal year 1973, which ended on June 30th, the Adult Development and Aging Branch of the National Institute of Child Health and Human Development, the major sponsor of gerontological research in this country, spent $6,008,048 on 62 grants. Of this amount about one-third was spent in indirect costs, leaving about $4,000,000. And of this amount about two-thirds, or $3,000,000, goes to the support of biological research in aging and the balance to the social and psychiatric aspects. In year 1973, 120 new research grants in aging were received. Of these 58, or 48%, were approved. Of the 58 that were approved, the National Institute of Child Health and Human Development was able to fund only 11, or about 20%.

To be put into some perspective, however, consider this: In fiscal year 1973, the National Institutes of Health spent about $2 per person nationally on cancer research, $1 per person on cardiovascular disease research, and 3¢ per person on all research in gerontology. The picture in fiscal year 1974 is even less encouraging. The amount available to the Adult Development and Aging Branch will drop according to the President's Budget from $6,008,048 to $5,769,000. If we add to this the anticipated annual rate of inflation of about 4%, then the funds available next year will be effectively reduced by about 8% and the likelihood of funding new or competing renewal grants will have virtually ceased.

Thus despite lip service by many of our leaders bent upon impressing the growing population of aged in this country with its interest in gerontology (e.g., the 1971 White House Conference on Aging), actual support for gerontological research has in fact reached a new low and is going even lower. I can only conclude that the current administration regards gerontological research as something between a nuisance and a joke. Efforts to establish a National Institute of Aging, overwhelmingly approved by Congress last year, was as you know ultimately pocket vetoed by the President. A new bill designed to establish this much needed new institute probably will suffer the same fate in the Executive Branch in the next few months. A meaningful level of support in gerontology is really nonexistent, and the field itself, like the subject it studies, is near death. I realize that I am preaching to the converted but gerontologists are playing Nero while Rome burns.

It is now more important for us to concentrate our efforts on increasing the life expectancy of research support for gerontology, rather than the mean lifespan of man. For we can depend upon the fact that without the former, the later will never be improved.

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

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that during the debate and votes on the supplemental appropriation bill Leon Billings and Karl Braithwaite of my staff may have the privilege of the floor.

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

The bill is open to further amendment.

Mr. MUSKIE. 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 send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The second assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment appear at an appropriate place in the bill and that the subsequent chapter sections be appropriately renumbered in order to conform to the amendment I am offering.

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

The amendment is as follows:

At the appropriate place in the bill add a new section as follows:

For the exploration, development, and production of the Naval Petroleum Reserves $72,000,000. Provided, that, subject to such authorization of production of Naval Petroleum Reserve Numbered One as may be granted in accordance with Chapter 641, Title 10, United States Code, no less than $13,000,000 shall be available for the operating expenses incurred in producing from that reserve: *Provided further*, That no less than $47,500,000 shall be available to permit the development of the productive capacity of that reserve so as to permit production at such a level as may be authorized by Congress and in a manner which is consistent with sound engineering and economic principles: *Provided further*, That no less than $11,500,000 shall be available for the conduct of programs of exploration for oil and gas on Naval Petroleum Reserves numbered 1 and 4.

Mr. JACKSON. Mr. President, the effect of this amendment would be to add an additional appropriation of $72 million for the production, exploration and development of the naval petroleum reserves.

At the present time the United States is confronted by a nationwide petroleum shortage of 20 to 25 percent of her daily consumption. Particularly affected by this shortage have been the Nation's Armed Forces. Department of Defense fuel consumption represents only 4 percent of U.S. domestic consumption because, until the implementation of the Arab oil embargo, much of its fuel was procured directly from overseas sources. As a result of the Arab production curtailment and embargo, overseas sources of supply are, for the most part, no longer available.

Consequently, at the same time that the Nation is confronted with an unprecedented energy shortage, it is necessary that we draw upon already short civilian supplies to provide the Armed Forces. To do so is necessary in order to maintain our minimum essential national defense. Only by the implementation of rigorous conservation measures has the Department of Defense been able to keep military demand at the required minimum level.

For this reason the Secretary of the Navy has submitted a finding that the defense of the Nation requires the production of oil from the naval petroleum reserve at Elk Hills. The President has concurred in that finding and has requested that the Congress approve production as it must do under the law. That request has been referred to the Armed Services Committees of the House and Senate and I am confident that each will respond in a timely manner to report a bill. I find the argument in favor of producing from the Elk Hills reserve compelling. However, I disagree with the closed-cycle funding mechanism for that production proposed by the administration.

For this reason, I am introducing an amendment to provide for direct appropriation of $72 million, for the production and development of Naval Petroleum Reserve Numbered 1 and the exploration of Naval Petroleum Reserves Numbered 1 and 4. If this program for which these funds are appropriated is carried out as envisioned, it would result in additional payments into the Treasury of the United States of $127 million a year. Moreover, it would add to the proven oil reserves owned by the people of the United States to 500 million barrels in the naval reserve at Elk Hills, Calif., and an undetermined but significant quantity in the immense reserve in Alaska. Most significantly, it would provide the United States with an additional 160,000 barrels a day, which production these funds would make possible.

Mr. President, I urge that the Senate adopt this amendment.

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

Mr. JACKSON. I yield.

Mr. McCLELLAN. Mr. President, the Defense authorities I think mentioned those facts. I do not believe we took testimony on it, but we have discussed it with them.

Mr. JACKSON. It was discussed in the Defense appropriation hearings in closed session.

Mr. McCLELLAN. Yes. What I am concerned about is this: I think it is well to proceed with the exploration, to establish what we really have and what is available, so that it will be immediately accessible to us in time of critical need.

What I am concerned about is the amount of the appropriation. As I recall, it did not require that much. I could be mistaken. We do not have here a budget request or anything upon which to premise the $72 million. My recollection is that the highest figure mentioned was about $19 million.

Mr. JACKSON. The Senator is correct. What was talked about in the meeting covered only exploratory work, and that for the two petroleum reserves, was $11.1 million. But the figure now is more accurately estimated to be $13 million for that purpose. The rest of the appropriation I propose is for actual production and development work, so that we can get petroleum reserve No. 1 at Elks Hills operational as soon as possible.

Mr. McCLELLAN. Who will furnish the estimates for the extra $60 million?

Mr. JACKSON. All of these figures came directly from a report which the Navy prepared on this subject and delivered to the President in April. We asked for these figures and received them. In the meantime, we will ask for a more recent, updated budget estimate. I suggest, however, that we do not delay consideration of the amendment until receipt of a formal budget justification, since this could be our last chance to get some action.

Mr. McCLELLAN. I am perfectly willing to take some of the amount and at least go to conference with it, because I support the general objective. But in the absence of budget estimates, I am not an optimist about the immediate need for the very large amount that the Senator included in his amendment.

Mr. JACKSON. We will endeavor to get a complete budget estimate here as soon as possible. In fact, we have already asked the administration to provide these figures.

Mr. McCLELLAN. Would the Senator be willing to reduce the amount to what we need for immediate exploration, and hold the remainder until we get a budget request for it? At least, we should get some documentation of the need for the amount required to do the job.

Mr. JACKSON. Here is the situation we face. An oilfield is only a reserve until we can get the oil out of the ground. What is critically needed is exploration-development of our naval reserves to make the oil in those fields readily available.

Mr. McCLELLAN. How much money would be required to do that?

Mr. JACKSON. To develop and pump from Elk Hills, the cost would be $61 million—$48 million for development, to develop the capacity to produce 160,000 barrels a day, plus $13 million for operating expenses.

Mr. McCLELLAN. Over what period of time.

Mr. JACKSON. That is within calendar year 1974. This would permit developing a capability within that period of time to pump first 100,000 barrels a day, then up to 160,000 barrels a day, thus creating an ongoing source of petroleum supply for the armed services. This would save them from preempting the civilian supply in the future as they are forced to do now.

Mr. McCLELLAN. Do I understand that $61 million of this amount would bring into production 600,000 barrels a day?

Mr. JACKSON. 160,000 barrels a day.

Mr. McCLELLAN. How quickly will it be possible to get into production with that amount of expenditure?

Mr. JACKSON. Mr. President, they will be able to get production going within 90 days. And later they will reach a total of 160,000 barrels a day. They are not now capable of getting Elk Hill into production without these funds.

Mr. McCLELLAN. Mr. President, with that being the purpose of it, I want to support it. I want to support whatever is necessary. I would say, however, that if we take the full amount, before we get to conference, we will have some documentation on which we can rely and which will reinforce us in securing the full amount. I do not think the House will be ready to accept it.

I do have a concern over the amount. I do not know whether they can spend that much.

Mr. JACKSON. As a result of the production provided for by these funds, the Navy will return to the U.S. Treasury $127 million a year from the sale of the U.S. share of the oil produced. So we are talking about a net gain to the Treasury of $55 million.

tee, I heartily concur with this recommendation. As noted in their report:

This amount, which includes $36,000,000 for direct program services and $4,000,000 for administration, would be sufficient to implement this program and provide 18,000 job opportunities for older Americans.

During the June 4 San Francisco and August 14 San Diego hearings, I chaired on alternatives to institutionalization for elderly citizens, great stress was laid on the importance of providing job opportunities for those senior citizens who want and are able to work. It was brought out that senior citizens are particularly qualified to perform public service jobs that aid their own peer group, whose special problems and experiences are often less well understood and appreciated by younger adults. Many of the jobs that would be created under title IX are designed to provide this very opportunity. Furthermore, jobs provide the purchasing power to enable senior citizens to live independent lives—particularly difficult in these times of threatening recession and unemployment—and promote the sense of self-esteem and self-worth that is essential to good health and well-being.

Even the present administration has recognized the obligation of our country to assist older Americans. President Nixon, in his closing statement to the 1971 White House Conference on Aging, said:

Older Americans have much to give this country. The best thing this country can give to them is the chance to be a part of it, a chance to play a continuing role in the Great American adventure.

We need a new, national attitude toward older people in this country, and that attitude must be one which recognizes that America, whatever it does for its older citizens, fully appreciates what our older citizens can do for America.

And yet, Mr. President, this support appears as little more than lip service. The House did not include any funds to initiate this important program, nor did the budget request any funds.

SOCIAL AND REHABILITATION SERVICES

Mr. President, as acting chairman of the Subcommittee on the Handicapped during consideration of S. 1875, the "Rehabilitation Act of 1973," and as chairman of the House-Senate Conference Committee on this bill, I cannot stress too strongly my support for the committee recommendations to appropriate $752,668,000 to carry out programs authorized by this new act, Public Law 93–112.

Mr. President, the key to the intent of this legislation is the belief that the basic vocational rehabilitation program must not only continue to serve more individuals, but must place more emphasis on rehabilitating individuals with more severe handicaps. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as an emphasis within special project authority for target populations whose needs are not now being met within the basic program. Additionally, the committee has added provisions designed to focus research and training activities on making employment and participation in society more feasible for handicapped individuals.

I would especially like to thank the committee for its recommendation to provide $650,000,000 for basic grants to States, an increase of $34,130,000 over the House bill and the budget request. This amount—which is the full amount authorized—is the same amount recommended to the committee and which was intended to represent a minimum authorization level rather than—as is often the case in authorizing legislation—the ideal amount if unlimited Federal dollars were available for expeditures to meet all the program needs provided for in the authorizing legislation.

Mr. President, I also heartily support the committee recommendation to provide $15,572,000 for training which represents an additional $2,442,000 over the revised budget request, and am particularly delighted with the strong committee report direction with respect to the use of carryover fiscal year 1973 training funds.

The budget justification states that this amount is to be applied toward the termination of training grants for rehabilitation. It is said that funds are available for this purpose through basic opportunity grants under existing education law. The structure of training grants under the rehabilitation program, however, cannot be fully equated with the usual education grant system. Under the present RSA rehabilitation training program, funds are being used for institutional support as well as for student aid. Such institutional support would be lost if the present rehabilitation training program were phased out. Grantee schools, without direct institutional aid, would not be able to retain the faculty necessary to provide training of the magnitude necessary to improve and expand the provision of rehabilitation services. The reduction in training activities, which would be inevitable under the administration's phase-out proposal, would ultimately reduce the level and effectiveness of the rehabilitation services provided. As we indicated in our committee reports, there is a great shortage of skilled rehabilitation personnel at all operational levels, and in all professional categories. We also stated that:

The committee disagrees strongly with the administration's announced policy of cutting back and eventually phasing out the training of rehabilitation personnel. The committee finds this a short-sighted policy.

I am, therefore, especially gratified to note the committee's rejection of this budget proposal to phase out categorical support for these activities. As their report notes:

The funds provided, together with carryover balances, will restore this program to the 1972 level of operations. Should these balances not become available, the committee will consider future supplemental appropriations for this purpose. The committee would expect a report from HEW by January 31, 1974, on the amount of unobligated balances available for rehabilitation training.

Lastly, I would like to congratulate the committee for the recommendation to provide $25,596,000 for research activities, an amount which is $5,600,000 over the revised budget request. I recommended this amount to the committee and fully support its inclusion in the bill under consideration today.

Funds provided under this category for research will support the development of rehabilitation engineering research centers which would seek to apply the most advanced medical technology, scientific achievement, and psychological and social knowledge to rehabilitation problems, including the design, development, and production of suitable equipment and devices. It is a crime, in my judgment, Mr. President, that this country so wealthy in technology and so rich in scientific achievement, has made only the most minimal use of this science and technology for the benefit of handicapped individuals.

It is a sad truth, I think, that many European countries have developed and made available to handicapped individuals far more sophisticated orthotic and prosthetic devices, as well as other mechanisms and devices for handicapped individuals, than are generally available here. Moreover, although there may be isolated instances when certain rather sophisticated mechanisms have been produced and made available to ease the living and increase the employability of handicapped individuals, these advances are generally available only to a few, and there is no central authority charged with responsibility for developing, producing, and disseminating these devices throughout the country.

I believe that our science and technology belong to all Americans. That is one of the reasons I strongly support the space program. I believe that our science and technology should not be withheld from those less fortunate persons, who, because of their handicaps, cannot take full advantage of much of the technology we take for granted. There are millions and millions of handicapped Americans—perhaps 30 million—and I think that simple justice requires that we give them the benefit of a more independent, self-sufficient, and remunerative existence.

REHABILITATION SERVICES ADMINISTRATION

Mr. President, as acting chairman of the Subcommittee on the Handicapped during consideration of S. 1875, the Rehabilitation Act of 1973 and as chairman of the House-Senate conference committee on this bill, I cannot stress too strongly my support for the committee recommendation to appropriate $752,668,000 to carry out programs authorized by this new act, Public Law 92–112.

Mr. President, the key to the intent of this legislation is the belief that the basic vocational rehabilitation program must not only continue to serve more individuals, but must place more emphasis on rehabilitating individuals with more severe handicaps. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as an emphasis within special project authority for target populations whose needs are not now being met within the basic program. Additionally, the committee has added provisions designed to focus research and training activities on making employment and participation in

society more feasible for handicapped individuals.

BASIC STATE GRANTS

I would especially like to thank the committee for its recommendation to provide $650,000,000 for basic grants to States, an increase of $34,130,000 over the House bill and budget request. This amount is the same amount I recommended to the Committee—which is the full amount authorized—reflects the conference report authorization for appropriation amount which was intended to represent a minimum authorization level rather than—as is often the case in authorizing legislation—the ideal amount if unlimited Federal dollars were available for expenditures to meet all the program needs provided for in the authorizing legislation.

TRAINING

Mr. President, I also heartily support the committee recommendation to provide $15,572,000 for training which represents an additional $2,442,000 over the revised budget request, and am particularly delighted with the strong committee report direction with respect to the use of carryover fiscal year 1973 training funds.

EMERGENCY MEDICAL SERVICES

Mr. President, the action of the Appropriations Committee in appropriating funds for the implementation of Public Law 93–154, the Emergency Medical Services Systems Act of 1973, is especially gratifying to me as the Senate author of that new law. This action is one that will be applauded throughout the Nation.

Because of the widespread interest in many, many communities in improving emergency medical services and the general recognition that many communities are severely deficient in their ability to provide these services immediately and comprehensively, the importance of beginning implementation of the act as soon as possible cannot be minimized.

The funds in the Supplemental Appropriations Act and the $7 million of new EMS funds for the Labor-HEW Appropriation Act on the President's desk for signature will give the Nation the wherewithal to begin this task now. Under the bill before us $10 million will be made available for the development of systems, $3.3 million for the support of research and $6.6 million for health professions training support. In addition $7 million of new money included in the regular fiscal year 1974 Appropriations Act for emergency medical services development under section 304 is transferred to implementation of the provisions of Public Law 93–154, in accordance with the provisions of the new law regarding new projects.

I am heartened by Chairman FLOOD's statement during House discussion of House Resolution 11576 that he would look with sympathy on Senate action to include an appropriation for implementation of this act.

If we can sustain the Senate figure in conference, it will mean that the many communities wanting to plan for, to establish, or to expand their systems of providing emergency medical services have a chance of beginning this process this fiscal year.

It also means that research can be supported this fiscal year. This research is needed to learn how to utilize the latest technical knowledge in the development of sophisticated hardware and equipment for monitoring or treating patients as well as to conduct research in the development of systems for providing emergency medical services.

It also means, Mr. President, that training of the personnel who must man an emergency medical services system can begin this fiscal year. Fully trained emergency medical services personnel are an essential element of any comprehensive emergency medical services system. These personnel include the emergency medical technician, the emergency department nurse, the emergency department physician, and the manager of an emergency medical services system, among others.

Since the new law authorizes special appropriations for training these personnel for only this one fiscal year, appropriation of the $6.66 million for this item, in the bill as reported, is especially important.

With this beginning, the tragic toll of lives lost and disabilities incurred each year as a result of our inability to bring medical care to the accident victim or the medical emergency can be reduced.

I am delighted at the committee's action, and am most grateful to my distinguished colleague from Washington (Mr. MAGNUSON), who was a principal cosponsor of the new public law, and to the members of his subcommittee for their very positive action in this regard. I would like to mention the very effective role the distinguished Senator from Missouri (Mr. EAGLETON) played in including this appropriation in the subcommittee's recommendation. He has been a strong supporter of this legislation since it was first introduced and has fought for funding for emergency medical services in the Appropriations Committee since he became a member of that committee in this Congress. His support has been indispensable in assuring Federal funding for this much needed program. And I thank him, as do the countless accident, trauma, coronary, and stroke victims whose lives will be saved and made more productive by the programs to be carried out with these funds.

ACTION AGENCY

Mr. President, as chairman of the authorizing subcommittee for the ACTION Agency's domestic programs, I would like to endorse wholly the committee recommendation to appropriate $49,395,000 to carry out the new Domestic Volunteer Service Act—Public Law 93–113—the amount in the budget request, and $3,076,000 over the House allowance. This is the course that I recommended to the subcommittee in my submission to them. I am gratified that the committee has concurred with my analyses of this item.

Public Law 93–113 provides a 3-year appropriations authorization for the Action Agency beginning in this fiscal year. The Action Agency was created on July 1, 1971, by Reorganization Plan No. 1 of 1971 to consolidate and administer the Nation's federally sponsored volunteer programs—among them the Peace Corps, VISTA, the foster grandparent program, RSVP, and the Score/Ace program, a corps of volunteer small business counselors. The new law supersedes the domestic program and administrative provisions of Reorganization Plan No. 1. It incorporates into positive law the basic existing legislative foundations of the domestic programs which were transferred to the Agency upon its creation 2 years ago, and thus provides the Agency, in one piece of enabling legislation, a unified set of statutory authorities for those programs.

This new law, as the subcommittee noted in its report on H.R. 8877, when it deferred appropriations with regard to part of the Agency's fiscal year 1974 budget request, is particularly important since it provides the authorizing legislation for a large portion of the ACTION Agency's domestic volunteer programs.

Mr. President, in particular, I would like to express my support for the entire recommendation under part C—the special volunteer program authority—which restores the amount—$3.076 million—cut by the House. Although I share the concerns which some have expressed about the viability and effectiveness of some of the new avenues the Agency proposes to explore under Part C, I must confess that I was similarly skeptical of other experimental programs which seem to be demonstrating their value.

I think the fairest course—especially given the very modest nature of the request under Part C—is to give the Agency an opportunity to show what it can do in terms of program innovation, and for both the Appropriations and authorizing committees to monitor closely the program and effectiveness of these new programs.

I hope the conference committee will sustain the full budget requested amount, and that the Agency will carry out effective experimental programs, especially those aimed at resolving poverty and poverty-related problems.

VETERANS' ADMINISTRATION MEDICAL PROGRAMS

Mr. President, I would like to express my complete agreement with and grant appreciation for the statement included in the Senate report in connection with appropriations for the Veterans' Administration medical programs.

The distinguished chairman of the Veterans Affairs Committee (Senator HARTKE) and I had jointly written to the distinguished chairman of the subcommittee on Housing and Urban Development, Space, Science, Veterans (Mr. PROXMIRE) recommending that the subcommittee include in the supplemental, an appropriation of $68.1 million for VA medical care. This amount will in fact be needed to support the costs of providing health care to an average daily patient census of 82,000, which is currently predicted to be the minimum average daily patient census that will be realized for this fiscal year, as well as for the costs of implementing the provisions of Public Law 93–82, the Veterans' Health Care Expansion Act of 1973, which became effective September 1 of this year and which I authorized in the Senate.

Mr. President, I ask unanimous consent to include in the RECORD at this point a table indicating the items making up the total appropriations recommendation which we submitted:

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

[Figures in millions]

To maintain a 1.5 to 1 staff to patient ratio for an ADPC of 82,000	$22.5
To implement Public Law 93–82, outpatient care to obviate the need for hospitalization: (Estimated increase in staff visits of 120,000 requiring 240 new staff FTEE positions)	3.9
Provide medical services to dependents of 100 percent service-connected disabled veterans	2.9
Outpatient care for non-service-connected disabilities of 80 percent service-connected veterans	1.3
Direct admission to community nursing homes for service-connected conditions	9.3
Sickle cell screening	1.9
Premium pay and overtime for nurses	22.3
Increased per diem rates for State homes	4.0
Total	68.1

Mr. CRANSTON. Mr. President, although the committee agreed that this request is fully justified, it did not wish to include this amount in the Supplemental Appropriations Act at this time without a budget request from the administration. The committee stated in its report that the Veterans' Administration should allocate existing appropriations to meet its responsibilities under title 38 to provide quality health care to eligible beneficiaries and carry out the new public law and should submit a supplemental budget request to cover any deficiencies which might result thereby. Such a request would be acted upon in the second supplemental early next year.

I am extremely gratified at the committee's action in clearly expressing its recognition of the inadequacy of the current fiscal year 1974 appropriation for the VA medical programs in light of our recommendations, and its promise to consider sympathetically a budget request when it is submitted.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the full statement from the Committee Report (No. 93–614), page 11, regarding this matter, and the construction matter I will discuss next.

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

VETERANS' ADMINISTRATION

The Chairman of the Committee on Veterans' Affairs of the Senate and the Chairman of the Subcommittee on Health and Hospitals of the same Committee requested that the Committee consider making appropriations of $22½ million for medical care in order to insure the maintenance of a 1.5 to one staff-to-patient ratio for an average daily patient census of 82,000, which was 2,000 over the original estimate submitted by the Executive Branch.

The Committee also received a request from the same Chairmen to make appropriations totaling $45.6 million in order to implement P.L. 93–82, which was approved on August 2, 1973.

The Committee unanimously agreed that these requests for funds by the aforesaid Chairmen were justified. Nonetheless, the Committee felt that the Veterans Administration could use available appropriated funds for these purposes, and it directs and urges the agency to do so. In the event a deficiency should be incurred as a result thereof, the Veterans Administration is directed to submit a supplemental budget estimate of the Congress so that it might be considered early in the Second Session of this Congress.

The Committee has included the following language in the bill, which prohibits the Veterans Administration from making any settlements on any cost overruns in construction contracts:

"No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act."

In connection with this amendment, notice of intention to suspend Paragraph 4 of Rule 16 has been filed with the Senate.

Last year this Committee included funding and authorization for the planning, construction, or renovation of nine VA hospitals, which were included in the order of priority which the VA stated were the neediest. Since Construction Costs are increasing at a rate in excess of 15% per year, additional delays will require scaling down and replanning these facilities or the appropriating of additional funds. The Committee does not believe either of these alternatives is desirable. Therefore, it directs the VA to exert all possible efforts to secure the release of these funds from the OMB, in order that this work may proceed in a timely manner.

CLIENT ASSISTANCE SPECIAL PROJECTS

Mr. CRANSTON. Mr. President, I would like to make a statement and then make an inquiry of the distinguished chairman of the Labor-HEW Appropriations Subcommittee, the distinguished Senator from Washington (Mr. MAGNUSON).

As Senate floor manager and conference committee chairman for Public Law 93–112, the Rehabilitation Act of 1973, and as the author of the provisions in that act—section 112—relating to client assistance projects—I would like to explain what I believe was our intention with respect to expenditures to carry out the client assistance projects with funds appropriated for special projects under section 304 of that act. I wish to note at the outset that I have discussed this matter in detail with the distinguished chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS) and the distinguished chairman of the Subcommittee on the Handicapped (Mr. RANDOLPH), as well as with the ranking minority member of that subcommittee, the distinguished Senator from Vermont (Mr. STAFFORD), and I am authorized to say that they concur completely in the interpretation I am about to explain.

Mr. President, section 112(a) of the new law provides that the Secretary shall set aside to carry out client assistance projects from funds appropriated from fiscal year 1974 not less than $500,000. The law is mandatory as far as that reservation of funds is concerned.

However, because the conferees did not wish to diminish the level of assistance for existing special projects below the level of funds obligated last fiscal year, we provided in section 112(a) that the reservation—or set-aside—of funds would only take effect, in the words of the joint explanatory statement of the conference committee—

Only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the vocational rehabilitation act in fiscal year 1973.

Mr. President, I ask unanimous consent that there be set forth in the RECORD at this point the full statement from the joint explanatory statement with respect to this matter, followed by the full text of section 112 of the Public Law.

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

REPORT LANGUAGE FROM THE JOINT EXPLANATORY STATEMENT OF THE CONFERENCE COMMITTEE ON THE REHABILITATION ACT OF 1973

(1) [The amount set aside is to be up to $1.5 million, but not less than $500,000 for FY 1974, and up to $2.5 million, but not less than $1 million for FY 1975, but funds authorized to carry out this program will be made available only if new dollars are added to section 304 funding for special projects and demonstrations above the amount obligated for such projects from appropriations under the Vocational Rehabilitation Act in fiscal year 1973. It is the understanding of the Conferees that no funds will be taken from other sections to pay for client assistance projects and that the level of funding of existing programs under section 304 will not be reduced to provide funding for those projects.]

REHABILITATION ACT OF 1973
PUBLIC LAW 93–112

CLIENT ASSISTANCE

SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973, the Secretary shall set aside up to $1,500,000, but no less than $500,000 for the fiscal year ending June 30, 1974, and up to $2,500,000 but no less than $1,000,000 for the fiscal year ending June 30, 1975, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) No employees of such projects shall be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility receiving assistance under this Act in the project area.

(2) Each project shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the

appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by and with the concurrence of the State agency designated pursuant to section 101.

Mr. CRANSTON. Mr. President, I have been informally advised by representatives of the Department of Health, Education, and Welfare that its interpretation of section 112(a) is that unless the amount appropriated for special projects for this fiscal year exceeds the VRA special projects obligation level for fiscal year 1973 by at least $500,000, the law does not require that any funds be set aside to carry out client assistance projects in accordance with section 112.

Mr. President, that plainly was not the intention of the conferees. I am not aware of any valid legislative history to support that interpretation, and I wish to state here and now that our interpretation is that when it is finally determined—hopefully in the immediate future—exactly what is that level of fiscal year 1973 obligations, the Secretary is then required by the provisions of section 112(a) to set aside all amounts in excess of that dollar amount up to $500,000 for fiscal year 1974—and up to $1 million from amounts appropriated from fiscal year 1975—to establish client assistance projects. In other words, if the surplus of that level is only $50,000 or $250,000 or $450,000, that amount, up to $500,000, is the amount which the Secretary is required by law to set aside to carry out section 112.

In light of this requirement in the authorizing legislation, would not the appropriate course for HEW, as soon as the fiscal year 1973 level of obligations for special projects under the VRA is finally determined, be for the Department to submit to the Appropriations Committees of the Congress a plan for reprograming the moneys within the $14.7 million—the budget request amount—already approved by the House and included in the act as reported from the Senate Appropriations Committee, among the items identified in the budget justification under special projects, including those for developmental disabilities, in order to allocate to client assistance projects, within that $14.7 million, the $500,000, or such lesser amount, as may be required to be allocated for that purpose in accordance with section 112(a) of the authorizing law, as we have just discussed?

Mr. MAGNUSON. This committee certainly does not wish to subvert the intent of the authorizing legislation. When all the facts are known and HEW gets its books straightened out, we would be willing to consider whatever reprograming proposal HEW would send forward in order to meet the requirements of law.

Mr. STAFFORD. Mr. President, I wish to join in the explanation and colloquy which has just taken place and express to the Senator from California, with whom I was pleased to work so closely on the Rehabilitation Act, that I fully agree with all he has said on this matter today. I also want to state to the Department that I trust that they will come up with their final fiscal year 1973 obligation figure as quickly as possible, and will advise all of us exactly what that final figure is.

Mr. DOLE. Mr. President, I wish to indicate my support for the bill and comment briefly on several aspects of the legislation which I believe are important.

ENERGY RESEARCH AND ALLOCATION

The appropriation included in the bill for energy research and fuel allocation programs are vital and timely. Once Congress completes action on the emergency energy legislation and the measures are signed into law, it is important that we be able to implement the newly authorized programs promptly. We are headed into the months of greatest hardship as far as the fuel shortage is concerned, and I feel it is important that we have both the authority and the necessary resources available to adequately deal with the problem. Therefore, I feel it is important that these funds be made available now so that the time consuming legislative appropriation process will not prevent the implementation of a necessary program during the coming winter months.

The funds necessary to establish within the Office of Petroleum Allocation an additional 1,302 positions so that the office can better handle current mandatory and voluntary fuel allocation programs. In Kansas, the regional petroleum allocation office has been swamped with requests and inquiries regarding the program. The calls have been so numerous that the minimal staff has not been able to adequately respond. Although I am hopeful that a large bureaucracy is not needed to administer the program, I do believe that adequate staffing is essential so that proper liaison between Federal officials and the public can be maintained, and I am hopeful that these funds will be utilized for this purpose.

EMERGENCY MEDICAL SERVICES

Provisions of chapter 4 of the bill appropriate $20 million to carry out provisions of the emergency medical services bill recently signed into law. In addition, $7 million from the regular 1974 appropriation bill are to be reprogramed to carry out provisions of the new act. I have strongly supported the emergency medical service legislation and feel the program can provide much needed assistance for communities across the country that wish to develop an emergency medical service system. The program is particularly important to rural communities who often must travel great distances to receive emergency medical care.

During Senate debate on the authorization bill, the Senate accepted three amendments I offered to strengthen provisions of the bill which provided specific consideration for rural areas. These amendments were included in the bill as it was signed into law and provide for a special 20-percent set-aside of funds for rural areas, HEW technical assistance to rural communities to help in the development of the EMS system, and a special research emphasis on the unique problems of emergency medical service delivery in rural areas. I trust these provisions of the law will be given due consideration in the allocation of the funds provided in this appropriation bill.

VOCATIONAL REHABILITATION

Finally, I wish to express strong support for the provision in the bill which provides funds for the vocational rehabilitation programs authorized under the Rehabilitation Act of 1973. The committee bill appropriates $650 million for basic State grants, $29 million for innovation and expansion grants, $8.3 million for training services, nearly $30 million for research activities, and $15.5 million for rehabilitation service manpower training programs.

I must admit some concern over the administrative actions which have been taken with regard to the Rehabilitation Act of 1973. A Commissioner of the Rehabilitation Services Administration has yet to be appointed and program guidelines for the newly authorized programs have not been developed. I am hopeful that prompt action may be taken on both these matters so that the funds made available for vocational rehabilitation under the bill may provide assistance to the millions of Americans across the country who are in need of these services.

REHABILITATION ENGINEERING RESEARCH

I would also briefly like to mention a special interest which I have in funding for the research and training programs authorized under the Rehabilitation Act of 1973. This program provides special emphasis during the next 2 years for rehabilitation engineering research. United Cerebral Palsy of Kansas in conjunction with Wichita State University has a grant application pending to do research in machine aid work modification to develop greater employment opportunities for the severely handicapped. The results of this research effort will be beneficial in terms of employment possibilities for handicapped individuals, who up to this time have not been considered employment potential.

I am hopeful that the funds made available under the legislation will permit funding of this project and others across the country like it in the very near future.

Mr. McCLELLAN. 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. McCLELLAN. 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. PASTORE. 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. McCLELLAN. 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. HUMPHREY. Mr. President, I have discussed this matter with the distinguished Senator from Wisconsin (Mr. PROXMIRE), and we are of the opinion that, since this matter will be in conference and since there is some dispute over the nature of the claim, the fact of the matter being that my protest here related to one of the parties in a joint venture and the concern the Senator from Wisconsin had was in the prime contractor situation, it might be better to take it to conference and within the next 24 hours or so get whatever facts we need. We do not want to do anything to defraud the Government. We do not want any claim allowed improperly. But I think I am fair in saying what the Senator has in mind is that he feels if the company to which he referred, the Donovan Co., has a legitimate case, he would not want legislation that he or others have sponsored deny relief to those who have legitimate claims.

The Senator might wish to comment.

Mr. PROXMIRE. Yes. I am happy to work with the Senator from Minnesota in the way he has described it. This matter was only called to our attention after we had already gone to full committee on this bill, and we were sitting in full committee when it was called to my attention by a member of my staff and a member of the staff of the Senator from California (Mr. CRANSTON) that the VA had acted only within the preceding 24 hours. We got notice at the last minute. The House did not know about it at the time. The General Accounting Office came down with an extraordinarily strong report against proceeding with this payment.

I presented the matter to the committee, and it unanimously agreed with my position that the claim should not be paid without a thorough audit. However, at that time we did not have a breakdown on the degree of involvement of the Donovan Corp., which is another corporation from the company originally handling the contract. On the basis of the information the Senator from Minnesota has shown to me, there was a strong case for payment of the claim. The claim holdup seems to be based on action on another corporation investigated by the General Accounting Office.

Under those circumstances, I think there might be a miscarriage of justice if we just proceeded without the considerations that the Senator from Minnesota has properly brought to our attention. It possibly could be unfair to the Donovan Co. We do not know. We do not have all the facts. We intend to get them before we complete the conference.

At the same time, I think it would be a mistake to resolve this now. As the Senator from Minnesota says, we might have a situation in which the Government would be deprived of funds and a hospital in Los Angeles would be unfairly affected.

Mr. HUMPHREY. Mr. President, I think the point that needs to be made is that one of the main concerns is that if we permit them to be paid under present law, the funds would be taken out of the existing Veterans' Administration appropriation, which could slow down the construction of another hospital somewhere—in this instance the Woodward Hospital, I believe, in California.

Mr. PROXMIRE. Mr. President, in addition to that, if the payment were made, the Government would lose $2,200 a day in interest.

Mr. HUMPHREY. No. If the claim is not paid, the Government would lose $2,200 a day in interest.

Mr. PROXMIRE. In other words, the Government could lose $2,200 a day in interest if the claim is not paid.

Mr. HUMPHREY. The Senator is correct.

Mr. President, I do not want to delay the Senate. I have had a very good conversation about this matter with the prime mover of the amendment. Obviously, the Senator from Wisconsin is thoroughly right in this. I said so before the Senator arrived on the floor to discuss this matter.

I did not want to see action taken in the Senate that would deny a firm that is a good firm and that has a good reputation in its performance in settlements of its claims. If the claim is proper, and I think it is, the Senator will be able to work it out in conference.

I am willing to let it stand at that in conference.

I thank the Senator from Wisconsin.

VA CONTRACT SETTLEMENT NEGATED BY LANGUAGE IN SUPPLEMENTAL BILL

Mr. PROXMIRE. Mr. President, as the Senator from Minnesota has indicated, the supplemental appropriations bill contains language prohibiting the Veterans' Administration from using appropriated funds for a contract settlement in the absence of an independent audit and congressional approval of the settlement.

So that Senators can have some understanding of why this language was included in the bill I will explain the events leading up to my decision to propose such language to my colleagues on the Senate Appropriations Committee.

Before I do so, however, I want to pay tribute to Senator ALAN CRANSTON, who, as chairman of the Subcommittee of Health and Hospitals, has been most directly involved in the monitoring and investigation of the contract I am about to refer to.

On November 1 the Veterans' Administration made a $10.3 million contract settlement with Blackhawk Heating & Plumbing and Donovan Construction Co. arising out of the construction of a 480-bed hospital at Northport, Long Island, N.Y.

The General Accounting Office has been looking into this settlement and has cited the following deficiencies:

One. No audit of the contractor's claim was performed prior to the settlement agreement as required by the Federal procurement regulations;

Two. Many elements of the contractor's claim are on their face dubious;

Three. There was a substantial difference of opinion concerning the settlement within the Veterans' Administration, with knowledgeable individuals supporting settlement figures less than half of that reached; and

Four. In all six appeals under this contract decided by the Veterans' Administration Contract Appeals Board the contractor's claims were denied—including a number of substantial items apparently included in the settlement—and 13 others were dismissed with prejudice. In no case was the contractor upheld.

On the basis of this GAO report I, as chairman of the HUD-Space-Science-Veterans Subcommittee objected in a letter to the VA Administrator Johnson to the reprograming of funds to pay the claim until Congress had considered these in a supplemental budget request. Apparently, Representative BOLAND, my counterpart in the House, did the same.

Despite this request, I was informed yesterday in a letter from VA Adminis- claim would be paid "in the immediate future." He stated that otherwise the Government would be liable for interest payments of $2,200 a day.

However, article 8 of the agreement with the contractor reads as follows:

Article 8: The government's obligation hereunder is contingent upon the availability of appropriated funds from which payment in full can be made.

The committee added the following language to the supplemental bill, so that the Veterans' Administration will not incur these interest charges:

No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act.

I ask unanimous consent that correspondence between my office and the Veterans' Administration on this matter as well as certain correspondence involving the offices of Senators HARTKE and CRANSTON together with General Accounting Office comments and the VA's response be included in the RECORD at this point.

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

VETERANS' ADMINISTRATION,
Washington, D.C., November 15, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Space-Science-Veterans, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to advise you of the reprogramming of funds related to the increased cost of the 480 bed hospital project at Northport, New York due to the settlement of contractor claims in an amount of $10,300,000. The contractor claims relate to costs incurred by the contractor which are attributed to changes in the building site and drawings specifications. We have determined that it is in the best interest of the government that the claims arising on this construction contract be settled through negotiation.

This settlement action will increase the cost of this project from $20,046,000 to $30,346,000. Funds previously identified for the Wadsworth (Los Angeles), California hospital project will be used to effect this settlement since the Los Angeles construction contract will not be ready for award until FY 1975. The replacement of these funds will be requested in a future appropriation estimate.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VETERANS' ADMINISTRATION,
Washington, D.C., November 15, 1973.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: There is enclosed, for your information, a copy of a letter addressed to William Proxmire, Chairman, Subcommittee on HUD-Space-Science-Veterans, United States Senate, concerning the reprogramming of funds to provide for settlement of contractor claims on the new Veterans Administration Hospital, Northport, New York. Similar letters were sent to Edward P. Boland, Chairman, Subcommittee on HUD-Space-Science-Veterans, House of Representatives; W. J. Bryan Dorn, Chairman, Committee on Veterans' Affairs, House of Representatives; and ranking minority members of the two concerned Subcommittees.

I believe the letter to Chairman Proxmire adequately describes the present situation.

Sincerely,

DONALD E. JOHNSON,
Administrator.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., November 21, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Housing and Urban Development, Space, Science, Veterans, Committee on Appropriations, Washington, D.C.

DEAR BILL: Pursuant to discussions between our staffs, I am writing with respect to the November 19, 1973, letter to the Administrator of Veterans Affairs from the General Accounting Office regarding its study, being performed pursuant to my August 24, 1973, request, of all alleged VA construction contract irregularities, and regarding in particular the VA's November 1, 1973, settlement of Contract No. V1006C–673 entered into on June 29, 1967, with Blackhawk Heating & Plumbing Company, Inc., and Donovan Construction Company. A copy of this letter is to be supplied directly to you today, at my request, by the G.A.O. I am enclosing a copy of that letter in the event it has not yet reached you.

The G.A.O. has raised some very serious questions about this settlement which I believe must be answered satisfactorily before any reprogramming of funds is allowed to go forward to pay the $10.3 million settlement amount, such as is proposed in the Administrator's November 15 letter to you. At this point, in view of the seriousness of the G.A.O.'s questions, it seems to me that a very complete investigation of, and probably public hearings on, this matter are necessary to develop the full facts and to justify this settlement. I am sure you will agree that it would be desirable for the public to have the opportunity to evaluate the efficacy and appropriateness of the justification for a final settlement of a $16.3 million construction contract for some $14 million in excess of the original contract amount, particularly where completion was delayed more than twice the original prescribed work period, where the VA's Board of Contract Appeals had already denied or dismissed with prejudice 19 claims involving substantial amounts apparently included in the settlement figure, where no pre-settlement audit of the claim was performed as to the reasonableness and necessity of the amounts claimed, and where the contractor's books were never made available to the VA for examination.

Thus, I urge you to advise the Administrator not to proceed with any proposed reprogramming of funds to effect this settlement. As a collateral matter, I want you to know of my serious concern about the proposal in the Administrator's November 15 notification letter to you, to use "funds previously identified for the Wadsworth (Los Angeles), California hospital project . . . to effect this settlement *since the Los Angeles construction contract will not be ready for award until 1975.*" (Emphasis added.) As you know, the construction of this replacement hospital was planned to proceed on an emergency basis after most of the then existing structure was declared seismically insecure in January, 1972. In my opinion, this project has already been held up far too long, and I will be looking into this matter further in the weeks ahead. I hope you will do so as well. In this connection, I wrote the Administrator on September 17, 1973, expressing my concerns about the already substantial delay in this project up to that point, and I am enclosing for your information a copy of that letter and the Administrator's October 26, 1973, response, which I do not find satisfactory.

I have discussed this matter fully with Senator Hartke, Chairman of the full Senate Committee on Veterans' Affairs, who concurs in this letter and is today writing the Administrator urging that he not proceed with the proposed reprogramming of funds.

Thank you for your continuing cooperation with me and the Subcommittee.

With best regards.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommitte on Health and Hospitals

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 27, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD, Space, Science, Veterans, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: Enclosed for your information is a letter to the Administrator of Veterans Affairs requesting information concerning a contract settlement in the amount of $10.3 million with the Blackhawk Heating and Plumbing Company, Inc., and the Donovan Construction Company. This letter is being sent to you at the request of the Chairman of the Subcommittee on Health and Hospitals, Senate Committee on Veterans' Affairs, who has asked our Office to make a study of alleged contract irregularities.

We are also forwarding a copy of the enclosed letter to the Chairman of the Senate Committee on Appropriations.

Sincerely yours,

GREGORY J. AHART,
Director.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., November 19, 1973.

Hon. DONALD E. JOHNSON,
Administrator of Veterans' Affairs, Veterans' Administration.

DEAR MR. JOHNSON: As you know, this Office has been asked by the Chairman of the Senate Veterans' Affairs Subcommittee on Health and Hospitals to conduct a study of alleged contract irregularities involving certain Veterans Administration (VA) contractors, including Blackhawk Heating & Plumbing Company, Inc. In this connection, we understand that the VA entered into contract No. V1006C–673 on June 29, 1967, with the Blackhawk Heating & Plumbing Company, Inc. and Donovan Construction Company (hereinafter called "the Contractor") a joint venture for the construction of a 480 bed hospital and for other work, to be performed at the VA Hospital, Northport, Long Island, New York. The original contract completion date, November 16, 1969, was extended from time to time by change orders and time extensions, and the contracted work was accepted by the VA on June 1, 1972.

We further understand that the original contract amount as bid was approximately $16.3 million. Due to change orders during the course of the contract, there was a net increase of about $1.6 million making a total contract amount on October 31, 1973, of approximately $17.9 million.

Numerous claims under this contract were submitted to the VA by the Contractor, and 30 separate appeals under the contract were filed with the VA Contract Appeals Board. As of October 3, 1973, 6 of these appeals had been denied by the Board, 13 were dismissed with prejudice, 2 were dismissed without prejudice, and 9 were pending.

On January 18, 1971, the Contractor submitted a consolidated claim of approximately $15.6 million. After $1.5 million of that amount was granted through a unilateral change order approved on May 21, 1971, the Contractor submitted a revised claim on a total cost basis in the amount of approximately $16.5 million on September 19, 1972.

The revised claim consisted only of an eight-page written summary of problems encountered by the Contractor over the contract period, a balance sheet and statement of the Contractor's income certified by an accounting firm, and six one-page schedules summarizing amounts claimed for overhead, profit and interest for the extended contract period. On October 31, 1972, the Contractor submitted an 11-page breakdown of his claimed costs. Ten months later, on August 31, 1973, the Contractor submitted a further revised claim in the amount of approximately $18.5 million.

On November 1, 1973, a final settlement agreement between the Contractor and the VA was executed for $10.3 million. Among other things, the settlement agreement provides that: (1) the agreement is a settlement of all claims, disputes and appeals arising under the contract; (2) the Contractor agrees to a Government audit of his books and records to verify the claimed contract total costs; and (3) the Contractor can dispute, under the disputes clause of the contract, determinations by the Government that actual costs are less than those claimed. Eight million dollars of the settlement price is to be paid within 40 days after the settlement date, and the remainder, less that determined to be in excess of the Contractor's cost and subject to dispute, is to be paid within 90 days. Finally, the settlement provides that the Government's obligation is contingent upon the availability of appropriated funds from which payment in full can be made.

In the process of reviewing the negotiation procedures leading up to the November 1, 1973, settlement, as well as the settlement itself, our auditors have raised a number of questions that we would like to submit for your consideration. The questions are as follows:

1. To our knowledge, no audit by a Government agency of the Contractor's claim was performed prior to execution of the settlement agreement. Except where audit resources are unavailable, such an audit is required by the Federal Procurement Regulations (FPR), section 1–3.809. The only provision for waiver of this requirement in the FPR pertains to audits conducted prior to negotiation of a contract when the contracting officer finds it clear that information already available is adequate for the proposed procurement. FPR 1–3.809(b)(1)(i). This situation appears to fall outside of the waiver provision, and in any event, we find no evidence that either adequate information was already available or that the contracting officre executed a waiver and documentation in support thereof.

We understand that the Contractor consistently refused to provide detailed substantiation of his claim, or to allow inspection of his books, until the Government had entered into a settlement agreement. However, on October 11, 1973, the VA Contract Appeals Board ordered the Contractor to permit a general audit of his books and records relating to an appeal (VACAB–998) under this contract. The amount claimed in that appeal was a substantial portion of the settlement amount.

What is the justification for failing to audit the Contractor's claim prior to settlement?

2. We understand that the Contractor used a total cost method of computing his claim, demonstrating only the difference between his costs and the contract amount, and that the Contractor was not required to establish Government liability and reasonable and allowable costs for each element of his claim. The FPR provides for the use of a total cost basis of settlement in cases where a construction contract is terminated for the convenience of the Government, provided that the contracting officer finds it impractical or impossible to determine actual costs, and provided that the total amount payable to the contractor, exclusive of settlement costs, does not exceed the total contract price. FPR 1–8.307–2, 1–8.308, and 1–18.802–3. This method has been approved judicially in equitable adjustments only when it is (j) impossible or highly impractical to determine actual costs with a reasonable degree of accuracy, (2) the claimant's bid was realistic, (3) the actual costs were reasonable, and (4) the Contractor was not responsible for the added expenses. See *WRB Corporation* v. *U.S.*, 183 Ct. Cl. 409, 426, and cases cited therein. We have found no evidence that any of these conditions were met in this case.

What is the justification for use of the total cost method as a basis for the settlement?

3. We understand that not only were the Contractor's costs not substantiated, but that the Contractor had not attempted to show the Government's liability through a legal analysis. Was such an analysis made prior to entering into the $10.3 million settlement?

4. We further understand that there were other circumstances concerning this claim that would indicate a thorough analysis and audit of the claim should have been performed prior to any settlement.

For example:

The Department of Justice is currently investigating allegations that the Contractor violated the False Claims Act, 31 U.S.C. 231–235, in submissions of claims to the VA in connection with this contract, and a prior contract for construction of a VA hospital in Hines, Illinois.

Many elements of the Contractor's claimed costs that were broken out separately are on their face of dubious allowability. These include overhead and profit for delays for strikes, overhead and profit for time after the work was accepted and for which compensation had already been made; interest on Contractor's working capital during time of contract extension; claims by subcontractors that include unpaid portions of the original contract amount; amounts attributable to differences between the Contractor's own figures and those of his auditors; and attorney's fees.

There was a substantial difference of opinion concerning the settlement within the VA, with knowledgeable individuals supporting settlement figures less than half of that reached.

In all six appeals under this contract decided by the VA Contract Appeals Board, the Contractor's claims were denied. In addition, 13 other claims were dismissed with prejudice by the Board. It is our understanding that these claims are now included in the settlement amount.

An analysis of the Contractor's progress reports by the VA showed that 46 out of 60 reports indicated insufficient labor, 41 out of 60 reports indicated poor organization and management, 13 out of 60 reports indicated unsatisfactory equipment status, 15 out of 60 reports indicated unsatisfactory material status, and 39 out of 60 reports indicated unsatisfactory work progress.

Are these facts correct?

We would appreciate a response to this letter within 2 weeks. Should you have any questions, please feel free to contact me.

We are forwarding copies of this letter to the Veterans' Affairs Appropriations Committees of the Senate and the House of Representatives.

Sincerely yours,

GREGORY J. AHART,
Director.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., November 21, 1973.

Hon. DONALD E. JOHNSON,
Administrator, Veterans' Administration, Washington, D.C.

DEAR MR. JOHNSON: Yesterday I received your letter dated November 15th (with an attached copy of your letter to Senator Proxmire, Chairman of the Subcommittee on HUD–Space-Science-Veterans) informing me of your intention to reprogram funds in the amount of $10,300,000 in settlement of contractor claims arising from the hospital project at Northport, New York.

I am also in receipt of a copy of a letter addressed to you from the General Accounting Office dated November 19, 1973 which raises most serious questions concerning the propriety of the contract settlement for which reprogramming funds are intended.

Given the important questions presented by the General Accounting Office, I believe it would be most inappropriate to proceed with any reprogramming until you have personally provided a thorough, complete, and satisfactory response to each of the questions and points raised in that letter.

Pursuant to fulfilling the Committee's general legislative oversight responsibilities as well as the specific request of the Chairman of the Subcommittee on Health and Hospitals, we would appreciate promptly receiving a copy of any response by you to the General Accounting Office as well as being informed in advance of any intended further action by the Veterans' Administration concerning settlement of the contract claims in question.

Sincerely,

VANCE HARTKE,
Chairman.

NOVEMBER 26, 1973.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Health and Hospitals, Committee on Veterans' Affairs, Washington, D.C.

DEAR ALAN: Thanks for your letter on the reprogramming of funds for the satisfaction of a contract settlement reached between the Veterans Administration and the Blackhawk Heating and Plumbing Company, Inc., with regard to the Northport hospital.

I completely concur in your approach to the reprogramming request. I have informed the VA that I will not approve such a reprogramming at this time. In fact, I believe that in any event the money should not be provided unless it has been requested in supplemental or regular appropriations legislation and has received Office of Management and Budget endorsement.

I'm delighted to know that we are of one mind on this matter.

Warmest regards.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator.

NOVEMBER 30, 1973.

Hon. DONALD E. JOHNSON,
Administrator of Veterans Affairs, Veterans' Administration, Washington, D.C.

DEAR MR. JOHNSON: This acknowledges your letter of November 15th wherein you request that $10,300,000 of funds appropriated for the hospital project at Wadsworth (Los Angeles), California be used to settle the contractor's claim in connection with the 480-bed hospital project at Northport, New York.

In view of the inordinate amount of the cost overrun on the Northport Hospital project and, further, in view of the very serious questions raised by the General Accounting Office concerning the propriety of this contract settlement, I cannot in good conscience approve your reprogramming request.

Before any funds are released to satisfy the contractor's claim, I believe the Congress should have the opportunity to have all the facts in connection with the Northport Hospital contract and, in particular, those relating to the huge overrun. Consequently, I urge you to submit a supplemental request for funds through the proper channels in order to satisfy the aforesaid claim.

Sincerely,

WILLIAM PROXMIRE,
U.S. Senator, Chairman, Subcommittee on HUD, Space, Science, and Veterans.

VETERANS' ADMINISTRATION,
Washington, D.C., December 4, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD-Space-Science-Veterans, Washington, D.C.

DEAR MR. CHAIRMAN: There is enclosed for your information a copy of my response to the letter dated November 19, 1973, of the Director, Manpower and Welfare Division of the General Accounting Office, regarding the settlement of the claims arising under our contract of June 29, 1967, with the Blackhawk Plumbing & Heating Company and the Donovan Construction Company, a joint venture, for the construction of a 480-bed hospital at Northport, Long Island, New York.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VETERANS' ADMINISTRATION,
Washington, D.C., December 4, 1973.

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

DEAR MR. STAATS: This will respond to the letter of Mr. Gregory J. Ahart, Director of your Manpower and Welfare Division, dated November 19, 1973, concerning our contract with the Blackhawk Heating & Plumbing Company, Inc., and the Donovan Construction Company, a joint venture, for the construction of a 480-bed hospital at Northport, Long Island, New York, let on June 29, 1967.

Mr. Ahart's letter sets forth several questions for my consideration and reaction. As preamble to these questions, he correctly noted that the Contractor's final revised claim was in the amount of $18.5 million, and that the final settlement agreement between the Contractor and the VA was for $10.3 million, which amount is subject to a Government audit of the Contractor's books and records to verify his claimed total costs under the contract, $2.3 million being withheld until such is completed.

On attachments to this response, Mr. Ahart's questions are restated in the order of their appearance in his letter, followed by my answers. I also wish to offer the following general observations concerning his letter.

First, I was somewhat surprised that the questions presented by Mr. Ahart appear to be predicated on conclusions reached after developing very limited views of a highly complex situation. They do not appear to take into account in any way the views of

those whose opinion was that this settlement was fair and advantageous to the Government, nor do they reflect the Contractor's point of view.

Second, it is my conviction—supported by my General Counsel—that we are not dealing here with a case of "contract irregularities" (as implied in the opening sentence of Mr. Ahart's letter), rather we are dealing with a case of *contract modifications* requested by the Government, not by the Contractor.

In that connection, an important aspect of the negotiations leading up to the Northport settlement not covered in Mr. Ahart's letter is the fact that in its written claim and in oral presentations, the Contractor has strenuously argued that the performance which was required by the Veterans Administration was not essentially the same work that the parties bargained for and, hence, the changes ordered were not within the scope of the contract. It is our understanding that the Government is not entitled to use or employ the "Changes" clause to change the nature of a contract. If the Government orders changes beyond the scope of the contract, a breach on the part of the Government will be deemed to have been committed. This is sometimes referred to as a "cardinal change." Whether or not a cardinal change would be found by the Court of Claims involves some speculation. However, if the Court did so hold, the Contractor would be in a much better position with respect to damages to which he would be entitled. Among the damages which the Court of Claims has paid for breach of contract by the Government are:

a. Costs of labor, material and overhead;

b. Increased costs of operations;

c. Profit on equitable adjustment to which the Contractor is found to be entitled;

d. Damages for increased costs to subcontractors;

e. Loss of profits; and

f. Interest as a part of compensation for changes.

It is interesting to note, with respect to the Contractor's potential for a breach of contract claim, the recent decision of the United States Circuit Court of Appeals for the 8th Circuit in the case of *Peter Keiwit Sons' and Co.*, v. *Summit Construction Co.*, 422 F. 2d 242. Here the Court held that in determining whether there had been a substantial change in the scope of a Government construction contract, it is proper to consider the original estimate of what the performance would cost and what the work actually did cost. The Court found that an increase of 300% in the cost of backfilling and 50% in the cost of performance of the entire subcontract were sufficient to show that the changes ordered were not within the scope of the contract and that, hence, there had been a breach of the contract.

Under all of these circumstances, we felt that it was imperative to settle if a reasonable settlement could be reached.

Please be assured that should you desire further information or advice concerning this matter, we will cooperate to the fullest extent. In fact, I welcome your investigation because I am confident that you will reach the conclusion as I have that the settlement was to the advantage of the Government and was inherently fair both to the Government and to the Contractor. The potential ligitative value of the claims as they might be worth in the Board of Contract Appeals and the Court of Claims with respect to the damaging evidence of Government deficiencies and hundreds of changes, the effect of the inter-meshing of the claims with each other, and the fact that in order to complete the project the Contractor was required to borrow large sums of money far in excess of the working capital it had raised in the beginning for performance of the original work more than adequately support this conclusion. I sincerely believe that the amount of settlement fairly satisfies the Court of Claims standard as being a corrective measure "utilized to keep a contractor whole when the Government modifies a contract."

Sincerely,

DONALD E. JOHNSON,
Administrator.

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1. Why no audit by a Government agency of the Contractor's claim was performed prior to execution of the settlement agreement?

It is important to note that at the time this contract was let, the procurement regulations did not require any kind of audit or examination of records clause in fixed price construction contracts and none was included in the contract. In fact, the matter of the Government's right to audit has been one of the substantive matters which have been in dispute, and although the Board of Contract Appeals did grant the Government's motion for an audit and for extended discovery, there is no provision in the Board's rules nor is there any other means or precedent for enforcement of the Board's order.

It should be pointed out that FPR 1-3.809 provides that a contract audit is to be used as a pricing aid "to the fullest extent appropriate." Thus, the regulation contemplates that where compelling reasons exist it need not be used as a pricing aid. As a part of its claim, the Contractor submitted an audit which had been conducted and certified by a public accounting firm. The figures shown in this audit were accepted provisionally subject to verification by the Defense Contract Audit Agency pursuant to generally accepted accounting principles. If the contract costs shown in the Contractor's CPA audit are not correct, the Veterans Administration Contracting Officer has the authority to reduce the amount of settlement "by such amount as he deems proper." Under these circumstances, the use of the Contractor's certified audit as a pricing aid and a document from which to negotiate was considered appropriated and within the purview of the regulation.

2. What is the justification for use of the total cost method as a basis for the settlement?

Concerning the use of the total cost method as a basis for settlement, we believe that the circumstances of this case satisfy the three criteria of the *WRB Corporation* case cited in your letter. Even if this were not so, our review of the cases in the Court of Claims indicates that this is not the only test used by the Court. The cases show that the Court of Claims has taken the realistic approach, acknowledging that under certain circumstances it may be justifiable to utilize the total cost method as a "tool" in arriving at a fair and equitable adjustment. The dicta from the *WRB Corporation* case paraphrased in your letter does not indicate that the position taken by the Court in other prior cases where the total cost method had been accepted has been overruled. Moreover, in the *WRB* case the Court rejected the total cost approach to a larger extent because there was difficulty in precisely determining damages due to the Contractor's unjustifiable failure to maintain accurate cost records during performance. Notably lacking in the *WRB* case were the serious design deficiencies and the hundreds of changes which, from the outset, plagued the Northport Contractor and deprived it of the opportunity to plan or schedule its work with any degree of regularity. In support of its decision, the Court of Claims, in the *WRB* case, cited a Veterans Administration case, *J. D. Hedin Construction Co., v. U.S.*, 171 Ct. Cl. 70 (1965), in which the Court accepted and used the total cost method. Referring to other cases wherein the total cost method had been used, the Court said:

"We are aware that we have on a number of occasions expressed our dislike for this method of computing breaches of contract damages, and we do not intend to condone its use as an universal rule. However, we have used this method under proper safeguards where there is no other alternative, since we recognized that the lack of certainty as to the amount of damages should not preclude recovery. Oliver-Finnie Co., v. United States, 279 F. 2d 498, 150 Ct. Cl. 189 (1960): MacDougald Construction Co. v. U.S., 122 Ct. Cl. 210 (1952); Great Lakes Dredge & Dock Co., v. U.S., 96 F. Supp. 923, 119 Ct. Cl. 504 (1951), cert. denied 342 U.S. 953, 72 S. Ct. 624. 96 L. Ed. 708 (1952)."

Thus, the genesis of the total cost method is inseparably connected with the rule that the amount of damages need not be ascertained with mathematical certainty to sustain an award in the Contractor's favor. In *Hedin*, the Court of Claims went on to say:

"Plaintiff on prior occasions had successfully constructed a number of large projects for the Veterans Administration. Plaintiff has established the fact that it performed additional work. Moreover, the responsibility of defendant for these damages is clear. The only possible method by which these damages can be computed is by resort to the total cost method. Under such circumstances, as stated earlier, we think that the Government should not be absolved of liability for damages which it has caused, because the precise amount of added costs cannot be determined."

In our efforts to reach a fair and reasonable settlement figure, consideration was given to the fact that the cumulative, overlapping, and interlocking nature of the changed work and the extra work was such as to make it impossible to assign detailed costs to the specific changes. There is certainly no reason, therefore, why the over-all costs of performance should not have been considered since (1) the Contractor was experienced in the field, (2) the changes and the Government deficiencies did seriously affect over-all performance, time, and cost, and (3) the costs could not be assigned with accuracy to specific causes. Under such circumstances, judgment had to be utilized to an unusual extent, and was utilized in arriving at what we would consider to be a modified or limited actual cost approach. The agreement, itself, reflects that the settlement was based upon the Contractor's actual costs which, as previously stated, we conditionally accepted subject to verification by the Defense Contract Audit Agency.

3. Was a legal analysis made prior to entering into the $10.3 million settlement?

Of course, we did consider all legal aspects of the claims during the course of negotiations. The Northport disputes were being considered under the "Disputes" clause of the contract and they are by the very nature of the disputes procedure limited to questions of fact. The legal right of the Contractor to claim under the "Changes" clause, the "Changed Conditions" clause, and the "Suspension of Work" clause has never been questioned by anyone associated with the Northport claims. The sole issue has been the amount of the equitable adjustment to which the Contractor is entitled. It is well accepted that questions of law are considered in disputes procedure only when they are necessary to a determination of the facts, and even then such questions of law are not considered final in subsequent judicial proceedings concerning the same matters. No such questions of law have been raised by either of the parties to the Northport disputes.

4. a. In response to your question concerning the Justice Department's investigation of the Contractor arising out of alleged violations of the False Claims Act in submission of claims to the Veterans Administration, we are not aware of any investigation regarding claims filed in connection with the Northport contract. However, with regard to a claim presented by the same Contractor in connection with the construction of the Veterans Administration Hospital, Hines, Illi-

nois, information received from the Department of Justice indicates that, some two years ago, the presentation of all pertinent facts and evidence to the Grand Jury in Chicago resulted in a failure on the part of the United States Attorney to obtain a criminal indictment. This same evidence is now being considered in connection with the possibility of a civil proceeding against the Contractor. We informed the Department of Justice of our negotiations with the Contractor concerning the Northport disputes and, following a two-hour conference with the Justice Department's Attorney handling the case, we were advised that the Chief of the Frauds Section of the Civil Division of the Department of Justice had no objection either to our entering into settlement agreement or to payment of the settlement price in full if such an agreement were reached.

b. The interpretation to be placed on your inquiry concerning elements of the claim that you identify as broken out separately and are allegedly "on their face of dubious allowability," is not entirely clear to us. Nevertheless, please be advised that the settlement was not negotiated on the basis of the matters you question. Furthermore, even if such errors or irregularities escaped our attention, they would be revealed during the course of the extensive audit now being conducted by the Defense Contract Audit Agency. Insofar as it has been possible to break down the various elements of the settlement into categories, we have found that there were five general areas: reinforcing steel and concrete; relocation of the building; extra brickwork; extra mechanical work; extra electrical work; and about 10% for various other claims still pending before the Contract Appeals Board or awaiting decision of the Contracting Officer.

c. While there may have been so-called "knowledgeable" individuals within the Veterans Administration supporting settlement figures less than half of that reached, their opinions were predicated upon the belief that the Government would prevail in the Board of Contract Appeals and in the Court of Claims in virtually all of the pending disputes with the Contractor. We realize, of course as you must, that in a matter as complex as this there is room for many different opinions. There were equally knowledgeable individuals who advised me that settlement in the amount of $10.3 million dollars was the best course to follow under the circumstances. It also needs to be kept in mind that the ultimate figure might even be less than $8 million if costs are not verified by the Government auditors.

d. We recognized, as you pointed out, that six appeals were denied by the Board of Contract Appeals and 13 other claims were dismissed with prejudice. However, none of these was considered as a part of the negotiations leading up to settlement or in the settlement itself. Any attempt to evaluate the effect of these claims on the total cost of performance is purely conjectural and an attempt to estimate their dollar value requires an even greater degree of conjecture.

e. The progress reports mentioned in your letter do reflect the evaluations placed upon the status of the work by the resident engineer. It might be sufficient to point out that these reports are unilateral and subjective evaluations written by the resident engineer and that they reflect the state of mind of the writer as much as they indicate the factual situation. It is important to point out the views of the Veterans Administration Board of Contract Appeals regarding the relationship that existed between the Government and the Contractor in VACAB 664 et al, the *Manhattan* case, which involved a contract with the Blackhawk Heating and Plumbing Company, the managing partner of the joint venture during the time when most of the claims arose. The Board said:

"It is apparent from the correspondence between the parties that has been made a part of the record, and from the testimony received at the hearing, that during the progress of the job there developed a certain degree of antagonism between Appellant and some of the Government's representatives at the site . . The record suggests a tendency on Appellant's part to overclaim and a tendency on the part of the Government's first and second Resident Engineers to initially refuse to recognize that a problem brought to their attention by Appellant was created by any error or deficiency in the plans or that its solution would require a contract change. This undoubtedly led to mistrust that precluded the degree of practical cooperation between the parties that would have been necessary to expedite progress on this difficult job. It also aggravated the potential for dispute. . . ." (pg. 16–17)

In the same case, speaking of the probative value of progress reports, the Board observed:

"The Government's Monthly Progress Reports, prepared by the Resident Engineer on a form designed for that purpose, and that state a percentage of completion at the end of each month, are based upon the total of time extensions that had been granted as of the end of each month and upon the value of work in place, computed for partial payment purposes in relation to initial estimated cost schedules and the contract price. *Under the circumstances here, we find that we must regard them as inconclusive, so far as default status or prospective default status at any given time is concerned, and of no substantial value as evidence of the contract time required or available for performance of the remainder of the work.*" (page 7)

"The Contract Progress Report for that time [Ex. A–102] shows the project as 89.9% complete, with work in place valued at $3,648,000; but, as we have previously observed, such evaluations are based on the values of installed work as related to estimated cost breakdowns and *are unrealistic as to actual time or proportions*, except for the general indication." (page 327) (Emphasis supplied)

VETERANS' ADMINISTRATION,
Washington, D.C., December 10, 1973.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on HUD, Space, Science, Veterans, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This has reference to your letter of November 30, 1973, wherein you expressed concern as to VA's proposed reprogramming of funds to settle claims in connection with construction of the Northport, New York, hospital.

Part of your concern was based on questions raised about the settlement by the General Accounting Office in its letter of November 19 to me. I feel that I satisfactorily answered those questions in my response of December 4, a copy of which I sent to you.

On the larger issue raised in your letter, I am fully in accord with your thoughts that funds for specific construction projects should not be diverted for claims of this nature and that, where otherwise appropriate, a supplemental request should be submitted for review by the concerned Congressional committees. I assure you that this will be my guideline for all such future claims. Furthermore, I am actively seeking to develop a monitoring system to foreclose the possibility of claims of such magnitude (in relation to the original contract) arising in the future. In this regard, I welcome any assistance or suggestions from your Committee and its staff.

In the Northport case, however, negotiations had been under way for many months by the time of our appropriations hearings, and since then I have received numerous requests from Members of the Congress to bring the matter to an early settlement. By mid-October I earnestly believed that circumstances had progressed to a point where further delay would have jeopardized chances for agreement on a settlement which would be fair both to the Government and to the contractor.

Thus, on November 1, with due consideration of all views expressed within the Agency, the VA entered into an agreement with the principals for settlement of claims amounting to approximately $18.5 million, for a figure not to exceed $10.3 million, with the final amount contingent upon an audit of the contractor's records by the Department of Defense's Contract Audit Agency (DCAA). Of the outside amount, it was agreed VA would pay $8 million by today's date and—if warranted by the audit—to pay the remainder 90 days after November 1, 1973.

On December 7, I was advised by DCAA's Branch Manager assigned to this task that "it is our opinion that payment of $8,000,000 to the joint venture as authorized by Article 7B of the settlement agreement between the parties dated November 1, 1973, can reasonably be made.'

Commencing today, if we do not make this payment, interest charges of nearly $2,200 per day must be paid under the agreement. I, therefore, deem it in the best interest of the Government to proceed in the immediate future with orderly and substantial fulfillment of the terms of the settlement agreement.

I will keep you fully informed as to DCAA's additional audit findings as they are made available to me.

Sincerely,

DONALD E. JOHNSON,
Administrator.

VETERANS' ADMINISTRATION,
Washington, D.C., December 10, 1973.

Hon. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reference to your letter of November 21, 1973, relative to VA's settlement of claims arising from the hospital project at Northport, New York.

I have previously furnished you a copy of my response to the November 19 letter from the General Accounting Office. I am herewith providing you a copy of my letter of this date to Senator Proxmire.

On December 7, I was advised by DCAA's Branch Manager assigned to this task, that "it is our opinion that payment of $8,000,000 to the joint venture as authorized by Article 7B of the settlement agreement between the parties dated November 1, 1973, can reasonably be made."

Commencing today, if we do not make this payment, interest charges of nearly $2,200 per day must be paid under the agreement. I, therefore, deem it in the best interest of the Government to proceed in the immediate future with orderly and substantial fulfillment of the terms of the settlement agreement.

Sincerely,

DONALD E. JOHNSON,
Administrator

NORTHPORT, N.Y. HOSPITAL CONSTRUCTION CONTRACT SETTLEMENT

Mr. CRANSTON. Mr. President, I would like to draw to the attention of my colleagues what I consider to be a most distressing situation regarding the settlement of a contract dispute by the Veterans' Administration.

As a result of a request that I made, as chairman of the Veterans Affairs Subcommittee on Health and Hospitals, to the General Accounting Office to investigate certain contract irregularities, cost overruns, and procurement procedures, the GAO uncovered certain questions regarding one particular settlement which appeared on its face, to be highly irregular. Due to the nature of the settle-

ment entered into on November 1, 1973, by the VA with the Blackhawk Plumbing and Heating Co., and the Donovan Construction Co., the GAO felt it necessary to raise immediately with the VA certain very serious questions regarding apparently irregular practices or incomplete documentation to justify the $10.3 million settlement which was agreed upon.

Consequently, on November 19, 1973, a letter was sent to the VA Administrator from the GAO asking for clarification of these points that had been raised, and copies of the letter containing those questions—as I had requested—was transmitted to the House and Senate Committees on Veterans' Affairs, as well as the House and Senate Appropriations Committees.

Mr. President, Chairman PROXMIRE earlier today inserted into the RECORD the chronology of correspondence between us and between the General Accounting Office and the Administrator, as well as letters from Senator HARTKE and the Comptroller General and my remarks now are made in reference to this correspondence.

Mr. President, the Administrator was informed by my good friend and colleague, Mr. PROXMIRE, chairman of the Subcommittee on HUD, Space, Science and Veterans of the Appropriations Committee, in a November 30, 1973, letter, following my November 21 letter to Mr. PROXMIRE that Mr. PROXMIRE, due to the inordinate amount of the cost overrun of this project and the very serious questions raised by GAO, could not approve of the reprograming request.

Despite these serious concerns and the concerns expressed by the chairman of the Committee on Veterans' Affairs (Mr. HARTKE) in a letter to the Administrator on November 21, 1973, Mr. PROXMIRE and Mr. HARTKE were informed on December 10 that the VA intended to go forward with payment of the initial $8 million allegedly stipulated by the settlement agreement.

Mr. President, I view this as an extremely unfortunate decision on the part of the Administrator due to what I consider to be his unsatisfactory response to the questions raised by the GAO and by the concerns raised by Mr. PROXMIRE, Mr. HARTKE and myself. Because my concerns over the cost overruns and serious differences in legal opinion—including sharp disagreements within the VA's own General Counsel's Office and Construction Service—regarding the propriety of the settlement, yesterday I conferred with Chairman PROXMIRE regarding this matter. As a result of those consultations, and in consultation with Chairman HARTKE, who shared our very serious concern, amendment No. 882 to H.R. 11576, the "Supplemental Appropriations Bill, 1974," was offered by Mr. PROXMIRE and accepted by the Committee on Appropriations. This amendment prohibits funds appropriated to the VA to be used to make a settlement of any contract by the VA, which has not been audited independently to determine the reasonableness and appropriateness of the settlement amount, and which amount has not specifically been included for that express purpose in an appropriation act.

Mr. President, it should be noted that the VA Administration in his December 10 letter agreed to this general procedure insofar as budget request justification was concerned. He just did not want to apply it in this settlement.

Mr. President, it is my understanding that a final analysis of the Administrator's response to the GAO will be made available in the very near future—hopefully within a matter of days. It is also my understanding that the Civil Division of the Department of Justice has asked that the VA not proceed to disburse funds under the settlement.

Mr. President, I am sure that my colleagues join me in my grave concern over the appropriateness of reprograming funds—in a way expressly disapproved by the Appropriations Committee—especially when these funds were originally obligated by the VA for the construction of a hospital vitally needed to provide modern medical care to thousands of our Nation's disabled veterans, and when the reprograming of those funds will be used to pay a contract claim under serious question, in connection with an entirely different matter, and thus result in a further delay in, and probably an inflated cost for, the construction of that hospital.

I have requested the Comptroller General to expedite his final evaluation of the VA's reply to its very serious initial questions.

Mr. BAYH. Mr. President, I wish to express my thanks to the distinguished chairman of the Labor-HEW Appropriation Subcommittee (Mr. MAGNUSON) and the very able ranking minority member (Mr. COTTON) and commend them for their work on chapter 4—the section relating to the Departments of Labor and Health, Education, and Welfare.

This is the chapter that—as the distinguished Senator from Washington has already so succinctly and compassionately stated—provides for human needs of our citizens. I have been supportive of all of the Senate action on this chapter, which provides increased support for vital domestic needs in the area of health, education, employment, and rehabilitation of the disabled.

Two programs in particular—the part-time job program authorized under title IX of the Older Americans Act and the increased funding for maternal and child health programs—are of especial interest to me because I was one of those who proposed these amendments. As the chairman has indicated, these funds would be used by the States to provide part-time public service jobs to older Americans over age 55. Over 5 million older Americans are in poverty, but only 1.7 percent of existing manpower training funds are going to train and retrain these workers. Because of the failure of existing manpower training programs, Congress has enacted title IX of the Older Americans Act, and chapter 4 of the supplemental provides $40 million to implement this program.

At this point I ask unanimous consent to place in the RECORD a table showing the State-by-State distribution of the $40 million included in chapter 4 to implement provisions of title IX of the Older Americans Act.

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

TITLE IX, OLDER AMERICANS ACT OF 1965, AS AMENDED—DISTRIBUTION OF FUNDS BY STATE

Alabama	$623,187
Alaska	197,500
America Samoa	98,750
Arizona	302,874
Arkansas	422,882
California	3,433,493
Colorado	348,363
Connecticut	533,500
Delaware	197,520
District of Columbia	197,500
Florida	1,640,189
Georgia	725,756
Guam	98,750
Hawaii	197,500
Idaho	197,500
Illinois	2,070,811
Indiana	915,415
Iowa	$598,008
Kansas	462,559
Kentucky	611,560
Louisiana	591,250
Maine	203,212
Maryland	601,896
Massachusetts	1,140,862
Michigan	1,452,456
Minnesota	717,035
Mississippi	411,255
Missouri	990,878
Montana	197,500
Nebraska	312,538
Nevada	197,500
New Hampshire	197,500
New Jersey	1,346,980
New Mexico	197,500
New York	3,715,917
North Carolina	823,492
North Dakota	197,500
Ohio	1,876,282
Oklahoma	536,097
Oregon	418,013
Pennsylvania	2,409,471
Puerto Rico	343,531
Rhode Island	195,000
South Carolina	387,058
South Dakota	197,500
Tennessee	726,700
Texas	1,885,984
Trust Territories	98,750
Utah	197,500
Vermont	197,500
Virginia	724,775
Virgin Islands	98,750
Washington	606,728
West Virginia	362,859
Wisconsin	848,634
Wyoming	197,500
National Office Administration	500,000
Total	40,020,000

Mr. BAYH. Mr. President, chapter 4 of the bill also includes $30,105,000 for maternal and child health. This includes intensive care units for newborn infants, services for crippled children, and maternal and infant care.

This program is this Nation's major effort to combat infant mortality. Despite our affluence, this Nation ranks 16th among the developed nations in infant mortality. I think this is a national disgrace. Infant children are needlessly dying in this country, and the amendment proposed by the Senate committee will do something to improve this situation.

Mr. President, I ask unanimous consent to place in the RECORD at this point a table showing the State-by-State allocations and distributions of these funds for maternal and child health included in the bill.

There being no objection, the table was

ordered to be printed in the RECORD, as follows:

Maternal and child health 1974 supplemental

State	1974 supplemental allocation
Alabama	------
Alaska	44,900
American Samoa	101,200
Arizona	-------
Arkansas	354,500
California	164,100
Colorado	-------
Connecticut	-------
Delaware	366,900
District of Columbia	-------
Florida	-------
Georgia	859,800
Guam	90,300
Hawaii	-------
Idaho	268,700
Illinois	----------
Indiana	2,143,300
Iowa	1,442,300
Kansas	125,600
Kentucky	1,629,100
Louisiana	646,500
Maine	635,400
Maryland	----------
Massachusetts	----------
Michigan	----------
Minnesota	148,800
Mississippi	2,087,800
Missouri	----------
Montana	109,000
Nebraska	----------
Nevada	3,000
New Hampshire	268,500
New Jersey	1,496,100
New Mexico	166,600
New York	----------
North Carolina	3,399,100
North Dakota	463,200
Ohio	----------
Oklahoma	748,400
Oregon	413,000
Pennsylvania	605,400
Puerto Rico	----------
Rhode Island	17,500
South Carolina	1,877,700
South Dakota	513,900
Tennessee	1,913,500
Texas	----------
Trust Territory	217,900
Utah	827,500
Vermont	350,400
Virgin Islands	----------
Virginia	1,464,300
Washington	901,100
West Virginia	865,400
Wisconsin	2,235,800
Wyoming	138,000
Total United States	30,104,500

Mr. HATFIELD. Mr. President, as a member of this committee, I wish to commend the chairman and the ranking member for the leadership they provided in reporting the bill to the floor. It is a good, balanced proposal, and I hope that positions where we differed with the House will be sustained in conference.

I wish to call attention to a few particular items of interest to me. First, I wish to thank the committee for accepting our proposal to add $1.6 million for the tussock moth. Of this, some $1.36 million will be earmarked for timber salvage and rehabilitation, and $239,000 for forest insect disease research. I have spoken many times on the floor about the tussock moth and the havoc it has caused in the Northwest.

I know the Senators from Washington, Senators MAGNUSON and JACKSON, share this concern as the moth damage spreads into Washington. In fact, Senator MAGNUSON joined as a cosponsor of this amendment. I also want to call attention to report language that indicates our committee will give a sympathetic ear to supplemental budget requests to administer DDT, if EPA finally sees the light and approves its use to combat further devastation.

In addition, I was pleased to see inclusion of language directing the Corps of Engineers to accelerate work on the Siuslaw jetty study at Florence by the Corps of Engineers. There is terrible shoaling occurring now, and I believe the $40,000 earmarked for this should be used as soon as possible by corps personnel.

The committee also adopted the provision lifting the moratorium on upgrading and rehabilitating hopper dredges. In the 16 months of the moratorium on hopper dredge repairs, it has caused further problems in the smaller Oregon ports, where hopper dredges are the only ones that can work. I ask unanimous consent that this section of our committee report appear at this point in the RECORD.

Also, Mr. President, I think it was wise of the committee to add language in the report tightening up the language we inserted in this year's appropriations bill regarding the exports of logs from Federal lands. It has been brought to our attention that some people are taking logs, often large peeler logs, and cutting them a few times lengthwise, binding them up—often so they look like the original log—and exporting them. I hope the Secretaries of the Interior and Agriculture will see that this is stopped.

I repeat that I think this is a good bill, and represents a balanced approach to the many budgetary requests our committee considered.

Mr. KENNEDY. Mr. President, I want to commend the chairman of the committee, and the chairman of the Labor-HEW Subcommittee for their consideration of vital measures affecting the elderly and affecting health service contained within the supplemental appropriations bill.

I testified for the funding of title IX of the Older Americans Comprehensive Services Amendments of 1973 along with William Hutton, executive director of the National Council of Senior Citizens, and John Martin, president of the American Association of Retired Persons.

I am pleased that the committee has acceded to the request I made to include $40 million for title IX as it did in the regular 1974 Labor-HEW appropriations bill.

Unfortunately, the conference committee deleted that provision, because it could not consider all of the manpower appropriations requests at that time. However, it is my understanding that the procedural impediment now has been removed. Appropriations for the manpower programs are made at the level of the current continuing resolution.

Therefore, I would hope that this provision would remain unchanged in the conference. Let me add that in the discussion within the Senate-House conference on the authorizing legislation, we agreed to accept a reduced level of authorization, from $100 to $60 million on the understanding that the administration would accept that level of expenditure for this type of community service employment for older Americans.

It is my understanding that the committee has agreed to a level of approximately $20 million for the Operation Mainstream programs related to the older workers. By accepting the $40 million appropriation level for title IX, we could operate this program at a reasonable level this first year and then hopefully expand it in the upcoming fiscal year.

In that regard, I would note that the current level of unemployment for older workers remains high and the prospect in the near future as a result of the energy crisis is for additional unemployment. We know all too well from past experience that when unemployment rises, as it is expected to as a result of the energy shortage, the first ones to be fired and the last to be rehired are the older workers.

I believe this program is essential and I would urge the conferees to retain it at the $40 million level.

Mr. President, I also urge the Senate to approve the $7,800,000 supplemental appropriation for the National Science Foundation. These funds are urgently needed to enable the Foundation to aid the Nation in meeting the energy crisis. Of the total, $6 million would go directly for energy programs. And the remaining $1.8 million would go for science and technology policy studies and additional staff, much of which would also contribute to the Nation's attack on the energy problem.

The funds would be specifically allocated as follows: $2.5 million for energy research and development policy studies; $1 million for national science and technology policy; $2.2 million for energy conversion; $900,000 for automotive propulsion—with direct impact on the energy problem; $400,000 for international cooperative energy program; and $800,000 for program development and management.

The National Science Foundation has long been a leader in the fields of solar energy, geothermal energy, and many areas of advanced research and technology that can contribute significantly to the solution of the Nation's energy problem. The fiscal year 1974 National Science Foundation Authorization Act, which I was privileged to manage in the Senate specifically authorized $40 million for energy research and technology programs. The act also included a stipulation that not less than $25 million could be spent for such programs, because of the administration's record of impounding energy research funds in prior years, including two-thirds of the amount authorized for solar energy in fiscal year 1973.

I am pleased to note the administration's belated recognition of the importance of these advanced energy research

and technology programs, and urge the Senate to approve this urgently needed supplemental appropriation.

SENATOR RANDOLPH SUPPORTS SUPPLEMENTAL APPROPRIATIONS BILL—REHABILITATION PROGRAM IS HELPED

Mr. RANDOLPH. Mr. President, I express appreciation for the rapidity and vigor with which the members of the Committee on Appropriations has undertaken the development of the supplemental appropriations bill, I particularly thank the chairman of the Labor-HEW Subcommittee, the Senator from Washton (Mr. MAGNUSON).

Included within the pending measure are appropriations for the Federal-State vocational rehabilitation program. This marks the first time that appropriations have been legislated pursuant to the Rehabilitation Act of 1973.

As chairman of the Subcommittee on the Handicapped which developed this important act, I submitted, with Senator STAFFORD, ranking minority member of the subcommittee, a statement supporting funding of the various programs of the Rehabilitation Act at a level more commensurate with the need than that proposed in the President's amended budget.

I am gratified that the committee agreed with several of the recommendations set forth in the joint statement. In particular, I commend the Members for providing $658 million for basic program services, rather than the $615,870,000 that was requested. I am also encouraged that research funding is recommended at a level of $25,596,000, instead of the lower request figure of $20,596,000. Training funds have been adopted at a level of $15,572,000. The administration had asked for a phaseout budget of $8,130,000. Committee members agreed with Senator STAFFORD and me that training should continue to be funded.

As chief sponsor in the Senate of the Rehabilitation Act, I have become familiar, as has Senator STAFFORD, with the needs of handicapped individuals for rehabilitation services. I know what the program funding levels should be. Although the pending supplemental appropriation measure does not meet the need in all respects, it is a helpful beginning, and a reasonably good one. I support the supplemental appropriations act, H.R. 11576, as amended by the Senate committee.

Mr. President, I ask unanimous consent that the joint statement submitted by Senator STAFFORD and myself on funding under the Rehabilitation Act of 1973 be inserted at this point in the RECORD.

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

JOINT STATEMENT OF SENATOR JENNINGS RANDOLPH AND SENATOR ROBERT T. STAFFORD

Mr. Chairman and Members of the Committee on Appropriations, you currently have under consideration a measure in which we have a deep and abiding interest and concern. As Chairman and ranking minority, member of the Subcommittee on the Handicapped we, along with the other members of the Committee, were responsible for the development and enactment of the Rehabilitation Act of 1973.

The Rehabilitation Act was signed into law just two months ago, on September 26. Although it is not as ambitious as we would have liked, it is nonetheless good legislation which the President found acceptable.

As representatives of the Committee which developed this authorizing legislation, we urge you to provide funding at the levels specified therein for we consider those levels to be the minimum necessary for effective improvement in the Federal-State rehabilitation program. In this connection, we note that the revised budget request for fiscal year 1974 is disappointingly low in a number of respects. Following is a discussion of each of the program areas for which funds were authorized under P.L. 93–112, the Rehabilitation Act of 1973, including our recommendations and justifications therefor.

TITLE I—GRANTS FOR BASIC VOCATIONAL REHABILITATION SERVICES

The Administration has requested appropriations for $615,870,000 for Basic Vocational Rehabilitation Services for fiscal year 1974, compared to the minimum authorized of $650 million. As we have indicated time and again, dollars for rehabilitation are the best investment of Federal funds that can be made. They return many times the investment in terms of income improvement, tax payments, welfare roll reductions, and most important, productive and independent workers who happen to have handicaps. Studies have varied in their determination of the ratio of benefits to costs of rehabilitation. Some estimates range as high as 75 to 1 for certain groups. The Department of Health, Education, and Welfare accepts a highly conservative ratio of 3 to 1. Even at that low estimate, three dollars will be returned for every dollar of cost to the program. We can hardly afford to scrimp on an investment of that kind. In addition, there is a large population of some 10 million handicapped individuals who are probably rehabilitatable, but who have not as yet been touched by the program. The more such individuals that can be reached, the better for them and for the Nation.

TITLE I—INNOVATION AND EXPANSION GRANTS

The request for this program is $29 million, plus $1 million for a study of the need for comprehensive services for individuals with the most severe handicaps. The authorizing legislation provides for $37 million for innovation and expansion grants, of which $1 million is to be earmarked for the study. This may be compared to an expenditure under section 4(a)(2)(A) of the replaced Vocational Rehabilitation Act of $41.8 million in fiscal year 1972, an initial budget request level of $49.35 million for fiscal 1973, and a revised 1973 request of $35.86 million. The minimum recommended for FY 1974 under the authorizing legislation is thus lower than the 1972 operating level, and comparable to the revised request for 1973. There is no justification for reducing funding levels in this important area, particularly with additional emphases in the new law on services to those with the most severe handicaps and to others, including the poor, with unusual or difficult rehabilitation problems.

TITLE II—RESEARCH

New emphasis on appropriate research, the establishment of Rehabilitation Research and Training Centers, Rehabilitation Engineering Research Centers, spinal cord injury research, endstage renal disease research, and international exchange for rehabilitation research, all demonstrate the importance placed on the research function by Congress under the Rehabilitation Act of 1973. The budget request of $19,996,000 falls short of the absolute minimum of $25 million we believe is necessary to initiate these new activities. Earlier measures, which were adopted by Congress but were vetoed by the President, had far higher authorization levels. As we indicated in the Senate Report on S. 1875, the measure from which P.L. 93–112 evolved,

"There is no question that in order to carry out the research program envisioned by the Committee, a tremendous increase in knowledge, innovative methods, devices and techniques will be needed."

We believe that nothing less than a major effort must be expended in order that technology be fully exploited in aiding handicapped individuals to overcome their disabilities.

TITLE II—TRAINING

The request for training funds before this Committee is $8,130,000. The budget justification states that this amount is to be applied toward the termination of training grants for rehabilitation. It is said that funds are available for this purpose through basic opportunity grants in existing education legislation. Training grants under the rehabilitation program, however, cannot be equated with the usual education grant system. Under rehabilitation, funds are being used in part for institutional support as well as for student aid. Such support would be lost if the rehabilitation training program were phased out. Schools would not be able to retain the faculty necessary to provide training of the magnitude necessary to improve and expand the provision of rehabilitation services. A reduction in training, which would be inevitable under the Administration's phase-out proposal, would ultimately result in the drying up of rehabilitation services. As we indicated in our Committee reports, there is a great shortage of skilled rehabilitation personnel at all operational levels, and in all professional categories. We also stated that—

"The Committee disagrees strongly with the Administration's announced policy of cutting back and eventually phasing out the training of rehabilitation personnel. The Committee finds this a short-sighted policy . . ."

The actual fiscal year 1972 spending level for training was $22.26 million. Both the original budget request and the revised request for FY 1973 put training at a level of $27.7 million. This, then—$27.7 million—is the minimum established through authorization for FY 1974 in the Rehabilitation Act of 1973.

TITLE III—VOCATIONAL TRAINING SERVICES

The provision for training services and maintenance payments to handicapped individuals undergoing rehabilitation was retained in the new Act with very few changes from section 13 of the Vocational Rehabilitation Act. It is a vitally important part of the rehabilitation process. The request for FY 1974 is $8.3 million. Although P.L. 93–112 authorizes the appropriation of such sums as may be necessary, a brief outline of legislative activity leading up to this enactment shows that more than this amount should be appropriated. The amount expended in FY 1972 for training services was $12.85 million. The original budget request for FY 1973 was $12.3 million, while the revised request equalled $10.3 million. The latter figure was the amount authorized under S. 1875 for fiscal year 1974. Again, in sympathy with the Administration's need to bring Federal expenditures under control, the Committee agreed to this minimum figure. To cut appropriations by an additional $2 million is not justified, in our opinion.

TITLE III—SPECIAL PROJECTS

The budget request for special projects appears on superficial examination to total $14.7 million, only $300,000 less than the authorizing Committee believed to be an appropriate minimum level of appropriation. A further reading of the budget justification shows, however, that of the $14.7 million requested, $12.5 million is for grant funds under the Development Disability Services and Facilities Construction Amendments of 1970. It is clearly not the intent of Congress,

and was not the intent of the Committee in developing this legislation, that special project funds be used for development disabilities grants. We would not interpose objection to accounting and responsibility for the developmental disabilities program under the aegis of the Rehabilitation Act. But the two programs should not be confused and commingled as the Administration has done in its budget justification for special projects.

Therefore we strongly recommend that this Committee specifically provide $12.5 million for development disability grants, and an *additional* $15 million for special projects. In the rehabilitation legislation which preceded the compromise S. 1875, there were separate authorizing sections for services to older blind individuals, to individuals with spinal cord injuries, to deaf individuals who have not reached their maximum vocational potential, and to individuals suffering from endstage renal disease. All these categories except the last were combined in S. 1875 (and were so retained in P.L. 93–112) under section 304, special projects and demonstrations. What is more, client assistance projects under section 112, and aid to migratory agricultural workers are to be funded from section 304 appropriations. It should be quite apparent that few of these very important projects could be funded out of the $2.2 million which remained after the application of $12.5 million to the developmental disabilities program.

TITLE IV—OFFICE FOR THE HANDICAPPED; STUDIES

Although Administration representatives, in negotiating the compromise Rehabilitation Act agreed to a funding level of $500,000 for each of two years for establishing an Office for the Handicapped or the functions of such an office under section 405 of P.L. 93–112, they have requested only $200,000 for this purpose for FY 1974. We urge the Committee to provide for this important consolidating function at the full $500,000 level.

The Administration is asking for $375,000 for the conduct of the sheltered workshop study under section 406. We believe a funding level of $200,000 should be adequate. It has also requested $125,000 for a state allocation study under section 407. We would recommend a reduction to $50,000. The law provides no specific authorization level for either study. We do recommend that all studies and evaluations carried out under P.L. 93–112 be directed by a *single* office or individual to avoid waste, duplication, and overlap in program, funding, and hiring of consultants.

TITLE V—ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

One provision of the Rehabilitation Act of 1973 which we consider to be of great value and significance is section 502, the Architectural and Transportation Barriers Compliance Board. Yet we authorized a funding level of only $1 million for each of two years. The Administration's proposed FY 1974 appropriation of $300,000 would virtually assure that this potentially effective weapon against barriers to our handicapped population would be without force and ineffective. Many changes must be made in our public buildings, facilities, and transportation if handicapped individuals are ever to enjoy lives of mobility which approach those that most of us take for granted. To cast aside these barriers, a strong and vigorous enforcement arm must be established. Ways to improve laws and regulations must be investigated and brought to the attention of the President and Congress. We urge you to fully fund this urgently needed activity.

In conclusion, Mr. Chairman and Members of the Committee, we appreciate this opportunity to present our views on appropriate levels of funding for the Rehabilitation Act of 1973. The promise engendered by the enactment of that law can be fulfilled only if a commitment to its high purpose is demonstrated through the adoption of adequate appropriations.

Mr. McCLELLAN. Mr. President, if there are no other amendments, I ask for the third reading of the bill.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

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

The bill (H.R. 11576) was read the third time.

Mr. McCLELLAN. Mr. President, before we vote on the bill I want to take a moment of the Senate's time to thank each subcommittee chairman of the Appropriations Committee, who handled the respective chapters of the bill, and my distinguished colleague, the Senator from North Dakota (Mr. YOUNG), the ranking minority member on the Appropriations Committee. I also want to express my gratitude to all members of the committee and members of the staff who worked on this supplemental bill and all of the other bills that we have had before the committee this year. Through their diligent efforts, it has been possible to move the business of the Senate forward efficiently and expeditiously.

The pending measure was received from the House on December 1, less than 2 weeks ago. It was reported to the Senate yesterday and will be ready for a third reading shortly. For this, I want to express my special appreciation and thanks to all those who helped on 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 legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Georgia (Mr. NUNN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Idaho (Mr. CHURCH) is absent on official business.

I also announce that the Senator from Misouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN) would vote "yea."

Mr. HUGH SCOTT. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Michigan (Mr. GRIFFIN) are necessarily absent.

The Senator from South Carolina (Mr. THURMOND) is necessarily absent because of death in his family.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The result was announced—yeas 90, nays 0, as follows:

[No. 575 Leg.]

YEAS—90

Abourezk	Ervin	Metcalf
Aiken	Fannin	Mondale
Allen	Fong	Montoya
Baker	Fulbright	Moss
Bartlett	Gravel	Muskie
Bayh	Gurney	Nelson
Beall	Hansen	Packwood
Bellmon	Hart	Pastore
Bennett	Hartke	Pearson
Bible	Haskell	Pell
Biden	Hatfield	Percy
Brock	Hathaway	Proxmire
Brooke	Helms	Randolph
Buckley	Hollings	Ribicoff
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
Byrd, Robert C.	Hughes	Scott, Hugh
Cannon	Humphrey	Scott, William L.
Case	Inouye	Sparkman
Chiles	Jackson	Stafford
Clark	Javits	Stennis
Cook	Kennedy	Stevens
Cotton	Long	Stevenson
Cranston	Magnuson	Taft
Curtis	Mansfield	Tower
Dole	Mathias	Tunney
Domenici	McClellan	Weicker
Dominick	McClure	Williams
Eagleton	McGee	Young
Eastland	McGovern	
	McIntyre	

NAYS—0

NOT VOTING—10

Bentsen	Johnston	Talmadge
Church	Nunn	Thurmond
Goldwater	Saxbe	
Griffin	Symington	

So the bill (H.R. 11576) was passed.

Mr. McCLELLAN. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McCLELLAN, Mr. MAGNUSON, Mr. STENNIS, Mr. PASTORE, Mr. BIBLE, Mr. ROBERT C. BYRD, Mr. McGEE, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. YOUNG, Mr. HRUSKA, Mr. COTTON, Mr. CASE, Mr. FONG, Mr. HATFIELD, Mr. STEVENS, Mr. MATHIAS, and Mr. BELLMON conferees on the part of the Senate.

UNITED NATIONS—COLLECTIONS AND ARREARAGES

Mr. HARRY F. BYRD, JR. Mr. President, with regard to the discussion on the United Nations which has been taking place for several days, I ask unanimous consent to have printed in the RECORD information showing those nations which are in arrears on their contributions to the United Nations.

The list shows that 68 members are in arrears on the regular budget, 62 members are in arrears on the United Nations Emergency Force Budget, and 54 nations are in arrears on the United Nations Congo Budget. Incidentally, the nation that has the largest sum in arrears is the Soviet Union.

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

SUMMARY AS OF JAN. 1, 1973, COLLECTIONS AND ARREARAGES FOR 1972 AND PRIOR YEARS OF UNITED NATIONS ACCOUNTS FOR THE REGULAR BUDGET, WORKING CAPITAL FUND, EMERGENCY FORCE, AND THE CONGO[1]

BALANCE DUE, 1972 AND PRIOR YEARS, AS OF JAN. 1, 1973

Members (126)[2]	Regular budget	UNEF	UNOC	Total due
Afghanistan	17,808	29,499	37,603	84,910
Albania	79,611	45,299	43,602	168,512
Algeria		8,932		8,932
Argentina				
Australia		63,227		63,227
Austria				
Barbados				
Belgium		144,583		144,583
Bolivia	206,106	41,905	34,833	282,844
Botswana				
Brazil	1,434,359		248,838	1,683,197
Bulgaria	572,573	181,155	190,746	944,474
Burma				
Burundi	103,447	11,278	10,471	125,196
Byelorussian S.S.R.	863,630	911,964	1,357,881	3,133,475
Cameroon	72,957	1,689		74,646
Canada				
Central African Republic	182,335	2,256	6,589	191,180
Chad	151,825	8,385	9,832	170,042
Chile	353,941	165,903	224,847	744,691
China	481,161			481,161
Colombia	642,013			642,013
Congo	87,437	9,249	9,938	106,624
Costa Rica	72,422			72,422
Cuba	470,667	249,811	260,259	980,737
Cyprus				
Czechoslovakia	1,016,827	1,814,845	2,759,408	5,591,080
Dahomey	120,452	5,530	6,994	132,976
Denmark				
Dominican Republic	206,106	22,898	54,503	283,507
Ecuador	206,107	10,129	4,120	220,356
El Salvador	133,518	7,411	3,349	144,278
Equatorial Guinea	133,518			133,518
Ethiopia				
Finland				
France	4,452,507	765,655	17,031,152	22,249,314
Gabon	52,138			52,138
Gambia	84,421			84,421
Ghana	123,880			123,880
Greece				
Guatemala			38,209	38,209
Guinea	206,106	19,410	9,938	235,454
Guyana	70,624			70,624
Haiti	206,086	25,661	33,916	265,663
Honduras	97,547		5,677	103,224
Hungary	1,157,855	898,298	995,024	3,051,177
Iceland				
India	187,545			187,545
Indonesia				
Iran				
Iraq		100,407	22,362	122,769
Ireland				
Israel	115,845			115,845
Italy	237,235			237,235
Ivory Coast		1,689		1,689
Jamaica				
Japan				
Jordan	70,788	45,299	43,602	159,689
Kenya	70,788			70,788
Khmer Republic	9,456	1,689		11,145
Kuwait				
Laos	70,788			70,788
Lebanon		19,850	12,108	31,958
Lesotho				
Liberia				
Libya		1,689		1,689
Luxembourg				
Madagascar				
Malawi	4,845			4,845
Malaysia				
Maldives				
Mali	144,688	5,469	24,259	174,416
Malta				
Mauritania	100,755		17,215	117,970
Mauritius				
Mexico		679,491	786,193	1,465,684
Mongolia	39,457	12,387	17,215	69,059
Morocco				
Nepal				
Netherlands				
New Zealand				
Nicaragua	185,328		33,915	219,243
Niger	36,852	1,906		38,758
Nigeria				
Norway				
Pakistan	284,072			284,072
Panama	20,788	15,648	33,915	70,351
Paraguay	204,723	31,661	24,229	260,613
Peru	299,649	77,441	89,184	466,274
Philippines		15,632		15,632
Poland	1,428,821	2,528,364	2,466,010	6,423,195
Portugal	398,756		201,673	600,429
Romania	504,402	682,212	641,015	1,827,629
Rwanda		11,278	10,471	21,749
Saudi Arabia		74,890	69,487	144,377
Senegal	110,431	9,814	20,418	140,663
Sierra Leone	100,409	2,469		102,878
Singapore				
Somalia	138	11,191	17,445	28,774
South Africa	461,768	80,862	1,503,337	2,045,967
Spain		1,089,981	985,159	2,075,140
Sri Lanka				
Sudan		89,332	5,860	95,192
Swaziland	70,788			70,788
Sweden				
Syria	189,774	46,654	20,379	256,807
Tanzania	9,780			9,780
Thailand		9,026		9,026
Togo	76,401	16,174	25,324	117,899
Trinidad and Tobago				
Tunisia				
Turkey				
Uganda	77,934	9,589	10,471	97,994
Ukrainian S.S.R.	2,385,599	3,476,580	5,185,697	11,047,876
Union of Soviet Socialist Republic	24,726,935	27,665,631	39,223,085	91,615,651
United Arab Republic		351,946	48,387	400,333
United Kingdom		283,300		283,300
United States		[3] 1,188,096		[3] 1,188,096
Upper Volta	90,221	19,936	14,145	124,302
Uruguay	392,603	54,388	97,662	544,653
Venezuela	725,581	32,298		757,879
Yemen (Aden)	70,788			70,788
Yemen (S'ana)	108,483	45,299	43,602	197,384
Yugoslavia		7,598	333,269	340,867
Zaire	1,000			1,000
Zambia				
Total	48,074,198	44,242,138	75,404,822	167,721,158
Members in arrears	68	62	54	87

[1] Source: Information as of Dec. 31, 1972, supplied by the United Nations.
[2] Does not include the following admitted at the 25th and 26th sessions of the General Assembly: Bahrain, Bhutan, Fiji, Oman, Qatar, and United Arab Emirates.
[3] This amount is the difference between the original apportionment for 1967 and the amount paid by the United States toward its share of the revised estimates of 1967 costs.

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

The PRESIDING OFFICER. The Chair now lays before the Senate the unfinished business which the clerk will state.

The legislative clerk read as follows:

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.

LEGAL SERVICES CORPORATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 471, S. 2686.

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

The legislative clerk read as follows:

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

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

Mr. HELMS. Mr. President, I ask unanimous consent that all amendments now printed and submitted for the purpose of being offered to S. 2686, the Economic Opportunity Act of 1964, be considered as having been read in order to comply with the reading requirements of the provisions of rule 22.

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

Mr. MANSFIELD. 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. HELMS. 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. HELMS. Mr. President, there have been several statements on this floor which have suggested that no hearings were necessary on this bill because it

has been thoroughly examined and debated in other Congresses, that plenty of hearings were heard in the past, and no new issues were brought forward.

Frankly, Mr. President, I cannot understand this reasoning. We are in a new Congress. There are several Senators, myself included, who were not Members of this body during earlier discussion. The Senate is not bound by earlier decisions, particularly decisions which never passed into law. I think that all legislation should be thoroughly debated in the context of the present situation, not in the context of 2 or 3 years ago.

We all know that much more information about the operation of the present Legal Services program is available today than last year. The OEO itself, Legal Services included, is in a drastically different position than it was last year. We know that the administration tried very hard to reform the system and root out the abuses that have been present since its inception. In large part the reformers succeeded with regard to OEO, but although the grave deficiencies of the legal services program have been exposed for the first time, it will take statutory reform to bring about lasting changes in the program.

That is why I find it incredible that no hearings were held this year, not even to reassess the value of the present program. Here is a program that was in the newspaper headlines almost daily for several months, but no hearings were held before basic legislation changing the nature of the program was reported to this floor.

Certainly, there was plenty of time to hold hearings. The administration sent down its proposals in May. The House passed its version of the bill in June. Yet, no bill was reported by the Labor and Public Welfare Committee until November 9. The bill that was reported is a brand new bill that differs in many respects from the House bill, from the administration proposal, and from previous bills reported by that committee. I find it marvelous to behold that any committee can write a brand new bill without holding hearings.

It is well known that the Legal Services bill which was passed by the House differs in a most important, basic respect from the bill before us today. The House bill, H.R. 7824, is not an amendment to the Economic Opportunity Act. It is an independent bill. It proposes an act, setting up an independent Legal Services Corporation. When the House passed the bill and sent it over to this body, one would normally expect such a bill to be referred to the Committee on the Judiciary. After all, it contains provisions which will have an important impact upon our legal system. If I understand the proponents of the bill correctly, its main purpose is to have an important impact upon our legal system, the delivery of legal services, and the relationship between the bar and such delivery of legal services.

The Senator from North Carolina is not a lawyer, but it does seem to me that it would have been reasonable to submit such a bill to the Judiciary Committee for review and recommendations. The bill has nothing to do with the Economic Opportunity Act.

It is my understanding that the Parliamentarian was prepared to refer the bill to the Judiciary Committee, until unanimous consent was asked to refer it to the Committee on Labor and Public Welfare. Unanimous consent not being obtained, the House bill was thus allowed to lie on the table, where it has remained to this day.

That is my understanding of the legislative history. If I am wrong, I wish to be corrected. The bill that is before us today is a totally different bill. It has some superficial resemblance to the House bill, but it comes to us disguised as an amendment to the Economic Opportunity Act. The Judiciary Committee has never considered it, despite its impact upon the judicial system of this country.

The distinguished Senator from Tennessee (Mr. BROCK) and I introduced a totally different bill in June, which would also set up an independent Legal Services Corporation. But our approach is fundamentally different from any of the bills which have been considered thus far. It would bring the delivery of legal services to the poor into more intimate contact with the bar associations of each State and with the members of the legal profession. It would place the oversight of the delivery of legal services into the ordinary and proper legislative processes of Congress and the several States. It would be structured along the lines of the revenue sharing concept, allowing the States to design their own programs, according to their needs. The funds would be allocated to each State on the basis of need—that is to say, by the number of people that State has below the poverty line.

This is a proposal that needs much discussion. It is, in my judgment, a viable alternative that eliminates many of the difficulties that have brought controversy to the present proposal.

The Brock-Helms bill, S. 1990, was referred to the Judiciary Committee. No hearings have been held on the Brock-Helms bill, and I cannot fault the Judiciary Committee for that. Legal Services is a very complicated topic. As everyone knows, the Judiciary Committee, under the leadership of its able and distinguished chairman, has done a very commendable job with a whole series of difficult and controversial nominations and proposals. The committee has had an unusually heavy schedule in the past 6 months.

There has hardly been a moment when the Judiciary Committee has not been fully occupied with business that was under very tight and pressing deadlines. I will be the first to admit that there is no such deadline with the Legal Services program. The program can continue the way it is until Congress has time to act, and act properly.

This is all the more reason for us not to act in haste now. The proposed legislation should be properly studied and debated at leisure, with the deliberate processes of the Senate. There is no valid reason whatsoever for the injudicious haste which the proponents of this legislation are attempting to exert. It is totally unnecessary to take up the time of the Senate with this topic when we are already behind on our schedule, and many Senators will miss the opportunity to spend their Christmas holidays at home.

That is why I must emphasize that it is premature to pass this measure when no hearings have been held this year, and when the Judiciary Committee has not had the opportunity to study it and similar proposals together. I remind this body that there are many significant differences among these several proposals. I have prepared a summary that examines the four major proposals and points out these differences.

Mr. President, I ask unanimous consent that the comparison of the four proposals be printed in the RECORD.

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

COMPARISON AND ANALYSIS OF KEY PROVISIONS

Four proposals for the establishment of a Legal Services Corporation:

Plan A—The Administration Bill (ADMIN)/as announced May 15, 1973.

Plan B—The House Bill (HOUSE)/Passed 276–95 on June 21, 1973, H.R. 7824.

Plan C—The Senate Labor and Public Welfare Committee Bill (LPW)/S. 2686, as reported on November 9, 1973, with Report Language (93–495).

Plan D—The Brock-Helms Substitute (BROCK), S. 1990.

General notation.—In certain instances, prohibitions apply only to "staff attorneys" and do not cover para-professional and non-professional employees, such as community organizers.

PART 1. PREAMBLE

Plan A (Admin)—"To establish a Legal Services Corporation."

Plan B (House)—"To establish a Legal Services Corporation."

Plan C (LPW)—"To amend the Economic Opportunity Act of 1964 to provide for the transfer of the legal services program" from OEO to "a Legal Services Corporation."

Plan D (Brock)—"Federal Legal Aid Corporation Act of 1973."

Analysis

As an amendment to the E.O.A., the LPW Committee plan would place oversight responsibility for the new Corporation with the Senate Committee on Labor and Public Welfare, giving that Committee exclusive authority to confirm appointees to the Corporation Board. Under the language of the three other proposals, oversight would lie with the Senate Judiciary Committee.

PART 2. DEFINITIONS

Plan A (Admin)—includes as "State," the fifty states, D.C., Puerto Rico, Virgin Islands, Guam, "or any of the territories and possessions of the United States." "Legal assistance" means the "provision of any legal services under this Act."

Plan B (House)—specifically adds as "State" American Samoa and the Trust Terriority of the Pacific Islands. "Legal Assistance" means the "provision of any legal services under this Act."

Plan C (LPW)—specifically adds as "State" American Samoa and the Trust Territory of the Pacific Islands. "Legal Assistance" is broadened to intend not merely "legal advice and representation," but also "other appropriate legal services consistent with the purposes and provisions of this title";

Plan D (Brock)—"State" is limited to mean the fifty states, D.C., and Puerto Rico. No specific definition of "legal assistance" is set forth.

Analysis

Unlike the Administration proposal and Brock-Helms, both the House and LPW Committee versions specifically provide for programs in American Samoa and in our United Nations Trusteeship in Micronesia. The effect is to "lock in" the controversial Micronesia Legal Services Program.

PART 3. STATEMENT OF PURPOSE AND "FINDINGS"

Plan A (Admin)—None.

Plan B (House)—None.

Plan C (LPW).—"The Congress finds and declares . . . there is a need . . . to continue the present vital legal services program . . . to preserve the strength of the legal services program it must be insulated from political pressures; and (6) lawyers providing such services must have full freedom . . ."

Plan D (Brock).—Accessibility of the "institutions of government" to all. Court dispensed justice should inherently be available "regardless of race, religion, sex, national origin, or personal wealth."

Analysis

The LPW Committee version seeks, through its "statement of findings and declaration of purpose" to establish a statutory prejudice in favor of all presently-funded activities and to negate restrictions on lawyer activities which may be found elsewhere in the bill.

PART 4. CORPORATION STATUS

Plan A (Admin)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan B (House)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan C (LPW)—"established in the District of Columbia a private nonmembership non-profit corporation . . ."

Plan D (Brock)—"a nonmembership non-profit corporation chartered by the Congress . . ."

Analysis

Only the Brock-Helms plan provides for a Federal charter. Under a non-Congressional D.C. charter, the Corporation would be subject to changes in the D.C. corporation act. With home rule, the D.C. government, rather than Congress, could have a major impact on the Corporation.

PART 5. BOARD OF DIRECTORS

Plan A (Admin)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan B (House)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan C (LPW)—"Eleven voting members appointed by the President, by and with the advice and consent of the Senate" for staggered three-year terms.

Plan D (Brock)—"Seven members who shall be appointed by the President . . . to take office upon confirmation by the United States Senate" for staggered terms of seven years.

Analysis

The object of the Brock-Helms plan is to accord board members insulation and independence like that of the judicial branch by providing that no board member may serve more than seven years, and that the length of a normal term be seven years.

There is the implication in the LPW Committee Report (93–495) that the Administration and the LPW Committee have an understanding on Board appointments. The Report says the Committee will act "on the basis of the following primary criteria:

"(1) a board membership which is adequately representative of the organized bar, legal education, legal services attorneys, the client community, and organizations involved in the development of legal assistance for the poor; (2) the selection of persons who are committed to the Corporation's freedom from political control; and (3) the assurance that the Board members understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation . . . To assure that these criteria are met, it is expected that the initial nominations for the Board, including the nominee for chairman, will be presented together to the Senate, so that the President will have the opportunity to present and the Senate to consider the full distribution of membership qualifications for the Board."

PART 6. CHAIRMAN OF THE BOARD

Plan A (Admin)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan B (House)—"The President shall select" a member of the Board to be its Chairman, each year, for a term of one year.

Plan C (LPW)—"The President shall select" a member of the Board to be its Chairman for an initial three-year term. Thereafter, "the Board shall annually elect a chairman" from its own membership.

Plan D (Brock)—A "Chairman to be appointed by the President" from the Board, for a term of one year, each year. "No Chairman may immediately succeed himself. A Chairman may be removed at any time by a vote of a majority of the members of the Board."

Analysis

Annual Presidential appointment of the Chairman encourages political accountability to the President. *The LPW plan trades to the President one three-year appointment, after which the President's appointive power would be eliminated.* Under the Brock-Helms plan, the chairman can be removed by majority vote of the Board. The LPW Committee Report (93–495) says, ". . . the thrust of the Act is to remove the program from political interference . . . It is contemplated that the initial chairman will be selected from among those nominees for the initial board who have the most extensive familiarity with legal assistance programs and a demonstrated concern for the legal needs of the poor."

PART 7. TAX-EXEMPT STATUS

Plan A (Admin)—No provision.

Plan B (House)—The corporation and its grantees "shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954, or as an organization described in section 501(c)(3) . . . which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred . . . (grantees) shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

None.

PART 8. STATE ADVISORY COUNCILS

Plan A (Admin)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation."

Plan B (House)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification."

Plan C (LPW)—"Within six months" after at least six board members are "appointed," the board shall "request the governor of each state to appoint a nine-member advisory council for his state." The members "shall be subject to annual reappointment." The state councils are to notify the corporation "of any apparent violation." Adds that at least thirty days' reply time be provided for "reply to any allegation contained in the notification." Requires that the Governor make his appointments only "after recommendations have been received from the State bar association."

Plan D (Brock)—No provision.

Analysis

The House and *LPW Committee versions tend to preclude summary action* against a grantee which is found by a state advisory council to be in violation. The *LPW Committee plan could prevent establishment of a state advisory council if its bar association delays acting or fails to act.* It also establishes that all council members should be attorneys, thus negating the thrust of the Administration bill to permit a citizen check on program abuses.

The LPW Committee Report (93–495) also says, ". . . it is expected that the governor will appoint attorneys who have experience and knowledge in the delivery of quality legal services to the poor. The sole function of such advisory councils will be to notify the Corporation of any alleged violations of this legislation."

PART 9. NATIONAL ADVISORY COUNCIL

Plan A (Admin.)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—"There shall be a National Advisory Council to consult . . . especially on all rules, regulations, and guidelines . . ." Its fifteen members "appointed by the Board to serve for terms of three years . . . shall be representative of the organized bar, legal education, legal services project attorneys, the population of eligible clients, and the general public." Provisions of "section 7(d) of Public Law 92–463" shall apply.

Plan D (Brock)—No provision.

Analysis

The LPW provision reflects the view that the corporation should operate in a manner responsive not to the public as a whole but to a narrow interest of "client groups," employees, and professional beneficiaries. This would institutionalize special interest group pressures and assure a program "of the club, by the club, and for the club." The practical consequence of this provision, if past experience is any guide, would be to repose both veto and initiatory authority in the advisory council, for all policy issues, with the Presidentially-appointed part-time board becoming little more than a ratifying group for the NAC.

The LPW Report (93–495) says, "It is intended that the membership of the National Advisory Council will be selected after consultation with, and so as to be representative of, such national organizations as the American Bar Association, the National Bar Association, the American Trial Lawyers Association and other national lawyers groups, the Association of American Law Schools, the National Legal Aid and Defender Association, the ABA Standing Committee on Legal Aid and Indigent Defendants, the ABA Section on Individual Rights and Responsibilities, the Project Advisory Group, the Organization of Legal Services Back-up Centers, and the National Clients Council and other client organizations, as well as individual legal assistance attorneys, client representatives, and others with expertise in providing legal assistance to the poor. In this way, the Council would be representative of the three basic elements which give special vitality to the program, as well as the general public.

"The Board and the president of the Corporation should consult in advance with the National Advisory Council on the activities of the Corporation, including pro-

posed policies, rules, regulations, and guidelines."

PART 10. CHIEF EXECUTIVE OFFICER

Plan A (Admin)—Selected by the Board.
Plan B (House)—Selected by the Board.
Plan C (LPW)—Selected by the Board.
Plan D (Brock)—Selected by the Chairman of the Board, subject to majority approval of the Board. Maximum term of four years.

Analysis

A Chief Executive named by a group can avoid accountability or can manipulate the appointing authority. Selection by the Board collectively can unduly enhance the power of "poverty law" professionals in controlling the Chief Executive. Under the Brock-Helms bill, accountability is structured through a single point. This encourages "Board control," rather than "staff control." Under systems of "staff control," special interests have an easier time in manipulating the organization's decisions. With Board Members serving normal terms of seven years, and Executive Directors a maximum of four (under the Brock-Helms bill), Board control would be further enhanced.

The Senate Labor and Public Welfare Committee Report (93-495) says, ". . . the Board should solicit and carefully consider recommendations from those principally involved in or served by legal services programs as to the selection of the initial president of the Corporation and, as to subsequent presidents, should seek the advice of the National Advisory Council, the person selected should be experienced in the legal assistance field and have previously demonstrated a commitment to the provision, in accordance with the highest standards of the legal profession, of quality legal assistance to the poor."

PART 11.—PUBLIC INTEREST LAW GROUPS

Plan A (Admin)—Permits direct funding, grants, or contracts to provide "(i) research, (ii) training and technical assistance, and (iii) to serve as a clearing house for information". But no grants or contracts may be made to "any public interest law firm which expends any resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor".

Plan B (House)—Permits the Corporation to "undertake directly" but "not by grant or contract" research, training and technical assistance, and information clearinghouse functions. However, allows grants and contracts to public interest law firm, if less than "fifty per centum" of its resources and time is spent "litigating."

Plan C (LPW)—Permits direct funding, grants, or contracts for "research, recruitment, training . . . information clearinghouse . . . and for technical assistance". Also permits grants or contracts of "any public interest law firm" which spends less than fifty percent of its resources and time "litigating issues in the broad interests of a majority of the public".

Plan D (Brock)—Permits "making available information of a technical nature to those rendering legal services" and enables the Corporation "to contract with a private or public group, association or organization for the purpose of doing research into special legal problems encountered by those who qualify as eligible clients." Total funding for this category of activity to be set by Congress, through appropriations process.

Analysis

The Administration bill bans support for Naderesque "public interest" law groups, while permitting training and technical assistance by grant. The House passed bill improves accountability for training, technical assistance, and research priorities, by requiring that they be done "in-house", rather than by grant or contract, but negates the safeguard by *allowing subsidy of "public interest" groups which spend less than half their time not actually litigating—virtually none would be disqualified. The LPW bill is the most permissive* on all scores, *negating the impact of any prohibition*, since in the words of the committee report, it merely disallows aid to those purporting to act in the interest of the majority, rather than such "minorities" as the poor, the radical, the perverse, or what have you. The Brock-Helms plan permits research activities, subsidized by contract, so as to clearly define what is sought.

PART 12. TERMINATION OR SUSPENSION OF GRANTS

Plan A (Admin)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with "provisions of this Act and the corporate charter and by-laws." If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan B (House)—Allows the Corporation "to terminate, after a hearing" aid to a grantee "which fails to comply" with provisions of this Act and the corporate charter and by-laws. If a grantee employee violates or causes grantee to violate provisions, grantee "shall take appropriate disciplinary action."

Plan C (LPW)—Permits termination only if a grantee "fails substantially to comply" and only "after other appropriate remedial measures have been exhausted". In addition, requires that the "Corporation shall prescribe procedures to insure that—(1) financial assistance . . . shall not be suspended" without "reasonable notice and opportunity to show cause . . ." Also says a grantee's application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than "thirty days" without "reasonable notice and opportunity for a timely, full, and fair hearing."

Plan D (Brock)—Corporation has no power to terminate or suspend a recipient, except for "discrimination on the basis of race, religion, sex, or national origin" or "violation of the Code of Professional Responsibility". But civil penalty, making violation a misdemeanor, is established (up to $50 and six months).

Analysis

The LPW bill makes it more difficult to terminate, suspend, or refuse to refund a grantee. "Procedural" provisions could endlessly tie up in the courts any attempts at remedial action. Brock-Helms involves itself only in violations of basic client rights, on the theory that client choice will impose constraint on free-wheeling activity.

PART 13. LIMITATION ON SIZE OF NATIONAL STAFF

Plan A (Admin)—No limitation.
Plan B (House)—No limitation.
Plan C (LPW)—No limitation.
Plan D (Brock)—"In no event shall the Corporation have more than twenty-five employees."

Analysis

Unlike the others, the Brock-Helms plan would focus virtually all resources on provision of assistance to individual clients. Barring an oversized national staff helps prevent development of a centrally dominated and directed program.

PART 14. GRANT AND CONTRACT POWERS

Plan A (Admin)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan B (House)—To make grants to, and to contract with "individuals, partnerships, firms, organizations, corporations, state and local governments and other appropriate entities . . . for the purpose of providing legal assistance to eligible clients."

Plan C (LPW)—". . . to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with: (i) individuals, partnerships, firms and non-profit organizations and corporations, and (ii) State and local governments (only upon application by an appropriate State or local agency or institution) and upon a special determination by the Board that . . . such agency or institution will provide supplemental assistance which cannot be adequately provided through non-governmental arrangements . . . and (B) to make such other grants and contracts as are necessary. . . ."

Plan D (Brock)—"To render financial assistance to the states to enable the provision of legal assistance to qualified individual citizens. . . ." States can qualify by enactment of enabling legislation, either to "Empower a State Instrumentality . . . to disburse such funds to attorneys representing eligible clients . . ." or to "Transmit the funds . . . to the Bar Association with overall jurisdiction in the State, which Bar Association shall have established a method for disbursal of funds to attorneys representing eligible clients . . ." or by "Establishment of a method of direct payment . . . based upon a voucher system. . . ." If a State does not enact enabling legislation "within ninety days," the Bar Association may "submit a plan . . . to the court of highest jurisdiction in the State. . . ." If, within one hundred twenty days (120) there is either no court approved plan or legislatively enacted plan, the Corporation "may assign funds for expenditure within said State in a manner to be determined by the Corporation."

Analysis

Under the LPW plan, revenue sharing with state and local governments is barred except in the most remote circumstances. Under Brock-Helms, if a state fails to take affirmative action for a client-choice approach to legal services, the national Corporation may continue the staff-attorney grantee systems.

The LPW Report (93-495) locks in present staff attorney grantees by stating:

"It is the expectation of the Committee that such grants and contractual arrangements will continue to fund legal services operations in the same general manner as they have been funded under the Economic Opportunity Act, with funds, at no less than the existing overall program level, allocated to staff-attorney programs which devote all their time and attention to the problems of the poor and which have demonstrated their ability to effectively carry out the provisions of legal services to the poor . . . it is intended that there should not be a significant shift of resources away from present types of recipients, and it is not intended that assistance should be provided through governmental arrangements where such assistance can be adequately provided directly through private, non-governmental arrangements."

PART 15. ADMISSION TO PRACTICE

Plan A (Admin)—Requires that "No attorney shall receive any compensation" unless "admitted to practice law in the state where the rendering of such assistance is initiated."

Plan B (House)—Permits compensation of attorneys "authorized" to practice law.

Plan C (LPW)—Permits compensation of attorneys "admitted or otherwise authorized by law, rule, or regulation" to practice law or provide "assistance."

Plan D (Brock)—Allows compensation "subsequent to admission to practice law in the jurisdication where such assistance is rendered."

Analysis

Only a strict limitation of compensation to those "admitted" to practice can assure that

qualified, locally-based attorneys will render service. A high proportion of program abuses have stemmed from grantees hiring persons not known or qualified locally. The LPW plan, while purporting to be stringent, is, in effect, merely a semantic deception. Many instances of abuse can be traced to non-admitted lawyers who are authorized under law, rule, *and* regulation to provide assistance.

PART 16. PROHIBITION OF "STREET" ACTIVITIES

Plan A (Admin)—Bars staff employees "from participation in" and "encouragement of others to participate in . . . rioting, civil disturbance, picketing, boycott, or strike . . . activity which is in violation of an outstanding injunction . . ." or "any illegal activity." Termination or summary suspension is a possible remedy for non-compliance.

Plan B (House)—Bars "picketing, boycott, or strike" activity only *"while engaged* in activities carried on by the Corporation or a recipient." Prohibits rioting, civil disturbance, violation of injunction, and illegal activity "at all times." Termination or suspension possible, but *only grantee may take action* against one of its employees.

Plan C (LPW)—Bars "public demonstration or picketing, boycott or strike *"while carrying out* legal assistance . . . *except as permitted* . . ." Bars "rioting or civil disturbance . . . violation of an outstanding injunction . . . or illegal activity" at any time. Provides for "remedial measures" and "hearing" in case of violation.

Plan D (Brock)—Bars use of resources for any "demonstration, boycott . . . rally, march, strike . . ." or compensation of persons who "during their service" advocate "disregard or violation of Federal or state law."

Analysis

The Administration and Brock-Helms bills are most stringent, in terms of scope and remedy. *The LPW version has modifying language which renders meaningless all prohibitions except those on already illegal activity.*

PART 17. CITIZEN SUITS TO ENFORCE THE LAW

Plan a (Admin)—"Any interested person may bring an action in a Federal District Court to enforce compliance with the prohibitions. . ." Also provides reimbursement of costs and legal fees if "a final judgment is rendered in favor of the plaintiff."

Plan B (House)—No provision.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

Grants standing to citizens to initiate action mandating compliance with the law if the Corporation fails to act or acts improperly.

PART 18. USE OF CORPORATION FOR LOBBYING OR POLITICS

Plan A (Admin)—No litigation except on behalf of "the corporate entity itself." Lobbying permitted, in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan B (House)—No litigation except on behalf of "the corporate entity itself. Lobbying permitted in the form of testimony, "when formally requested by a legislative body, a committee, or a member." No personnel or resources may be channeled "to any political party, political association, or candidate for elective office," or "for use in advocating or opposing any legislatve proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations."

Plan C (LPW)— Same as Plans A and B with respect to corporate lobbying and political aid but permits use of personnel and resources "for use in advocating or opposing any ballot measures, initiatives, or referendums" whenever deemed "necessary to the provision of legal advice and representation."

Plan D (Brock)—Incorporates all restrictions in Administration bill, adding prohibition of aid to "any group or association advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders or similar enactments or promulgations."

Analysis

Only the Brock-Helms bill bars aid to advocacy groups which are substantially involved in organizing or lobbying on issues of public policy. *LPW is most permissive, negating prohibitions whenever deemed "necessary" to aid a client.*

PART 19. CLIENT ELIGIBILITY/FEE SCHEDULE

Plan A (Admin)—Establishes "a schedule of fees" requiring client "if able" to pay partial cost of assistance. Establishes ceiling for eligibility at twice OMB poverty level. Precludes aid to one whose "lack of gross income results from his refusal or unwillingness to seek or accept employment."

Plan B (House)—Gives Corporation, not OMB, power to set ceiling for eligibility. Eliminates "schedule of fees" provision. Precludes aid to poor who refuse to seek or accept employment "without good cause."

Plan C (LPW)—Gives Corporation, not OMB, power to set ceiling for eligibility, but gives recipients authority to set eligibility "in accordance with factors *related* to financial inability to afford legal assistance, which may take into account, among other considerations, evidence of a prior 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*." (emphasis added). Eliminates "schedule of fees" provision.

Plan D (Brock)—Imposes Medicaid eligibility standard or, if none applicable, OMB standard, while precluding aid to those unwilling to "seek or accept employment" except by reason of physical or mental disability. No "schedule of fees."

Analysis

The "schedule of fees" proposed in the Administration bill would impose a token but useful economic constraint to help approximate the constraints which cause the non-poor to think twice before initiating legal action. The Administration and Brock-Helms plans set forth clearly defined, if liberal, standards for eligibility to prevent diversion of funds into "cause" litigation involving the non-poor.

LPW has no schedule of fees and allows grantees to serve those who are not poor, and those who are poor by choice.

PART 20. ALLOCATION OF FUNDS

Plan A (Admin)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan B (House)—"Insure . . . adequate legal assistance to persons in both urban and rural areas."

Plan C (LPW)—"Insure . . . the most economical, effective, and comprehensive delivery of legal assistance to persons in both urban and rural areas . . . assure equitable service to the significant segments of the population of eligible clients . . . provide special consideration for utilizing . . . organizations and persons with special experience and expertise in providing legal assistance to eligible clients."

Plan D (Brock)—Assigns funds "in amounts proportionate" to each state's share of the eligible poverty population.

Analysis

Only the Brock-Helms bill establishes a formula for equitable apportionment of available resources, regardless of geographic location, racial, political, or religious considerations. *LPW affords preference to present grantees and other non-federal programs now active in the "poverty law" field.* Thus, the ACLU and Ralph Nader would be preferred recipients under the LPW plan.

PART 21.—OUTSIDE PRACTICE OF LAW

Plan A (Admin)—Totally forbids outside practice of law by staff attorneys.

Plan B (House)—Totally forbids outside practice of law by staff attorneys.

Plan C (LPW)—Prohibits only "compensated" outside practice of law. Uncompensated outside practice would be permitted subject to Corporation guidelines.

Plan D (Brock)—No provision.

Analysis

The ban on outside practice is intended to prevent circumvention of prohibitions on improper activity, by attorneys purporting to act on their own time (e.g., coffee break, lunch hour, comp time, etc.). Brock-Helms does not include such a ban because it relies on attorneys in private practice, rather than staff attorneys. The LPW version would negate the ban on "uncompensated" outside practice by staff attorneys, if the corporation adopted permissive guidelines. Also, without statutory force, it would be easier for grantee employees to bypass with impunity any "guideline" prohibition.

PART 22.—LOBBYING

Plan A (Admin)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "when formally requested to do so by a legislative body, a committee, or a member thereof."

Plan B (House)—". . . no funds . . . at any time, directly or indirectly . . ." except to testify "or make a statement when formally requested to do so by a governmental agency, or by a legislative body or a committee or a member thereof, or (B) in the course of providing assistance to an eligible client . . ."

Plan C (LPW)". . . no funds . . . at any time, directly or indirectly . . . " except where "necessary to the provision of legal advice and representation" or where "representations" are requested.

Plan D (Brock)—No use of funds or personnel "to influence the passage or defeat of any legislation" directly or through others.

Analysis

The Administration bill allows testimony upon formal request of any legislator. The House bill allows testimony or statement upon formal request of government agency or legislator or in the course of client representation. *The LPW version allows more than testimony ("representation" can be virtually any form of lobbying), whenever requested (not formally) by a legislator or "in the course" of representing a client (NWRO).* The Brock-Helms bill totally bars lobbying. Inasmuch as groups are eligible clients under all except Brock-Helms, the nuances of definition become very important.

PART 23. POLITICAL ACTIVITY

Plan A (Admin)—Bars "any political activity" "while engaged" except voter transportation and registration in the course of "legal representation", for part-time attorneys. Totally bans such activity by full-time staff attorneys.

Plan B (House)—Substantially the same as Administration bill.

Plan C (LPW)—Permits political activity, voter transportation and registration when not "engaged" or when "necessary to the provision of legal advice and representation". Limits definition of political activity to party and candidate politics; totally permissive on

"issue" politics. Cites Hatch Act only with respect to use of "official authority and influence" or to coerce campaign contributions. Omits key Hatch Act provision barring "an active part in political management or in political campaigns."

Plan D (Brock)—All persons receiving principal compensation through the Corporation are covered by Hatch Act. Prohibits use of funds and personnel to "support or oppose, directly or indirectly, any candidate . . . or any political party." Also bars aid to "any group or association participating in such activities". Prohibits "any activity organizing individuals or groups", as well as political activity, voter registration, and voter transportation, from being subsidized with Corporation funds.

Analysis

Administration bill bans normal political activity, in an elective sense. Brock-Helms bans this kind of politics in the program, as well as aid to grass-roots political groups like the American Indian Movement, Black Panthers, Gay Lib, etc. *The Labor-Public Welfare bill, by careful wording, permits virtually all such activity.* For example, in classifying employees of the Corporation as state and local employees under Chapter 15 of Title V of the U.S. Code, the Labor and Public Welfare bill "does not prohibit political activity in connection with—(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or (2) a question which is not specifically identified with a National or State political party. For the purpose of this section, questions relating to Constitutional amendments, referendums, approval of municipal ordinance, and others of a similar character, are deemed not specifically identified with a National or State political party."

PART 24. PROCEDURE FOR APPEALS

Plan A (Admin)—"The Corporation shall establish guidelines for a system for review of appeals to be implemented by each recipient" to prevent "frivolous and duplicative appeals" and "insure the efficient utilization of resources."

Plan B (House)—Is silent on goal of preventing "frivolous and duplicative appeals", but establishes guidelines for consideration of appeals, "except that such guidelines shall in no way interfere with the attorney's responsibilities."

Plan C (LPW)—Places responsibility for appeals review guidelines directly with grantee.

Plan D (Brock)—No provision.

Analysis

The LPW version destroys the intent of the Administration approach, in essence making it local option whether to allow "test cases" through appeals.

PART 25. CRIMINAL REPRESENTATION

Plan A (Admin)—No funds may be used to provide "legal assistance under this Act with respect to a criminal proceeding or incarceration for a crime."

Plan B (House)—No funds "to provide legal assistance with respect to any criminal proceeding or to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act connected with the criminal conviction and is brought against an officer of the court or against a law enforcement official."

Plan C (LPW)—No funds "to provide legal assistance under this title with respect to a criminal proceeding."

Plan D (Brock)—No funds to "provide legal services with respect to any criminal proceeding or, in the case of juveniles, proceedings which would be criminal if involving adults . . ."

Analysis

All are narrowly construed—the LPW version most of all—allowing, for example, aid to accused or convicted criminals on procedural issues, or non-criminal matters which flow from, but are separate from, the "criminal proceeding".

PART 26. JUVENILE REPRESENTATION

Plan A (Admin)—Bars aid to persons under 18 "without formal written consent" of parent or guardian except in special circumstances, which it spells out.

Plan B (House)—Bars aid to persons under 18 without "written request" of parent or guardian, except in special circumstances, which it spells out.

Plan C (LPW)—Permits juvenile representation "where necessary" to prevent loss of "benefits or services" or "in other cases pursuant to criteria which the Board shall prescribe."

Plan D (Brock)—Bars aid to persons under 18 "without formal written consent" of parent or guardian.

Analysis

LPW offers the appearance, but not the reality of a prohibition since qualifying language can be used to prevent loss of legal "services". House bill is strictest, requiring that parent, rather than attorney, initiate request for representation. *Under the LPW bill, a teenager threatened with "loss" of sterilization "services" could get it without parental consent.* Under the other bills, parental consent would be required. The Administration prohibition was included to limit lawyer-initiated "students rights" and "student protest" uses of Corporation personnel and resources.

PART 27. TRAINING IN POLICY ADVOCACY

Plan A (Admin)—Denies use of funds to "support or conduct training programs for the advocacy of . . . particular public policies or which encourage political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations."

Plan B (House)—Similar to Plan A, "except that this prohibition shall not be construed to prohibit the training of attorneys necessary to prepare them . . ."

Plan C (LPW)—Prohibits only training for "illegal" boycotts, picketing, strikes and demonstrations, permitting all those which are "legal", with the further exception that encouraging political activities, labor or anti-labor activities, or any illegal boycotts, picketing, strikes, or demonstrations is *permitted* insofar as it involves "rendering of legal advice . . ."

Plan D (Brock)—Bars aid to advocacy training, publications, groups, and activities, including demonstrations, boycotts (legal and illegal), rallies, marches, and strikes.

Analysis

All provide some prohibition except *the LPW version,* which *loses its content in loopholes* and is totally without effect. The Administration provision is intended to limit use of official travel and other T&TA program resources for political purposes.

PART 28. ORGANIZATION OF GROUPS

Plan A (Admin)—Bars diversion of funds for organizing or otherwise aiding "any organization, association, coalition, alliance, federation, confederation, or any similar entity except as authorized by the Corporation."

Plan B (House)—Similar to Plan A, but slightly more stringent, excepting only "provision of appropriate legal assistance in accordance with" Corporation guidelines.

Plan C (LPW)—Similar to Plan B.

Plan D (Brock)—Total ban on such use of funds—no exceptions.

Analysis

Past experience suggests that exceptions will be broadly construed and be honored more than the prohibitions. Only Brock-Helms is clear-cut.

PART 29. GOVERNANCE OF GRANTEE GROUPS

Plan A (Admin)—Requires that "any recipient organized solely" to provide legal services be governed by a majority consisting of lawyers who are "members of the bar of the state."

Plan B (House)—Requires "two-thirds" lawyer majority, except when the Board allows a waiver.

Plan C (LPW)—Requires a "majority" of "attorneys who are members of the bar of any state in which such assistance is to be provided" except that all present grantees are excluded from this requirement.

Plan D (Brock)—No provision, since client choice would replace "guild" staff attorneys system.

Analysis

All plans omit mention of process for selecting or replacing local boards, or making them subject to review by bar or elected officials. LPW provision is meaningless anyway, since it excepts all present grantees.

PART 30. THIRTY DAYS NOTICE

Plan A (Admin)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan B (House)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan C (LPW)—Requires public announcement of grant and contract intentions thirty days in advance of approval.

Plan D (Brock)—No provision necessary, since specific decisions are generally accountable to state authority.

Analysis

Replaces Governor's veto authority, which is part of the OEO legal services program.

PART 31. CLIENT CHOICE

Plan A (Admin)—Promotes introduction of client choice and market constraints by requiring that "no less than ten percent" of its funds go to "activities which are non-staff attorney oriented." Also requires the Corporation to "conduct a study of alternative methods . . . including judicare, vouchers, prepaid legal insurance and contracts with law firms" with recommendations to President and Congress by June 30, 1974.

Plan B (House)—Requires the Corporation to "conduct a study," and report by June 30, 1974, as in Plan A, but omits assignment of funds to "non-staff attorney" activities.

Plan C (LPW)—Omits assignments of funds to "non-staff attorney" activities and defers recommendations until "not later than two years after the first meeting of the Board."

Plan D (Brock)—Sets aside up to five percent "of the Corporation's annual appropriation" to be used for special incentive grants which will encourage States "to experiment with alternative delivery systems for legal services to eligible clients." Requires that State enabling legislation "Permit eligible clients to retain the indvidual attorney of their choice."

Analysis

Only the Administration and Brock-Helms plans take actual steps to decrease exclusive reliance on the subsidized poverty lawyer and move toward client choice of private practitioner. Under LPW, even formal consideration of moves toward client choice are deferred until 1976.

PART 32. FINANCING OF THE CORPORATION—COMMINGLING

Plan A (Admin)—Permits three-year appropriations. Bans commingling of "funds

not made available by the Corporation" with those derived from appropriations under this Act.

Plan B (House)—"Funds appropriated pursuant to this section shall remain available until expended." Non-federal funds received by Corporation and grantees "shall not be expended by recipients for any purpose prohibited by this Act"—except to permit certain public defender activities.

Plan C (LPW)—Raises authorization to *$100 million* for FY 1976, after $90 million—FY 1975 and $71.5 million for the current fiscal year. "Funds appropriated . . . shall remain available until expended." Retains requirement of separate accounts for non-federal funds, but eliminates House ban on indirect subsidy of prohibited activities.

Plan D (Brock): No provision necessary, because of reliance on private practitioners.

Analysis

All prohibitions in the bill can be negated if it fails to include the *House provision* barring use of funds from other sources for actions prohibited with Federal funds. The LPW version does not include this at all. The Administration plan is limited to requiring separate bookkeeping of potentially improper activity.

PART 33. ACCOUNTABILITY TO CONGRESS

Plan A (Admin)—Right to repeal, alter, and amend.

Plan B (House)—"The Corporation . . . shall be liquidated on June 30, 1978, unless sooner terminated by Act of Congress." Right to repeal, alter, and amend.

Plan C (LPW)—"Except as otherwise specifically provided . . . the Corporation shall not be considered a department, agency, or instrumentality of the Federal Government for the purposes of any Federal law or Executive order." "Nothing contained in this title shall be deemed to authorize any department, agency, officer, or employee of the United States or of the District of Columbia to exercise any direction, supervision, or control with respect to the Corporation, any grantee, contractor, or person, or entity receiving financial assistance under this title, or any employee thereof, to the bylaws, rules, regulations, or guidelines of the Corporation, to the attorneys providing legal assistance under this title, or to eligible clients receiving legal assistance under this title." Right to repeal, alter, and amend.

Plan D (Brock)—Right to repeal, alter, and amend.

Analysis

The Labor and Public Welfare bill denies the American people, through their elected officials, virtually all right and opportunity to hold the Corporatiton accountable for its use of public funds. At the same time, special interest groups of providers and consumers of services under the program are assured of prerogatives relating to refunding, political action, issue advocacy, etc. *The House bill sets a time, five years hence, when Congress would be required to specifically approve continuation of the program if it were to remain authorized.*

The LPW Committee Report (93-495) asserts ". . . the reason for the establishment of the Corporation is the removal of legal services programs from political interference and control." It stresses accountability "to the bar and the poor", as an important goal, rather than simple accountability to the public as a whole.

PART 34. REIMBURSEMENT OF COSTS TO LS DEFENDANTS

Plan A (Admin)—No provision.

Plan B (House)—If "a final judgment is rendered in favor of the defendant and against the Corporation's or recipient's plaintiff" the court may award reasonable costs and legal feels to the defendant, to be paid directly by the Corporation.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

House bill seeks to redress inequity of private parties having to defend themselves at often great personal expense against tax-supported harassment by staff attorneys.

PART 35. PREFERENCE TO LOCAL ATTORNEYS

Plan A (Admin)—No provision.

Plan B (House)—"Insure that recipients solicit the recommendations of the organized bar in the community being served before filling staff attorney positions . . . and give preference to qualified persons who reside in the community to be served."

Plan C (LPW)—No provision.

Plan D (Brock)—No provision necessary.

Analysis

The House bill provision works to prevent "separate system" of law for the poor manned by roving "poverty lawyers". Encourages accountability to the local bar, by hiring attorneys with a stake in the community.

PART 36. FEE-GENERATING CASES/INCITEMENT OF LITIGATION

Plan A (Admin)—No provision.

Plan B (House)—Require attorneys "while engaged" to "refrain from the persistent incitement of litigation . . . and from personal representation for a private fee for a period of two years any cases which are first presented to them" while employed with Corporation funds. Also bars fee-generating cases, except according to guidelines.

Plan C (LPW)—No provision.

Plan D (Brock)—No provision.

Analysis

The House provision is intended to reduce solicitation of clients, despite more liberal provisions of Code of Professional Responsibility and Canons of Ethics which apply to legal services attorneys.

PART 37. BUSING—ABORTION—DESERTION—GRANTEE QUOTAS

Plan A (Admin)—No provision.

Plan B (House)—Bars use of funds to provide legal assistance "relating to the desegregation of any school or school system" as well as to "procure a nontherapeutic abortion or to compel" abortion. Also bans legal assistance involving "desegregation of any institution of higher education," or in matters "arising out of a violation of the Selective Service Act or of desertion from the Armed Forces . . ."

Plan C (LPW)—No provision.

Plan D (Brock)—Bars discrimination "in favor of or against individual attorneys, employees, or clients on grounds of race, religion, sex, or national origin."

ANALYSIS

The anti-discrimination provision of the House bill would preclude resort to quota systems or "reverse discrimination" in hiring and assignment of program funds. It does not, however, ban lawsuits which seek to impose quotas.

PART 38. TRANSFER PROVISIONS

Plan A (Admin)—No special provisions.

Plan B (House)—Places Secretary of HEW in charge of transition.

Plan C (LPW)—Transfers most OEO legal services personnel to Corporation. Existing union agreements remain in force.

Plan D (Brock)—No special provisions.

Analysis

The LPW version perpetuates "club" control of the program by retaining "sensitized" personnel and limiting authority of the Board (management) under the terms of the existing OEO union contract.

PART 39. USE OF GSA AND FTS RESOURCES

Plan A (Admin)—No provision.

Plan B (House)—No provision.

Plan C (LPW)—Permits a President to "direct that particular support functions of the Federal Government, such as the General Services Administration, the Federal telecommunications system and other facilities, be utilized by the Corporation or any grantee contractor or person or entity receiving financial assistance under this title. . . ."

Plan D (Brock)—No provision.

Analysis

The LPW bill presents a mind-boggling blank check through which a President could turn over free long-distance phone service, GSA facilities, vehicles, or other aid to any group being aided or employed by the Corporation, whether the United Farm Workers, Ralph Nader, the American Civil Liberties Union, or Young Americans for Freedom. This makes the Corporation's appropriations open-ended and places it beyond the normal checks of Congressional appropriations review.

Mr. HELMS. 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. WILLIAM L. SCOTT. 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. WILLIAM L. SCOTT. Mr. President, I invite the attention of Senators to an article in today's Washington Star-News, entitled "Lorton Guards Vote To Strike."

I do not condone and do not feel that any Federal employee or District of Columbia employee has a right to strike, and I have no brief at all for the suggestion of a strike by the correctional officers at Lorton.

As Senators know, this penal institution, or the complex, is located in Virginia, in Fairfax County. I represented the area in the House and talked many times with the correctional officers.

They are concerned about conditions at the Lorton penal institutions. This article describes the fact that one of the guards was murdered just a short time ago. It will be remembered from news accounts that this was a 26-year-old man who was stabbed many times and stuffed in a manhole. He had been killed. Since that time one of the inmates has been killed.

The article in today's Star indicates this is the fourth inmate who has been killed this year at the Lorton penal institutions.

We are considering here today a bill with regard to the Legal Services Corporation. I think at the proper time I will offer as an amendment the transfer of the Lorton penal institutions from the District of Columbia government to the Federal Government.

I am told that the people who are in control of the penal institutions for the District of Columbia actually listen to the inmates more than they listen to the grievances of the correctional officers. I submit that if there is anyplace where people learn to live under the rule of law in our society it is in a penal institution. This is not being done at Lorton.

I have personally visited the institutions on several occasions. Last night, I

understand, these correctional officers even shouted down the leadership of their union. These men are angry and they are being mistreated in doing their job. We need the expertise that comes from the U.S. Bureau of Prisons. It is time that we listened to these officers and the citizens who live in the area of these penal institutions, because there are escapes from time to time. The operation is conducted very loosely.

Hearings were held in the House on this measure some years ago. As you recall, Mr. President, the Senate rejected an amendment that I proposed to the District of Columbia home rule bill by a very close vote a short time ago. Perhaps with the deaths since then at the Lorton complex we can get the added three or four votes to do something about this situation at Lorton.

I am not going to tear up the newspaper and submit the article in its entirety for the RECORD, but I would ask that Senators look at today's Star and read the account of activities down at the penal institutions and ask themselves whether they would want a penal institution within their State over which they had no control at all. This is the situation with which we in Virginia are faced. It is a District of Columbia institution. Virginia has no control over it, although they do provide vast protection, and when an inmate escapes they attempt to locate him and get him back to the prison.

It is a festering sore within the heart of Virgina. I think it should be removed by placing it under Federal control.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. WILLIAM L. SCOTT. I am glad to yield to my colleague from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to support the position of my distinguished colleague from Virginia. As the Senator from Virginia pointed out this is a Federal institution for those who have been sentenced in the District of Columbia. It is really an institution that should be located in the District of Columbia, but since it is located in Virginia, Virginia citizens feel very keenly that they deserve protection and they are not getting protection. The way it is being run, the citizens who live in that area have been caused considerable fear.

I think the approach offered by my distinguished colleague from Virginia is a sound one and one I hope the Senate will consider favorably.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. FANNIN. Mr. President, I rise in opposition to the committee bill (S. 2686), the legal services bill.

Mr. President, I am not opposed to legal services for the poor in noncriminal cases. While I am not a lawyer, I have spent a large part of my adult life in public service and have seen legal services at work. Few Americans spend a lifetime without ever having a need to secure the services of an attorney. I believe most members of the legal profession agree with me that the best service an attorney can render to a client is in giving advice. If the client has a meritorious case, the best service the attorney can render is in negotiating with the opposite party in obtaining the best settlement possible for his client. Litigation should be the final step and employed only when settlement upon reasonable terms becomes impossible. The lawyer, before recommending litigation, should advise his client as to his best opinion of the outcome of litigation. He should advise the client of the time involved, the possibility of appeals, and the risks involved. Then the client, not the lawyer, makes the decision as to whether a suit is filed.

Legal fees can be expensive. However, it has been my experience that the good lawyer takes into consideration the client's ability to pay. In that respect the lawyer is similar to his professional counterpart—the doctor. I sincerely doubt that there is either a lawyer or doctor alive who has not at some time rendered his services, spent many hours of valuable time without charge to the client or patient. I suspect that in both cases the lawyer and the doctor make it up by raising their fees to the next client or patient whose ability to pay is without question. In these respects all of us have been to some extent subsidizing the poor. This practice worked fairly well during our earlier years.

With the immense growth of our population, and the proliferation of new laws that we, the States, and local governments have enacted, the "free" lawyer practice has become as out of date as the horse and buggy. However, I know that a lot of free advice is still being given out by highly competent lawyers.

The original Economic Opportunity Act of 1964 did not mention the provision of legal services. Some legal services programs were started, however, as part of the community action program, but without a clear definition of the role of legal services in the "war on poverty." In the Economic Opportunity Amendments of 1966 the legal services programs were mandated to the director of OEO in a one-sentence authorization, which served as the basis for setting up the Office of Legal Services. The program was set up in its present form, with restrictions upon representation in criminal cases, under the amendments of 1967. In 1969, OEO was reorganized with emphasis upon research and development and legal services remained, with a permanent mandate, within OEO.

Mr. President, Congress was at fault in 1966 and 1967 in not providing restrictions and guidelines as to what it wanted legal services to do. We were "sold a bill of goods." Many of us, if not most of us, thought of legal services as meeting the frustrations in the lives of its poor clients—handling divorce cases, evictions, social security problems, welfare, bankruptcies, repossession of merchandise, line fence and property line disputes. We were led astray, because at that time the overwhelming percent of cases handled by legal services fell into such categories.

Mr. President, Congress did not anticipate the radical change that was about to begin in the activities of legal services. We did not foresee the change in philosophy. Legal services entered the field of "law reform," selecting case in the form of class action suits designed to benefit not just a single client, or a small group, but thousands in the affected class. Legal staff attorneys, paid from tax funds, began to sue State, local, and Federal officials in class action suits. Numerous instances of irregularities were publicized as legal services attorneys acted on behalf of the "voluntary poor" hippies, draft evaders, black militants, and even accused criminals. Legal services attorneys became lobbyists before Federal and State legislatures; they took on the job of registering people to vote in the political party which the particular legal service employee advocated. They took up the job of organizing the poor into labor unions.

With the change in philosophy the attorney-client relationship fell by the wayside. The lawyer, not the client, dictated the action to be taken. In many cases the action taken was adverse to the interests of the client and his actual desires.

Mr. President, I want to state as strongly as I can that I am for Government-paid legal services for the poor in noncriminal cases. The poor deserve the legal services—good legal services in handling such things as divorce cases, child support from the runaway father, evictions, eligibility for welfare, repossession of merchandise which some unscrupulous merchant sold them, bankruptcies, line fence disputes, and so forth.

In fact, I welcomed the opportunity in 1973 to remedy the omissions Congress made in the 1960's.

I followed the debate in the House and was in full accord with most of the amendments made on the floor of that Chamber to the House Labor Committee bill. The final product in the House, adopted by a final vote of 276 to 95, contained some 27 amendments. It incorporated the administration's provisions to prevent legal service attorneys from lobbying and engaging in political activity. The House bill prevented legal service attorneys from bringing busing, school desegregation, or abortion suits or providing assistance for minors under 18 except in child abuse cases or other limited instances. An amendment by Representative EDITH GREEN, Democrat of Oregon, knocked out the "backup centers" for research and technical assistance for legal service attorneys set up in law schools around the country. Other amendments prohibited legal service attorneys from lobbying before a legislative or administrative body unless formally requested to do so; prohibited attorneys getting more than 50 percent of their income from legal service activities; prohibited legal service attorneys from taking part in voter registration drives; prohibited funding or allowing Legal Service Corporation personnel to advocate or oppose initiatives, referendums, or other ballot measures. I might point out that in my own State of Arizona we experienced examples of legal service personnel actively engaged in registering Indians as Democrats, and in assisting and advising in the attempt to recall our great Governor apparently because he signed a farm labor bill.

Other House-passed amendments prohibited legal services being offered to the "voluntary" poor; prevented legal service lawyers from filing suits to force hospitals to perform abortions; prohibited them from taking part in suits to compel school desegregation through busing; prohibited them from aiding draft dodgers or deserters; and prohibited all outside practice by full time legal service attorneys.

Mr. President, I fully realize that we are not here debating the House-passed bill. I have referred to many of the House amendments, because every one of them was designed to stop practices of the presently constituted Legal Services Office—practices which I believe are indefensible and should be prohibited.

Mr. President, I am a cosponsor of the Brock-Helms bill, S. 1890, which is pending in the Judiciary Committee. Had there been a motion with respect to whether a Legal Service Corporation should come under the jurisdiction of the Judiciary Committee or the Committee on Labor and Public Welfare, I would have supported its consideration by the Judiciary Committee. The Labor Committee bill, which we are debating, contains all of the provisions which we can expect from a committee which is oriented to law and social reform through creating a Legal Service Corporation as a convenient vehicle to accomplish what it cannot accomplish by legislation.

I commend the Senator from Tennessee (Mr. BROCK) for his statement upon introduction of his bill:

> That no single, rigid scheme imposed out of Washington, is capable of meeting the needs of this Nation. The legal services program that will work best is not one which tries to force all projects into a single restrictive mold. The program that will work best is the one that helps the people in each community meet their own needs in the way they think best.

The distinguished Senator from North Carolina (Mr. HELMS) has been capably explaining the Brock-Helms bill as well as explaining the deficiencies of S. 2686.

I commend the Senator from North Carolina for his comprehensive analysis of the bills under consideration by the Congress at this time.

The Brock-Helms bill would charter a Federal Legal Aid Corporation. The various States would be required to enact enabling legislation creating a system for the provision of legal services in the individual State. The States are limited in their plans to three alternatives:

First. Empower an existing State instrumentality to administer a program for provision of legal assistance in the State;

Second. Empower the State bar association to administer the program; or

Third. Establish a method of direct payment or voucher system, to pay attorneys assisting those eligible for legal services.

After a State has established a plan, the Federal Legal Aid Corporation then disburses funds to the State in an amount proportionate to the State's respective share of the total number of those eligible for receipt of legal services in the United States. These funds would then be used by the State to finance whatever State plan adopted.

The bill prohibits legal services employees' involvement in strikes, demonstrations and protest marches. Program funds may not be used to support or oppose candidates, legislative proposals, ballot measures, or similar enactments or promulgations.

Mr. President, I would vote "yes" today for the Brock-Helms bill if I had an opportunity to so do. If it passed I would hope that the House conferees would insist upon a few more of the prohibitions contained in the House-passed bill.

The Brock-Helms bill solves the abuses in the present legal service program by restructuring, rather than by restrictions and prohibitions. While the House bill corrects known abuses, who can accurately anticipate what further abuses those highly imaginative legal service lawyers might dream up next?

The basic premise of Brock-Helms is to reorient the program from a nationwide, staff attorney system to State operated programs which give the maximum freedom to the client to select the attorney of his choice. Under the present system, the poor person seeking free legal aid is not subsidized directly; he is assigned a salaried attorney. Since the client is not permitted to choose, and is fortunate if his case is accepted at all, the attorney gains dominance in his relationship with the client. He acquires monopoly power, and can choose cases which suit his interests. The lawyer-client relationship as we have known and respected it is completely distorted.

In practical terms, the staff-attorney system has meant the growth of a nationwide law firm, with 2,200 attorneys, a communications network, and 13 research centers working together with a national agenda of reform. In essence it provides a powerful political movement, funded by taxpayer funds, but outside the restraints of representative government. The program of political advocacy through the courts is actually disguised legislative activity, and ought to be subject to the normal give and take of the State and Federal legislative process.

The Brock-Helms bill would guarantee that the States had a voice in the structuring of the program and it would guarantee that poor clients had the same right to choose their attorneys as their more affluent neighbors. By setting up a reasonable eligibility standard—the medicaid formula—it would also provide a uniform basis for assessing need in each State, and guarantee that each State received an equitable share of the funds appropriated for the delivery of legal services to the poor.

According to what I have read and the mail I have been receiving, the committee bill is principally supported by the American Civil Liberties Union, Common Cause, Ralph Nader, and the AFL–CIO. I suggest that each of these organizations have sufficient funds to promote their liberal laws and social reform without saddling the American taxpayer with the expense through legal service lawyers.

Mr. President, I am sometimes labeled as a "fiscal conservative." I am proud to be called such. In every bill which comes before this body, I study it to determine its cost, and whether the taxpayer is obtaining the best for the lowest cost. Since the committee bill, in effect, gives its blessing to the existing legal services program, I have endeavored to find out as much as I can about its operations.

It operates through a national network of 260 projects, with roughly 2,200 lawyers in about 850 locations, linked together by scores of newsletters, subsidized professional associations, as well as project-subsidized travel. The cost to the taxpayers is over $70 million this year and estimates for future years approach $100 million.

Staff programs cost, on average, about $25 per attorney-hour. Judicare programs pay private attorneys between $16 to around $20 per attorney-hour. The private attorney, in effect, contributes the difference in his own time. Poverty lawyers are overwhelmingly young. They come out of law school, spend a couple of years learning how to practice, and then move into private practice. In the first couple of years out of law school, young lawyers know very little. I might insert a personal note that my lawyer sons would have disputed that observation right after their graduation from law school, but now after years of practice I am confident they would agree with me. Young lawyers do not begin to pull their weight until about the third year in practice. This is important, because in addition to the greater cost of a staff attorney-hour—$25—over a judicare hour—$16 to $20—the value of the staff hour is bound to be worthless, because of lower efficiency and productivity than the judicare hour provided by a private attorney. Using these numbers, if a private attorney can get 30 percent more out of an hour than his staff counterpart, the staff approach may be almost twice as expensive as judicare. And all of this assumes that the staff people are working on the problem of his poor client any substantial part of his time. I am confident that given the alternatives of the Brock-Helms bill, the States would consider these financial considerations in formulating their State plans.

Mr. President, the horror examples of legal service actions are legion. We will hear many of them before this debate is concluded. At this time, I conclude by citing a few examples reported by the American Enterprise Institute in its June 7, 1973, study of the Legal Services Corporation bill.

In Dallas, Tex., the Dallas Legal Service project represented an editor-publisher of an underground newspaper who was sued under a State obscenity statute for publishing a photograph of male frontal nudity. The project attorneys argued that the client, the son of a wealthy manufacturer, was "voluntarily poor," because he had been disinherited by his father and was earning less than $100 per week.

In New Orleans, the Legal Assistance Corporation defended 12 members of the black militant National Committee To Combat Fascism when they were arrested after a 2-day shootout with the police.

In Michigan, Upper Peninsula Legal Services turned out to have 25 percent of its caseload in criminal litigation contrary to the OEO statute.

In St. Louis, Gov. William Hearnes vetoed a $390,359 grant for the Legal Aid Society of St. Louis, charging that the project had represented rent strikers in a public housing project, black militants involved in a church confrontation and black students accused of mutilating an American flag. Investigation proved that a number of the clients were clearly ineligible.

In Los Angeles, the Western Center on Law and Poverty filed a suit against the California Youth Authority on behalf of 13 employees who had been suspended or demoted. The national office agreed with critics that the clients' incomes placed them in the middle or upper income brackets. But the Western Center argued that representation was proper, because the clients had been turned down by three private attorneys.

Mr. President, I have received a letter from Governor Tom Meskill, Governor of the State of Connecticut. I would like to read the letter because I think it illustrates just what I am talking about.

The letter reads as follows:

DEAR SENATOR FANNIN: The Senate Labor and Public Welfare Committee has just reported out legislation establishing a legal services corporation. The Committee bill is lacking in adequate safeguards to prevent flagrant abuses that have plagued this program since its inception. It contains only weak provisions on law reform activities, political advocacy and associated political activities.

I am firmly convinced that in order to preserve the necessary function of providing legal services to indigent clients, we must have a bill containing strong and effective bans on lobbying, political activities and law reform.

I urge you to support amendments which would place strong bans on lobbying and political activities as well as law reform efforts. If initial efforts to amend the bill are unsuccessful, I urge you to support the Brock-Helms bill, S. 1990, which I expect may be offered as a substitute for the Committee bill. This bill is a constructive approach to the legal services program consistent with the needs of our citizens. It is a bill that permits flexibility from state to state, assures proper monitoring and control, and provides for public accountability.

I expect that legal services bill to be taken up soon. I hope you will vote for a strong legal services bill. Anything you can do on this issue will be greatly appreciated.

Sincerely,

TOM MESKILL, *Governor.*

Mr. President, this is just one example of what is happening throughout the country. I have been in contact with other Senators, and I know from my conversations with the Governor of Arizona how he feels about this matter.

Mr. President, I ask, why the long delay before this bill was brought to the floor, and what is the hurry in attempting to pass major legislation before we have had the opportunity and the time to study the bill and the report?

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

Mr. FANNIN. I am pleased to yield to the Senator from North Carolina.

Mr. HELMS. I commend the distinguished Senator from Arizona, and thank him for his remarks. He obviously has given great study to this matter, and has demonstrated his awareness of the unfortunate consequences that would follow if we pass the bill before us under these unfortunate circumstances.

Mr. FANNIN. I thank the distinguished Senator from North Carolina. I commend him for the bill that is before the Senate and for his efforts in behalf of other measures for the benefit of his country. In these times we often have certain goals, but many times in seeking to achieve results we lose sight of just what is at fault. The Senator is highly perceptive and imaginative, in, as he has done today, placing in the RECORD a complete, comprehensive coverage of the legislation involved. I believe the Senator is to be commended for that.

Mr. HELMS. I thank the Senator.

Mr. NELSON. Mr. President, I would not wish the RECORD to stand silent on the assertion of the distinguished Senator from North Carolina (Mr. HELMS) that the opponents have not been given an opportunity to debate. We waited the first night, looked around, but could not find a single Senator in the Chamber, at 6 o'clock, who was prepared to make any comment at all against the bill. In fact, four Members of the Senate were in the Chamber at the time, including the distinguished senior Senator from California (Mr. CRANSTON) and the distinguished Senator from New York (Mr. JAVITS), both of whom made it clear to the opponents of the bill, including the distinguished Senator from North Carolina, that we were prepared to remain here for several hours to allow the matter to be debated.

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

Mr. NELSON. I yield.

Mr. HELMS. We simply wanted Senators on the other side of the question to have all the time they wished. We listened with great interest, and we are very much satisfied with the situation. I did not say we were prevented from debating; we merely said that Senators who favored the bill had all the time they wanted. Now that we are about to have ours, a cloture motion has been filed. We will abide by it cheerfully.

Mr. NELSON. There has not been much debate on the bill, really. Even before the distinguished Senator from North Carolina arrived in the Senate, we had virtually exhausted everything that could conceivably have been said on the issue of whether legal services should be provided for the poor of this country. By overwhelming votes in 1971 and 1972—I do not have the record of the votes before me but I shall provide them at the close of my remarks—the Senate twice voted to fund a legal services corporation after extensive hearings and after extensive debate in Committee and on the floor of the Senate.

The reason no hearings were held this year is that we have been discussing the administration's suggestion for a legal services corporation since 1969. We had hearings in 1971, and an extensive debate on the floor of the Senate in 1971. The conference with the House in 1971. The conferees agreed, and the conference report was approved by the House and approved by the Senate and was then sent to the President. The President vetoed the bill, stating his objections to it.

We went back to work the following year, 1972, and gave further extensive consideration to the House-passed legal services bill. The Senate then passed a legal services bill, but we could not agree in conference.

The President, in the spring of this year, said again he wanted a legal services bill, that he wanted an independent Legal Services Corporation. The House and the Senate on two previous occasions had voted for an independent Legal Services Corporation, so we were all agreed on the principle that there should be an independent Legal Services Corporation. We were agreed on the principle that the poor should have the opportunity for legal representation, so once again we sat down and entered into negotiations with the administration, negotiations which have gone on for months. I understand why the Senator from North Carolina or anyone else who is not a member of the committee would not necessarily be familiar with all that, because they were not participants in the negotiations. As a result of these negotiations we marked up the bill. It was agreed on unanimously, by a vote of 16 to 0, by all the Republicans and all the Democrats on the Committee on Labor and Public Welfare.

Then, as we prepared to send the bill out here to the floor, Mr. Melvin Laird, Counselor to the President for Domestic Affairs, sent a letter on October 4. I have already read this letter into the RECORD, but since some people may not have taken a look at the RECORD since it was printed there—although I know that the Senator from North Carolina has—I will read the letter again:

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.

So we now have a majority of both Houses who have twice endorsed the concept of an independent legal services corporation, through overwhelming final passage and who have on two or three other occasions including votes on recommital and conference reports, supported legal services within the context of the Economic Opportunity Act.

The respective committees of each House have agreed on the need for this

legal services corporation. The administration endorses this bill. A substantial majority have voted, as I said, on several occasions to support it, or more liberal versions of it, so I think it is time we act on the measure.

There is no further necessity for any hearings or further debate or further discussion. We have exhausted all of that. If the Senator from Colorado (Mr. DOMINICK) thought inadequate consideration had been given to this proposal, he would have said, "Let us have some hearings." Or Senator TAFT could at any time have said, "Let us have some hearings."

Indeed, Senator TAFT did express some reservations about the legislation in committee, and he offered some compromise language during our negotiations and markup which satisfied his major difficulties, as notes in his fine additional views to the committee report.

Mr. President, I ask unanimous consent to have printed in the RECORD the additional views by the distinguished Senator from Ohio (Mr. TAFT) which appear on page 45 and the first half of page 46 of the committee report.

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

ADDITIONAL VIEWS OF MR. TAFT

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 quantity and 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 the suggestion that federal assistance for legal services be incorporated into a revenue sharing type 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 others 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. NELSON. Any one of the 16 members who sat in and participated in the markup of this bill, if they thought there was any necessity at all, if any purpose would be served by further hearings, could have asked for them. They did not, and they did not because they were absolutely unnecessary this year.

It would have been a waste of the time of Senators and the taxpayers' money because we have already heard from everyone.

I neglected to mention that we also have unequivocal support of the American Bar Association. When we get the administration, the President of the United States, a unanimous report of the Republicans and the Democrats on the Committee on Labor and Public Welfare, and a report from the committee of the House, and bipartisan support of this proposition in the House of Representatives and the Senate, it is a remarkable accomplishment. I do not know how much broader an agreement one could get. In fact I almost find myself in some state of embarrassment to be in such unanimous agreement with the American Bar Association, but I am happy to have that distinguished and conservative organization supporting this concept. They have made a fine contribution in the discussion and in the dialog, and they have been most helpful in the development of this compromise.

Therefore, when we look at those supporting this compromise and see the board spectrum of philosophical points of view of those in agreement on it, one would think there would not be opposition of any kind left, anywhere.

Mr. President, I said before that I would insert the rollcall votes in 1971–72 on the legal services amendments.

I should like the record to show that when the Legal Services Corporation bill was before the Senate and voted on, on September 8, 1971, the vote was 49 yeas, 12 nays, with 39 not voting. On June 29, 1972, when we voted again on an independent Legal Services Corporation, the yeas were 74, the nays were 16, with 10 not voting.

Mr. President, I have nothing more to add to this debate. In fact, I am being repetitious now, so I am prepared to yield the floor.

I had some belief that perhaps the Senator from California (Mr. CRANSTON) wished to speak.

Did the distinguished Senator from Maine (Mr. HATHAWAY) wish me to yield to him, or does the Senator want the floor in his own right?

Mr. HATHAWAY. I would be glad for the Senator to yield to me for a brief 5-minute statement.

Mr. NELSON. The Senator may have the floor in his own right.

Mr. President, I yield the floor.

Mr. HATHAWAY. Mr. President, I would like to make a few remarks in support of the committee bill and the principle underlying the Legal Services program.

"Equal justice under law," the phrase etched above the entrance to the Supreme Court, is one of the two or three basic ideas upon which this country was founded. And yet, like so many of the substantive rights to which our citizens are nominally entitled, the principle of equal justice is not self-enforcing. Until relatively recently, our system of justice was effectively closed to the one quarter of our population unable to afford the hiring of an attorney. The Supreme Court recognized inadequacy of this situation in the criminal field in the Gideon decision and the cases that followed it. The Court held, quite simply, that in a judicial proceeding where a person's life or liberty are at stake, due process is impossible unless both sides have a lawyer. To those of us who have practiced law, the truth of this observation is self-evident.

The Legal Services program is simply a modest effort to give life to the Gideon principle in the civil field—where significant property rights sometimes including the means for survival itself—are at stake every day. What it comes down to then, is whether we really believe in "equal justice under law" or whether we are content to leave it an empty motto, chiseled in a monument of stone.

What always strikes me as ironic about the debate on this subject is that the opponents of the program always seems to be those who are the most patriotic, the staunchest defenders of the virtues of

our system. And yet, what they are really saying in opposing the provision of full-time, high-quality legal representation to the poor is that they really do not trust it, that is, unless it remains rigged in favor of those who can afford counsel. To me, the continued existence and support of a vital and aggressive Legal Services program is a measure of our real faith in the system. These lawyers do not decide cases—courts do. These lawyers do not write laws—legislatures do. Why, if we trust the system, should we fear that all sides of a controversy be ably represented?

Of course, it seems peculiar that the Government should, in some cases be paying lawyers to sue itself.

But therein lies the true test of our commitment to the principle of equal justice. By its allowance, we affirm the strength of our institutions and their actions.

Of course, cases are going to be brought which might make life uncomfortable for us or some of our more influential constituents. But if this were not the case, the lawyers in the program would not be doing their job. And the charge that the present program is some kind of nationwide public interest law firm serving the needs of the lawyers rather than those of the poor clients is utter nonsense. In my own State, for example, where the legal services program is reputed to be "law reform" oriented, less than 3 percent of the cases handled could be denominated "law reform" and less than 1 percent of the cases litigated were appealed. I don't think this, by any stretch, could be interpreted as an overemphasis on social change or an ignoring of the needs of the individual client.

Finally, it should be recognized that legal services, because it is based entirely on the principle of resolving grievances through the use of established processes, is a profoundly conservative program.

Ironically, its principal opponents are found on both the right and the extreme left—because, I suspect, neither of these groups really want to see the system work. This bill offers us the opportunity to prove, once again, that it can work and, that, 200 years after our own revolution, we remain committed to working out the ideals upon which our system is based.

Mr. President, we have given and continue to give, over the years food to the poor, through food stamps and surplus commodities; we have given them housing allowances, through our housing programs; we have enabled many of them to find jobs on a part-time or a full-time basis, through our manpower training programs. In short, we have supplied to the disenfranchised, who amount to about 30 million people in this country, many of the material benefits of our society which I believe they deserve. But I think that the best measure of our commitment to the disenfranchised of this country is to provide them with a realistic legal services program. It is only through such a program that we can assure them something that means more to them than food, something that means more to them than shelter, and something that means more to them than simply holding a job. It means assuring them that they will be protected in their legal rights in our society and they will be able to participate, along with all of our other citizens, in the processes of justice which give men dignity and hope.

Mr. President, I ask unanimous consent to have printed in the RECORD statistics pertaining to the Pine Tree Legal Assistance Program in Maine and editorials from three newspapers, in support of keeping this program alive.

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

PINE TREE LEGAL ASSISTANCE, INC.

From the inception of the program in June, 1967, through September, 1973: 38,855 individuals were served; 3,239 housing problems were handled; 11,602 family problems were handled; 6,018 cases were litigated.

During the years 1971 and 1972: 14,090 families served were below the poverty line; 5,290 families served were on welfare.

[From the Portland (Maine) Evening Express, March 1, 1973]

KEEP PINE TREE LEGAL ALIVE

One of the projects authorized by the White House, in its program of turning the clock back to the good old days, is dismantling of the legal assistance system organized by President Nixon's predecessor. This will cut off funds for 2,200 lawyers now employed to aid the poor in securing rights hitherto denied them, so that if the program is continued it will have to be funded by other means.

By a coincidence, although its own federal funds will be cut off before the end of the year, Pine Tree Legal Assistance, Inc., has launched a campaign to raise, hopefully, $100,000 so that it can meet the demands now put upon it. Mr. Marshall Cohen, administrative director of the project, says "we simply can't provide the same level of services", and we are pleased to find the Casco Bank, the Maine Bar Association, and a number of other organizations and individuals rallying to Pine Tree's side.

These attorneys for the poor are handling over 5,000 cases a year, nearly all of which are individual service cases. Poor people, to a larger extent than other elements of the population, have little knowledge of their legal rights. Occasionally Pine Tree Legal Assistance initiates class action suits, and it is this type of litigation that annoys the people around the President.

We hope the fund drive succeeds, all the more so since Pine Tree will run out of federal money this fall, if not sooner. The bar itself now recognizes its duty to help those less fortunately situated, and it finds many young lawyers turning from corporate law to the type of personal assistance to the underprivileged that renders Pine Tree Legal Assistance so valuable here in Maine. Even so, they cannot live without financial help.

[From the Brunswick (Me.) Times Record, Feb. 18, 1973]

SUPPORT LAWYERS FOR THE POOR

The Office of Economic Opportunity (OEO), the agency set up by the Johnson Administration to spearhead the war on poverty, has run into a lot of snags, and the plan in Washington now is to abolish it as such and transfer the worthwhile functions it does perform to other agencies. It is a decision we have, on the whole, endorsed.

There is one component of OEO, however, that has been generally acclaimed across the nation, and that is its legal branch which provides legal services to the poor.

It has, of course, also been attacked, for government agencies in particular do not appreciate seeing public funds used to launch legal assaults against some of their practices.

But, as we say, in general this particular function of OEO has met with general approval. The Nixon Administration itself has proposed the formation of a separate corporation to run the program so that it will not be so vulnerable to political pressure.

In Maine the OEO's legal branch is represented by Pine Tree Legal Assistance, headquartered in Portland and with branch offices around the state.

It is an agency we probably don't hear about as often as we should but it has accomplished some very significant things in recent years. The cases they have won not only benefit the poor, but all of us.

Some examples:

Elimination of debtor's prison in the state.

Requiring that housing units meet standards of livability.

Right of legal counsel to anyone facing imprisonment, including juveniles.

Right to a fair hearing in cases involving termination of Medicaid benefits.

Right to fair hearing in cases where the state is trying to remove children from their mother's care.

Elimination of indefinite bread and water solitary confinement in state prison.

There are more accomplishments of Pine Tree Legal Assistance in the state, but those listed provide a fair sample of what the agency has been able to accomplish in the short time it has been organized.

The agency's federal funding for the year is $506,000, but this is not enough to meet the almost overwhelming task of meeting the legal needs of the state's poor.

Accordingly, the agency has launched an annual fund drive to supplement this federal funding, and we were pleased to see in the news media that a major bank is one of the first organizations in the state to make a contribution.

We hope more contributions, corporate and private, will be forthcoming, for this is an agency that genuinely deserves our support.

Contributions, which are tax deductible, may be made to Pine Tree Legal Assistance, 565 Congress St., Portland.

[From the Biddleford-Saco (Maine) Journal, Feb. 19, 1973]

IN OUR OPINION PINE TREE LEGAL IS WORTH SUPPORTING

One worthwhile agency that will be hurt with the dismantling of the Office of Economic Opportunity (OEO) will be Maine's Pine Tree Legal Assistance program.

Since its inception in Maine in 1967 Pine Tree Legal has handled close to 25,000 legal matters for the state's estimated 200,000 poor people.

A few of the cases made dramatic headlines like the breakthrough in getting the State Health and Welfare Department to let foster children visit their parents.

However, Pine Tree's list of accomplishments goes on for pages. Some examples: elimination of debtor's prison, a consumer protection organization, the right to fair hearing if the state tries to remove children from a mother; the right of an attorney for anyone facing imprisonment including juveniles, the requirement that housing units meet standards of livability, and the right to fair hearing in cases involving termination of Medicaid benefits.

Many of its accomplishments involve class actions—making changes that affect a large number of people. But Pine Tree also handles many individual cases too. An example: a woman was fired from her job because she refused to work on Sunday which is a religious holiday to her. Pine Tree got her job back with retroactive pay.

But Pine Tree's federal grant has been frozen at the same level for the past two years, and prospects for additional funding are dim.

So we support Pine Tree's efforts in starting its first fund-raising campaign, including an application for United Fund support and participation in federal revenue sharing.

CLOTURE MOTION

Mr. TAFT. Mr. President, I send a motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII the Chair, without objection, directs the clerks to read the motion.

The legislation clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the bill (S. 2686), a bill 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.

Robert Taft	Vance Hartke
Gaylord Nelson	William Proxmire
Alan Cranston	J. Glenn Beall
Mike Mansfield	Robert T. Stafford
Bob Packwood	Claiborne Pell
William D. Hathaway	Jacob K. Javits
Birch Bayh	Thomas J. McIntyre
Hugh Scott	Hubert H. Humphrey
Mike Gravel	Walter F. Mondale
George McGovern	Edward M. Kennedy

LEGAL SERVICES CORPORATION ACT

The Senate continued with the consideration of the bill (S. 2686) to amend the Economic Opportunity Act of 1961 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. McCLURE. Mr. President, I rise in opposition.

Congress at times can go galloping off in all directions, or at least two. Recently the 93d Congress passed the war powers bill, in a stated effort to take into its hands and hold more firmly that power delegated to it by the Constitution: the right to declare war. Congress, the press, and the public have joined in rare unanimity to bewail receding congressional authority and to enjoin on themselves and each other the necessity to strengthen the operation of the legislative branch.

That is direction No. 1 Congress is taking, and it is a good one. But, at the same time, the same Congress is considering the Legal Services bill. Legal Services lawyers have busied themselves with cases like Garvin against Rosenau in which Michigan Legal Services provided representation for a group of students opposing U.S. involvement in Asia. Now the war in Asia was certainly a debatable issue. But the proper forum for that debate was the Congress of the United States where it ultimately took place. The fact that the taxpayer's money was supporting an administration backing one policy, and a legislature with the ability to modify or repeal that policy and at the same time supporting Legal Services' attempts to destroy that policy in the courts, indicates that the country cannot decide who should be writing the laws of the land, despite the fact that the Constitution is very clear on that subject. This legislation can strip the legislative branch of its mandate: that of making the country's law.

On an individual basis, I cannot see why any Senator or Congressman would want to pass such a bill. Do they not believe in their own jobs? Do they not like them? Do they feel incapable of representing their constituents? If Senators think I am exaggerating, I suggest that they look at the words of the first Legal Services Director, E. E. Clinton Banburger, who referred to lawyers in Legal Services as the:

Architects as well as the artisans of social reform, redesigning, reforming and creating not only legal institutions, but social, economic, and political institutions as well.

What is exposed here is the very serious application of the double standard with reference to the word "political." Mr. Banburger tells us that political institutions are a major concern of Legal Services. Yet the report on the legislation presented to us here today specifically states that the reason for setting this service up in the form of a corporation is "to insulate it from political interference and control." We have then two definitions of the word political. One refers to our tripartite, two-party system. That is the political "interference" from which Legal Services is to be shielded.

The other definition, Mr. Banburger's and those others who see Legal Services as a way of changing the system, means "the politics of reform, the politics of recreating social institutions, the politics of redesign of society by the courts." Since all the people who favor such "politics" are on the far left of the political spectrum, the only political interference from which this corporation would be removed would be the "interference" of the center and right of center who have effectively been hog-tied by this legislation.

It is difficult to understand how Senators can accept their positions from the voters of their various States and at the same time persist in undermining the positions of local legislators elected by the same democratic mandate. But they do. Those who have voted for Legal Services in the past and who continue to push for this legislation presumably approve of what the organization does and this includes the attempt to change State laws, not through the legislatures, but precisely by circumventing those bodies. For example, Legal Services agencies are forbidden by law to represent defendants in criminal actions, so they evade this prohibition by filing amicus curiae briefs in cases where doctors are charged with performing criminal abortions. In Jobe against Oklahoma such a brief was filed stating that—

Oklahoma's criminal abortion law prohibits anyone from giving aid or advice to pregnant women which will trigger a miscarriage unless an abortion is necessary to preserve the woman's life. Amicus argues that this statute is unconstitutionally vague, and, that it infringes on the right to privacy, interferes with women's rights to personal relationships, physicians' rights to practice, and places an unequal burden on the poor who cannot move out of the state. Amicus argues that no overriding state interest permits the state to infringe on these constitutional rights.

Legal Services agencies have also attacked abortion laws in New York and New Jersey. It is obvious to anyone who has studied the abortion debate in this country that the issues and concepts at stake are of such a fundamental and important nature that this issue should be debated in the open by the elected representatives of the people affected by the decision, rather than slipped through the courts without their knowledge or approval.

Earl Johnson, the second director of the Legal Services program said,

(Serving the needs of the individual client) is not likely to change the system itself, and many observers feel that this is the greatest weakness in the traditional legal aid approach.

What is the system that needs changing? If it is the system of codified laws under which we now operate, is it not the business of the very body to make any needed changes? I suggest that the Senators who approve of this bill tell us what laws they dislike and tell us how to improve them. This is their job. On the other hand if the system that needs changing in our balanced three-branch system, I would like to see this fourth branch of government, the Legal Service branch, properly provided for in the Constitution. Senators who approve of this bill show their approval by resigning their jobs. Kenneth Pye complains—

Many lawyers will give steadfast support to organizations designed primarily to provide services to individual poor persons with middle class legal problems but are either apathetic or opposed to organizations with substantial commitments to providing representation to groups contemplating civil rights demonstrations, economic boycotts or rent strikes.

Now I suggest that legislation preventing or permitting demonstrations, boycotts or strikes belongs in the various legislatures. Are the Senators reluctant to propose legislation in these areas? What can be done by Legal Service lawyers acting obliquely through the courts that could not be done openly on the floors of the House and Senate? Professor Blumenthal of Yale gives us an honest definition of Legal Services as follows:

Law Reform may be defined as representation . . . with the primary objective of changing a law or legal interpretation affecting the poor generally.

I ask my fellow Senators who wish to vote for this bill if changing the laws and clarifying their interpretations is not exactly the job they were elected and sent to Washington to do? Either the Senators do or do not want to see sweeping changes in the system. If they do, why do they not propose legislation to effect such changes? Is it because they know such bills would not pass? Then the Senators are telling us that what they are voting for is a way to achieve such changes in the face of the constitu-

tionally appointed body set up to pass on exactly such changes. This is a vote of no confidence in the Senate and House themselves.

Perhaps there is another reason. Perhaps the Senators would like to see such changes but cannot risk the wrath of their constituents when they are faced with the inevitable disruption presented by demonstrations, boycotts and strikes. They are saying to the constituents, "you have to live under these conditions, but do not blame me, it is the Legal Services program," the middle term of which syllogism has neatly been obscured. What happens to the rights of such poor constituents that do not favor demonstrations, strikes, and boycotts as effective means of presenting their arguments. Is there any faint hope that their point of view would be represented under the Legal Services system? What the Senators are now saying is that a minority of the people, the poor, must be served, but what a minority of the poor may think is of no importance at all.

In Idaho we have had a system which has worked very well in the past and the last thing we need is to exchange real help for people with legitimate needs for a bunch of lawyers who are more interested in systems than people. Our public defenders have done an excellent job in the criminal area and our system of volunteered time for people who need assistance in civil cases means that a client gets help from an experienced lawyer, not a would-be one right out of school. The result is that his case is resolved faster and with more likelihood of benefit to him.

Idahoans are far from enthusiastic about another incursion of the Federal bureaucracy into their lives. They have had a recent experience with the nightmare called OSHA. Various polls and surveys have expressed the thought that they have had about as much Government interference as they can take. They want to decide themselves what is good and bad about their lives and they do not need a group of young eastern or California lawyers to help them make those decisions. Idahoans are people who do not see themselves as the mere components of groups but as individuals. They would not care for the statement that Hannon made saying.

> In recent months OEO has exerted great financial pressure on local programs to force them to give priority to the kind of aggressive advocacy which hopefully will benefit the poor as a whole.

Idahoans are smart enough to recognize that this is the government's way of telling them that they cannot figure out, as individuals, what they need in the way of legal help and it's going to be done for them by somebody else whether they like it or not. No matter that someone from New York or Massachusetts has no idea of Idaho life, no matter that he is interested in systems and classes instead of individuals, he is going to get out there and use the very tax money which the working poor must give up in order to do something completely foreign to their interests.

The citizens of Idaho are going to wonder why legislators are unwilling to do the jobs they are paid to do. They are going to wonder why they must pay a whole new group of people to change legislation, when they support with their taxes 535 men and women expressly elected for that purpose. And they are going to wonder why this new body consists of people coming to their State and telling them what they must do about certain needs whether they have such needs or not. I will not be able to explain it to them. The best I will be able to do is to tell them I voted against it.

It will be difficult to explain to our constituents that the help we were once able to give them will be less available. Suppose Mrs. Jones calls my office and says, "I was owed such and such an amount of money as a tax refund and I have not been able to collect. I cannot afford to hire a lawyer and I have been to the local Legal Services people. I have found that they are not waiting for cases, since they are paid on a regular basis regardless of case load. They tell me that they are all too busy trying class suits on the right to engage in boycotts. Can you help me get such a lawyer to help me?" I will have to tell her that I have no control over these people, that they can service the people or not but I would not be able to insist that they do since they are autonomous. I will have failed my constituent.

Real proof of the fact that the Legal Services bill's supporters are not in the least devoted to the interests of the poor is the system they would set up involving the staff attorneys. These people will be paid a salary regardless of what they are doing—and there is always that percentage who will do nothing at all. A voucher system would mean that a poor person who needed help could present his voucher to an attorney giving the lawyer the right to collect from the Government. But he would not be able to collect unless he had taken the case. This system would really benefit the poor since they would be able to choose their lawyers, and would not have to settle for the typical inexperienced legal services youngster. The worst aspect of this individual will not be merely his inexperience. A merely inexperienced lawyer would be a boon compared to some of the people we are going to attract to these jobs. Radical lawyers using the people's tax money to protest a war supported by the people's tax money is strange enough, but I also object to the hypocrisy implicit in this bill.

It is one thing to provide Legal Services for the poor and another to foment dissent. The ability and freedom to dissent are obviously necessities in a democracy but to equip and fund a group of professional dissenters, whose self-expressed purpose is to go and bring down the system that those of us on this hill work day in and day out to perfect, is virtually paranoid. Radical lawyers are neither friend of the system or the individual. In order to illustrate the behavior of one famous radical lawyer in court I would like to read to you parts of a story published in the Charleston, S.C., News and Courier on November 11 of this year.

> In the small hours of August 26, 1970, Karelton Lewis Armstrong, a student opposed to United States participation in the Vietnam war, expressed his views by exploding a bomb in the University of Wisconsin Army Mathematics Research Center. It happened that working there at the time, alone, was a physicist, Robert Fassnacht. The explosion killed him.
>
> He was sentenced to 25 years in prison. With the aid of Attorney William M. Kunstler, defender of many anti-war activists, Armstrong obtained a mitigation of sentence hearing, hoping to have his prison term reduced.
>
> Parading before the Judge came a strange collection of historians, scientists and political activists in Armstrong's behalf. The war in Vietnam, they argued, was "illegal", and therefore all acts of resistance against it were justified—including the killing of Robert Fassnacht.
>
> "You knew and I knew," the Attorney Kunstler told the Judge, "we were cowards. We did not do what Karl Armstrong did because we were middle-aged, perhaps, or because our positions were secure and we didn't want to jeopardize them." Melvin Greenberg, another defense attorney, said that the bombing of the research center was "a small, minute act of violence done to stop that huge, great violence of the Vietnam war."

I am not anxious to see the taxes of the people of Idaho, or any other State, go to lawyers who condone what the left has characterized as "symbolic language." I do not want it spent on lawyers who decide unilaterally what is legal and what is illegal and then condone violence, even murder, as a method of proper expression of political theory. I am not impressed by lawyers who think that people who do not commit arson and murder to underline their points are cowards. A lawyer who is prevented from murder and arson only by middle age or job security is not sane enough to unleash in public much less to force upon the citizens in an advocacy position. We do not need lawyers so illogical as to state that the best remedy for an evil is another dose of the same evil.

Traditional public disrespect for the law on the part of lawyers has been followed by disbarment and other public action warning future clients of their lack of responsibility. Now it seems that both flagrant contempt for the law and ability to circumvent it subtly are prerequisites for poverty lawyers. Aside from this implicit slander of the poor, does this position not put Congressmen and Senators—those who vote for such a system—in a position of accessories?

Another utterly distasteful aspect to this situation is the pretense that there is any care whatsover for the poor. The way this legislation would work the poor would be whoever Legal Services lawyers say they are and their needs would be established by their "betters," these same lawyers. The voluntary poor; that is students subsidized by wealthy families but owning and earning nothing of their own, and the professional welfare users would be treated on the same, or probably a preferential basis as those members of the working poor who have no chic slogans to air and who cannot afford the luxury of litigation for its own sake.

Since a large percentage of legitimate Legal Services work is in divorce cases, the ultimate losers in such situations

would be, as they always are, the children. Children of parents whose Legal Services lawyers would be scrambling around engendering demonstrations would find themselves in a sort of domestic limbo with their futures unsettled and perhaps without interim means of adequate support; all of this as a result of the overriding interests in boycotts and strikes.

Litigation for its own sake is of absolutely no importance whatsoever to a mother trying to win support for her family or a father trying to claim just benefits due him for injury. Lowenstein and Waggoner pinned down this absurdity neatly although inadvertently in a Harvard Law Review article in 1967:

The law reform device which is most closely related to and arises most naturally out of the service function is the test-case. Test-cases, however, are subject to a number of disadvantages which limit their effectiveness. Much of the law which affects poor people is statutory and hence less susceptible than judge-made law to change by the courts except when vulnerable to the charge of unconstitutionality. The test-case is a long process and always involves the risk of an indecisive or adverse result. The small amounts usually involved in cases in which poor people are parties often make it to the other party's advantage to give in on the particular case rather than face the possibility of an adverse decision. Since the lawyer's first responsibility is to his client, he cannot ethically turn down a generous settlement offer simply because he would like to litigate a point of law. This has been a common problem in cases against government agencies, particularly welfare departments . . . When a more comprehensive and coordinated change in the law is sought, the usefulness of the test-case is usually more limited. If law reform is to be more than a hit-or-miss, limited pursuit, the legal services program must attempt to influence statutory and regulatory as well as judge-made law. Accordingly, almost all the large OEO-funded legal services programs except to do some legislative work. (Lowenstein & Waggoner 80 HLR 805)

As is stated above, existing law is the remedy to which most of the poor engaged in litigation wish to appeal. Fraud, breach of contract and discrimination are tragedies of everyday life with which the ordinary citizen is concerned.

If Senators in this body really think that these concerns are less important than boycotts, strikes, and picketing, they will so serve notice of that preference to their constituents by their vote on this bill.

It is also interesting to note that many legislators who give lipservice to local control and responsibility are at the same time voting for measures that will initiate and perpetuate more "big brother," Washington-based control. The Legal Services bill makes a mockery of local responsibility. The bill does not even provide for a Federal charter, which means that when it is incorporated in the District of Columbia it will be, under home rule, controlled by District law. What possible sense can that make? Why should the District of Columbia Corporation Act be the ultimate control over a nationwide public service entity? It would be as logical to incorporate in Boise, Jacksonville, or Augusta.

There is no provision in this bill which would insure that Legal Services practitioners would be members of the State bar, or, for that matter, any bar at all. These lawyers will then have no knowledge of State law, tradition, history, or custom. The Governor's ability to veto the funding of a certain grantee, which was a part of the OEO system, has been abolished. Our constituents will see their tax dollars funding anyone Washington likes. They will be able to do nothing about it.

It is hard to pick out what is worse about this bill, but if a defeat for local control and autonomy is not its nadir, perhaps it is the erosion in family control it would bring about. This bill permits juvenile representation "where necessary" to prevent loss of "benefits or services" or "in other cases pursuant to criteria which the Board shall prescribe."

There are so many qualifiers in this section that it could not be construed as prohibiting the representation of a 6-year-old's right to green lollipops. But what it could mean would be that a 15-year-old girl could act without parental authority, but with Legal Services authority in order to prevent her rights to abortion or sterilization from being peempted. Maybe in Massachusetts or Minnesota parents want to turn their children into wards of the Federal Government. Maybe they have become so tired or so cynical about the importance of the family in American life that they no longer see the family as a unit or feel that they have no responsibilities as parents. In Idaho we do not feel that way. We are still confident. We are still hopeful. We know that children's best hope is in their families and families in their own communities.

Much of this bill is not worth the paper it is written on. I do not say this because I disagree with it, but because it is an exercise in self-cancellation. It is worse than French verbs, where exceptions become the rule. It is theoretically possible to have one paragraph of provision and seven of exception, and while there is more hole than doughnut, there is still some doughnut left. On page 16, line 5 the bill reads:

(This provision shall) "Insure that 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 the Congress of the U.S., or by any State or local legislative bodies, . . ."

That sounds like a good hard provision against lobbying, does it not?

But read on: there are two exceptions, one of which says: 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.

What this actually means is when a Legal Services lawyer and his client decide that the previous prohibition is inapplicable, it is inapplicable. Why write it into the law at all? The effect is to let them do what they want to do and when they want to do it. It was written into the bill to give the appearance of a prohibition without the necessity of actually imposing a restraint.

There is a fine strong sounding prohibition of political activity beginning on line 21 of page 16.

All attorneys shall refrain from:

(A) any political activity associated with a political party or association, or the campaign of any candidate for public or party office.

(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election, or

(C) any voter registration activity.

But then comes the hooker:

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;

So then the prohibition shall be in effect until Legal Services lawyers tell their clients that it is a necessary part of the advice they must hear. The client, unless he is a lawyer himself, would not know the difference, and once again everyone is hoodwinked.

Here is another example of a strawman prohibition knocked over by a strong "except" clause:

Legal Services lawyers are prohibited:

(6) 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.

The exception probably includes every activity short of chartering a corporation in his own name, that the lawyer would have engaged in anyway.

It is clear that the intent of this bill is to hand over as much of our freedom—in the legal area—as possible to an independent, Washington based corporation.

From Idaho, relatively late to join the Union, and relatively far from Washington, we have watched with better than average perspective of the erosion of the rights of our fellow citizens. We do not intend to relinquish any more rights to big brother unless we are forced nor appropriate up to $100 million a year to determine and administer what he perceives to be our rights. We cannot accept this legislation.

Mr. President, if you want to know how bad the Legal Services program is, you have but to ask the man who spent the first half of this year trying to administer it.

Howard Phillips, former OEO Director, has written a factual article on the subject that is absolutely devastating to the whole concept of federally subsidized poverty attorneys. I ask that the article be printed at this point in the RECORD.

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

[From Human Events, December 1973]

ARTICLE BY H. PHILLIPS

Before they die, or succumb to tyranny, civilizations reach a point at which they are incapable of discerning wherein lies their self-interest. Rendered insensitive to danger by the unrebuked repetition of calculated

outrages by the enemies of society, they are no longer shocked or even stirred to self-defense when told of the enemy's plan.

Such is the case in America today, as countless examples of treachery and subversion, many financed by the government itself, are ignored, or even encouraged, by an establishment perverted to self-destruction, and a hand-maiden "advocacy" press which alternately celebrates and overlooks the words and deeds of those who would destroy their liberty to engage in such suicidal pandering.

In this century, need we remind ourselves that Lenin and Hitler elaborately detailed their plans to dominate others, in books published well in advance of the occasions on which they actually seized power?

If enough Americans will heed the available warnings, our free society may continue to successfully withstand the destructive blows planned for us by the contemporary agents of totalitarianism.

"I do see a problem of Washington's trying to control more when they find out what is really going on. They don't know, and the bureaucracy in legal services has tried to cover up as much as possible. . . ."

Those words were spoken by Alan W. Houseman, a leader of the leftist National Lawyers Guild, who is director of the OEO-funded Michigan Legal Services Assistance Program (MLSAP), a statewide "back-up center" funded through Wayne State University in Detroit.

The cover-up concerning which Houseman was quoted, in a new book, *The People's Lawyers*, published by Holt, Rhinehart & Winston, has not received the kind of congressional and press attention accorded the alleged White House cover-up of Watergate, but it has a far more profound significance for America.

Authored by Marlise James, *The People's Lawyers* is intended to serve as a tribute to "left lawyers who, for various reasons, were virtually unknown to the public." But, set forth as a history of "the People's Law Movement," by a writer who discounts the "original" American Revolution as "an entrenchment of the monied, land-owning, white male middle class in power," the book also serves to trace the clear patterns of Marxist-Leninist influence in the OEO legal services program.

While Miss James credits the pre-World War I founders of the American Civil Liberties Union (ACLU) as the pioneers of the "people's law movement," she cites the formation of the National Lawyers Guild (NLG) in 1937 as the "final input" through which "radical lawyers, generally with a labor orientation," combined their strength with the intellectual dissidents of the ACLU and the black lawyers of the National Bar Association, who had been excluded from membership in the American Bar Association (ABA).

Miss James points out that "in 1939, when the Nazi-Soviet non-aggression pact was signed, the movement began to weaken. . . . When the United States entered World War II, the people's law movement dropped to a low point."

Although many "liberal organizations, the ACLU included, responded to the atmosphere of those times by passing resolutions barring Communists from their memberships," the authoress observes that "Following the war, with Russia as our new-found ally, it appeared that people's lawyers might be able to get on with their business."

However, in the late '40s, as the Cold War intensified, conventionally liberal lawyers of the ACLU variety "fell over each other," says Miss James disparagingly, "in the rush to proclaim their patriotism." Therefore, it fell to the "movement" lawyers of the NLG to defend "the rights of their labor and radical clients. They did their work so strenuously," she continues, "that they were accused, as an organization, of being the Communist party's legal arm in this country."

At roughly the same time, "rights lawyers disillusioned with the ACLU" and "non-Communist liberals who were not afraid of being labeled Communist" came together to form "The National Emergency Civil Liberties Committee (NECLC)."

The turning of the tide in favor of the radical-left gained momentum in 1957 with the Supreme Court overthrow of Smith Act restrictions on Communists, and the organized protest in the spring of 1960 against the House Committee on Un-American Activities. These events gave the people's law movement a new "tone for the '60s, a decade of protest."

Militant youth found a welcome home in the Law Students Civil Rights Research Council (LSCRRC) while older radicals formed the Center for Constitutional Rights (CCR), a group whose leadership today includes such stars of the far left as William Kunstler, Arthur Kinoy, Howard Moore Jr., Dennis Roberts, Jennie Rhine, Linda Huber, Richard Sobol, Michael and Margaret Ratner.

The CCR, which now claims to have more than 70 cases on its docket, has been active on a wide variety of "movement" high-impact public relations cases, including support of the American Indian Movement, the Gainesville 8, Angela Davis, the Berrigans, the Chicago 7, the Attica prison rioters, women's liberation and H. Rap Brown.

In assessing the left's major advances during the '60s, Miss James places great emphasis on the OEO legal services program, out of which, she says, "came a new rights input into the people's law movement as committed young attorneys across the country drew up proposals for legal services programs and received government funding to carry these proposals through."

During the mid-'60s the NLG "actively began to organize law students. It became known as the legal arm of the movement," and "the ACLU and NECLC were infiltrated by activists."

As "movement" ranks swelled, "new forms of organizations had to be found to accommodate" these new recruits. OEO and similar "staff attorney" programs "took on as many people's lawyers as they could, either as staff attorneys, interns, trainees, or cooperating attorneys." The field of "public interest law," aided by federal subsidy and foundation support, grew as a means by which activist attorneys could remain fully involved in politics and social change, while earning a livelihood.

Some of the young politico-lawyers brought changes of style and substance to the practice of law, abandoning procedural niceties as easily as traditional habits of personal grooming. "Attorneys began to hold numerous press conferences in which they would express their view that justice was not being served in the courtroom."

One movement attorney celebrated with full chapter status in The People's Lawyers is Anthony G. Amsterdam, a professor at Stanford University Law School, who has personally been involved in the OEO legal services program.

Amsterdam has been associated with a full spectrum of organizations on the liberal-left, ranging from ACLU and the NAACP Legal Defense Fund to the Lawyers Constitutional Defense Committee (LCDC) and the Southern Christian Leadership Conference (SCLC). He joined with Charles Garry in representing Black Panther Bobby Seale and has been William Kunstler's personal counsel, Amsterdam also led the national campaign to eliminate the death penalty through test case litigation.

One OEO program on whose board of trustees Amsterdam has served is the California Indian Legal Services (CILS) project, a Berkeley-based grantee which was started in 1967 and has been heavily staffed by the Reginald Heber Smith Fellowship Program. With close ties to Sen. John V. Tunney (D.-Calif.), CILS has become an increasingly influential political force among the members of California's diverse Indian population.

In describing his personal political philosophy, Amsterdam says ". . . it can't only be done within the law . . . we do need something that is in the nature of a revolution. . . . There are a lot of people who can get out on the barricades and fire guns. I probably shoot worse than most other people. But the people who have had the kind of training and experience I've had are relatively few, and so I can make a greater contribution now by being a lawyer than by being on the barricades."

"I'm close to revolutionaries," says this overseer of tax-supported legal aid, "in that I agree that major change is necessary in our society and I have at least a doubt that that's possible within our present legal system. I agree with them completely that if it is not possible within the legal system, the legal system is going to have to be changed by any means necessary to change it."

Amsterdam concludes that "[I]f a society is bad enough, you tear it down without anything to replace it. But I'm not yet there at that level. I may change my mind any day, though."

In reviewing the history of OEO legal services, Miss James expresses the view that despite a few "problems," the "programs provided a new golden age for rights lawyers." The first "sour note" came with restrictions on criminal representation "in January 1968, shortly after the summer that saw the battles in Detroit and Newark, at a time when many legal services lawyers were helping the people who were being tried for their part in those battles," she says.

What she calls the "second sour note" came after the formation of CRLA (California Rural Legal Assistance) as an outgrowth of Cesar Chavez' organizing activities on the West Coast. Many early CRLA activists "intended CRLA to play a part in making UFWOC [United Farm Workers Organizing Committee] a stronger organizing vehicle," but felt inhibited by Sargent Shriver's initial acquiescence to concerns of California bar leaders, who, at that time, opposed such a focus for publicly supported legal assistance.

Fewer problems exist today for OEO attorneys, as witness the Nixon Administration's renewed support for the legal services back-up centers. Discussing the work of his Michigan "back-up center," NLG activist Alan Houseman says "[w]e do perform the back-up function, but we also represent state and local welfare rights organizations, except where there are good local legal services attorneys. We serve as lawyers to both the organizations and the people in them. We feel that the only way to buttress organizations is to serve only those people who are members.

"The only way an organization can function is to have ideas and goals and a conception of what has to be done to get to those goals, and the only way we can do anything meaningful is to relate to the organizations that we represent. *We try to stay within the OEO guidelines, but at times we're forced to go into criminal court, and we don't hesitate, although we do try to get the correct clearances* (emphasis added).

"There is a difference between providing lawyers and obtaining justice, and the role of the back-up center is the latter. That can only be accomplished when groups of the poor become politically powerful, so we try to work with groups that are and ones that are beginning to grow in that direction."

Outlining the growth of the "people's law movement," Miss James analyzes "progress" in each several key cities.

One of the more interesting is Detroit, where she tells of Justin "Chuck" Ravitz, who earned his spurs in the OEO legal services program and is a member of "the Motor City Labor League (MCLL), a Marxist-Leninist, white cadre organization."

Ravitz says that, in 1965, he worked in Detroit with another OEO legal services veteran. Sheldon Otis, who headed the San Mateo, Calif., legal services project, and who briefly represented Angela Davis before being personally confronted with charges of having embezzled funds from the "Reggie" program (see last week's Human Events).

According to Ravitz, "[r]evolutionary politics evolved out of continuing struggle and was materially advanced by interrelationships with my law partners and my political comrades. . . ." The current associate of Ravitz is Kenneth Vern Cockrel, a founder of the Black Workers Congress (BWC), "a revolutionary workers organization" with chapters in 22 cities. Cockrel flatly says about BWC: "We're Communists explicitly."

Focal point for Detroit's radical lawyers is the local chapter of the National Lawyers Guild, headed by Hugh M. "Buck" Davis Jr., still another veteran of the OEO Reginald Heber Smith legal services Fellowship program (Reggie).

Also a member of the Communist MCLL, Davis was critical of "the first few years" of the OEO program, when they were "just expanded legal aid offices. The staffs would be well-intentioned but not particularly political . . . . Then legal services started doing test cases . . . then they went into the third stage, representing groups and acting as a service unit to organizational groups . . . the final step now for an attorney is to decide that one group is correctly addressing itself to the problems that exist, and to service that group, which may mean giving up the practice of law if that is what that group decides you should do."

The legal philosophy of the young Detroit Communists is "politicize the case," and treat the courts as "a functional appendage of a larger system of oppression." When cited for contempt by the Michigan Bar Association, Ravitz and Cockrel "faced them again, head-on, attacking their investigation" as "just another example of the system's institutionalized lawlessness and racism." With NLG support, they won. Now, though consciously maintaining a "low profile," the Detroit radicals, trained and supported with OEO funds, expect to be "the vanguard of a Socialist revolution in this country."

One young Los Angeles lawyer idealized by Marlise James is Dan Lund, a native North Dakotan, elected in 1971 as national vice president of the NLG. Lund became involved with the OEO legal services program shortly after doing part-time organizing work for Cesar Chavez. He became a co-author of the funding proposal for CRLA, "inspired to do this from what I understood the history of the '30s to be when young, radical bureaucrats were able to creatively use many of the government agencies."

Lund calls CRLA "the most effective, well-organized" legal services program, but laments that "they've built a base among the liberals and the young creative bureaucrats of Washington" instead "of building a base among the people." Lund himself was active in SDS and "was arrested at the Dow demonstration at UCLA [in 1967]."

Another OEO veteran quoted in the book is Earle Tockman, who became a Reggie after breaking his "unsophisticated hangup about capitalism." Sent by OEO to Compton, Calif., Tockman joined the "Bar Sinister"—a political and legal collective which "wants to be a legal arm within the movement."

Tockman defends the time devoted in the Bar Sinister to self-analysis and radical study by asserting that "In a capitalist country when you're trying to break down individualism and trying to learn to function in a collective way," such is necessary.

Another law commune, the Venice Legal Collective (VLC), in Venice, Calif., was conceived in 1970 by employes of the OEO health law back-up center, located at UCLA.

Numerous other examples of legal services involvement in hard-left activities are cited by Miss James.

Lenin once observed that when the time came for capitalists to be hung on the gallows, they would compete among themselves for the opportunity to supply the rope.

In 1973 advocates of S 2686, the Senate Labor and Public Welfare Committee proposal for a politically free-wheeling Legal Services Corporation are again proving Lenin right, as they allow their well-intentioned goal of legal aid to the poor to become subverted into a $100-million-per-year boondoggle for the radical left.

Mr. JACKSON. Mr. President, I rise to express my wholehearted support for S. 2686, the Legal Services Corporation bill, as reported by the Senate Labor and Public Welfare Committee. Earlier this year, I, along with four other Senators, introduced a Legal Services Corporation bill similar to S. 2686 and to legislation which passed the Senate last year. The purpose of this legislation was to assure that justice is made more available to the people of America on the basis of need rather than solely on the basis of who has the money to buy a good lawyer.

The legal services program is without a doubt one of the most successful Federal programs at delivering a needed service to its intended beneficiaries. In my home State of Washington, the Seattle-King County legal aid program has provided essential legal assistance to over 15,000 low-income individuals and families so far this year. Nationwide, over 2,250 dedicated attorneys in 900 neighborhood law offices are helping people who could not otherwise afford legal assistance with critical legal problems affecting their day-to-day existence. The bulk of the cases handled by legal services attorneys have always been in the crucial areas of family law and landlord tenant law.

The legislation which we are considering today is the product of negotiation and compromise between the Senate and the administration. It is not perfect, but S. 2686 is a good bill which recognizes the need for the Legal Services program to be administered independent from political intervention and interference. It has always been my view that Legal Services attorneys must be free to represent their clients just as a good private attorney would represent a client. That is, the highest ethical standards of the profession should apply and legal services lawyers should be allowed to pursue all avenues of legal representation consistent with the Code of Professional Responsibility and other applicable ethical guidelines. S. 2686, as reported by the committee, conforms to this high standard.

I am proud to say that the Washington State Bar Association, of which I am a member, has formally expressed its support for the concept of an independent legal services corporation to conduct a program in which attorneys are free to provide the full scope of legal representation to meet the pressing needs of poor people without restrictions that are inconsistent with the Code of Professional Responsibility.

At this time, I ask unanimous consent that a resolution adopted by the Washington State Bar Association concerning the Legal Services program be included in the RECORD. I would also like to include in the RECORD a resolution of support for the Legal Services program by the Seattle-King County Bar Association.

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

RESOLUTION IN RE NATIONAL LEGAL SERVICES CORPORATION—JULY 1973

It was moved, seconded and carried that the following Resolution be adopted and that copies of the Resolution be forwarded by the President of the Bar Association to appropriate Senators and other Congressional leaders in Washington, D.C.

Whereas, the Washington State Bar Association has consistently supported the efforts of the legal services programs in the State of Washington in their provision of legal services to the poor, and

Whereas, the Washington State Bar Association recognizes the need for adequately funded legal services programs in the State, and

Whereas, legislation is presently pending in the United States Senate which will create a national legal services corporation,

Now therefore, be it resolved, that the Washington State Bar Association urges prompt enactment of legislation by the United States Senate which will enable legal services programs to meet the pressing needs of the poor to the full scope of legal representation without restrictions which are inconsistent with the duties of attorneys under the Code of Professional Responsibility.

SEATTLE-KING COUNTY BAR ASSOCIATION

The Board of Trustees of the Seattle-King County Bar Association confirms its long standing support of programs which provide legal services to those in need who do not have the resources with which to retain counsel. Accordingly we urge enactment of legislation to establish an independent legal services corporation with adequate federal funding to support a continuing legal services program.

Mr. JACKSON. Mr. President, I fully expect S. 2686 to be approved by the Senate. However, as we know, considerable differences exist between S. 2686 and the legislation passed by the House last June. Unfortunately, the House bill contains several restrictive provisions that do limit the scope of legal services that can be provided under the program. I would, therefore, urge my colleagues in the Senate who will be participating in the conference on this legislation to stand firm for a program that will provide maximum flexibility in the range of legal representation that can be provided.

I urge that the conferees take this position because I believe that it is unfair to both client and attorney to limit the legal representation that can be provided under this program. Such treatment discriminates against the poor. Wealthy individuals who can afford private legal counsel are not limited and will get the fullest and most effective representation money can buy. Poor people, on the other hand, will not get the same broad and effective representation. In addition, such restrictions will put legal services attorneys in a position which is

inconsistent with their professional obligation to provide the highest quality of representation to each and every client.

Mr. President, I am proud to register my support for S. 2686. I reiterate my view that the Senate should adopt this most worthy legislation.

In this regard, I urge opponents of S. 2686 who have initiated delaying tactics against the bill to permit the Senate to proceed to consideration of the merits of the bill. If there are constructive and responsible suggestions for improving the bill they should be fully debated. However, of the 45 or more amendments that have been proposed, few are more than mere stalling devices. I sincerely hope that the Senate will be able to proceed to a vote on this legislation with all deliberate speed.

Mr. HART. Mr. President, I support the proposed Legal Services Corporation Act as reported by the Committee on Labor and Public Welfare. The committee bill is a product of legislative compromise and agreement among various groups concerned about the continuation of the legal services program. This legislation will create a national corporation independent of political control and providing legal assistance to the indigent.

The committee bill eliminates the provisions of H.R. 7824 which would drastically undermine the legal services program and its components. S. 2686 does not arbitrarily restrict either the particular clients which legal services may represent or the types of remedies which may be sought on behalf of those clients. It assures that legal services programs and attorneys can advise clients of all applicable laws and remedies and preserves the appellate and advocacy responsibilities of legal services attorneys. It also guarantees continuation of the National and State support, specialized litigation, technical assistance, lawyer, and paraprofessional training programs, and representation of the poor before administrative and legislative bodies at all levels of our government. In sum, present staff attorney programs and support projects, which have been effective in providing quality legal representation to the poor should be strengthened by this bill.

The essential characteristics of this bill have received strong support from many knowledgeable groups in Michigan. I ask unanimous consent that the following material be printed in the RECORD at the conclusion of my remarks: Resolutions endorsing this proposal in principle by the Michigan Bar Association, the Michigan Trial Lawyers Association, and the State Bar Legal Aid Committee; editorials from the Detroit Free Press and Battle Creek Enquirer & News, and bipartisan statements of concern from the Michigan House of Representatives.

By enacting the Legal Services Corporation legislation as provided in the committee bill, this Congress offers hope to thousands of citizens—not only of Michigan but of the entire country—that they will receive equal justice under law.

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

STATE BAR OF MICHIGAN,
Lansing, Mich., September 19, 1973,
HON. PHILIP A. HART,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR HART: At its meeting on September 12, 1973, the Board of Commissioners of the State Bar of Michigan passed the enclosed resolution concerning HR–7824, legislation now pending before the Senate to establish a National Legal Services Non-Profit Corporation.

While the resolution is unusually long, we believe that it warrants your careful attention, for it sets forth in some detail the considerations which we believe to be relevant in order to assure continued access to the administration of justice on the part of those unable to personally afford legal services.

Thank you for your consideration.

Sincerely,

CARL SMITH, JR., *President.*

RESOLUTION

Whereas, there is a continuing need for legal services for the poor.

Whereas, there are twelve federally funded Legal Services Programs to meet this need in Michigan.

Whereas, these programs are facing an expanding demand for legal services and increased operating expenses.

Whereas, the funding for these programs has not increased since 1970 in spite of the increase in demand and operating expenses.

Whereas, the State Bar of Michigan continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

Now, therefore, it is resolved:

1. The United States government should increase the level of funding of Legal Services programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

2. Government at all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

3. The Congress of the United States should create a legal service corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor.

RESOLUTION OF THE STATE BAR OF MICHIGAN

Whereas, the State Bar of Michigan continues, as a matter of policy, to support the furnishing of legal services to eligible indigents and recognizes the need for viable programs to implement that policy; and,

Whereas, there are a myriad of State, Federal and Michigan State Bar legal services programs for eligible indigents which require central control and uniform guidelines; and,

Whereas, the Congress of the United States has before it, for legislative action, HR–7824, to establish a National Legal Services Non-profit Corporation;

Therefore, be it resolved:

1. That the Congress of the United States forthrightly address itself to the passage of appropriate legislation establishing a National Legal Services Non-Profit Corporation;

2. That such legislation incorporate the guidelines of the legal profession as embodied in the American Bar Association Code of Professional Responsibility, and the Canons of Ethics, in order to preserve the vital components of existing legal aid programs;

3. That such legislation insure the present format of establishing and funding back-up centers through the vehicle of grants or contracts and that the prohibition against such centers be deleted from HR–7824;

4. That such legislation not interfere with the right of legal services attorneys to participate on their own time in lawful political activities and that the prohibition against such activity be deleted from HR–7824;

5. That the following specific provisions contained in HR–7824 be the subject of extensive Congressional Committee Hearings and Inquiries to determine whether they are inconsistent with the establishment of a true attorney-client relationship, and do, in fact, deprive eligible indigents of full, legally sufficient, vigorous, and viable representations; said provisions being as follows:

A. Court Costs and Counsel Fees, (Sec. 6[e]; p 9, line 23).

B. Legislative and Administrative Advocacy (Sec. 8[a][5]; p 11, line 15).

C. Immunity for Certain Officials, (Sec. 7[b][1]; p 13, line 19).

D. Juvenile Representation, (Sec. 7[b][6]; p 15, line 1).

E. Desegregation Suits, (Sec. 7[b][7] and Sec. 7[b][9]; p 15, lines 6 and 16).

F. Abortion Cases, (Sec. 7[b][8], p 15, line 9);

6. That the Congress of the United States delete from HR–7824 any and all provisions which limit, restrict or in any way interfere with the otherwise lawful advice which an attorney retained through the National Legal Services Non-profit Corporation may render to his clients.

RESOLUTION

Whereas, the tragic result of widespread poverty in the United States has been the deprivation of the legal rights of poor people and has made them innocent victims of our complex economic system, and;

Whereas, a partial alleviation of this condition has been accomplished through the work of the Office of Economic Opportunity's Legal Services Program by extending to the poor people of this nation, their first real measure of justice at a cost of $71,000,000.00, or 30 cents—per capita;

Whereas, Legal Services Offices are currently being threatened with one or more of the following:

1. Loss of or cut back in funding;

2. Being limited to engaging in nothing more than divorce-related activities;

Whereas, said threats, if carried out, would clearly mark the end of effective advocacy of the rights of poor people in this country and would, in fact, be a declaration of this Nation's unwillingness to recognize that poor people even have rights, and thus be against the most basic precepts of our society;

Now, therefore be it resolved that the Michigan Trial Lawyers Assocation go on record as opposing any attempt to either limit the funds of the Office of Economic Opportunity's Legal Services Programs or its activities in any given area of the law, aside from fee generating cases; and that the Federal Government expand legal services to reach the needs of all people who are unable to afford necessary legal counsel.

Further, be it resolved that the Michigan Trial Lawyers Association call upon all other Bar Associations and all other organizations to join in demanding that the President reverse his present plan of curtailing assistance to all the economically deprived people in this, the richest of all countries in the world.

STATE BAR LEGAL AID COMMITTEE, RESOLUTION ON LEGAL SERVICES

Whereas, There is a compelling need for legal services for the indigent of Michigan.

Whereas, There are twelve federally funded legal services programs to meet this need in Michigan (including a statewide back-up center providing litigation expertise and spe-

cialized assistance in areas relevant to the needs of the indigent).

Whereas, The legal services programs should provide the same representation that the private bar provides its clients in keeping with the Canons of Ethics and the high standards of the legal profession.

Whereas, Legal services programs should have sufficient flexibility in their personnel policies and in the use and application of their funds to permit an innovative approach to the problem of providing legal representation and equal access to justice for the indigent.

Whereas, H.R. 7824, as passed by the House fails to assure the continuation of extant programs and fails to satisfy the foregoing principles.

Whereas, The State Bar of Michigan continues to support the need for legal services to the poor and the need for viable and independent programs to provide this representation.

Now, therefore, it is resolved:

1. That the Congress of the United States assure the passage of legislation establishing a national legal services corporation which meets the goals outlined above and preserves the vital components of the program.

2. That the provisions of H.R. 7824 imposing potentially staggering court and counsel fees upon legal services programs seriously threaten the adequate funding of the Corporation and the legal services programs operating thereunder, be eliminated.

3. That the provisions of H.R. 7824 restricting legislative and administrative advocacy on behalf of eligible clients and inhibiting legal services programs from advising clients of applicable laws and remedies, be modified to preserve the appellate and advocacy responsibilities of legal services attorneys to the same extent that such responsibilities exist within the private bar.

4. That such legislation insure that the present method of establishing and funding back-up centers through grant or contract be continued.

5. That such legislation shall not contain any prohibitions or limitations on the right of legal services attorneys to participate on their own time in the political process.

6. That such legislation shall not arbitrarily restrict either the particular clients which legal services programs may represent or the types of remedies which may be sought on behalf of those clients.

CRIPPLING LEGAL AID FOR THE POOR

Imagine what would happen if a legislator introduced a bill requiring that all firms employing more than 100 people:

Hire all local attorneys seeking jobs before talking to any from other parts of the country.

Bar their attorneys from seeking political office and from taking part in any political campaign or registration drive.

Prohibit their attorneys from advising them on picketing, boycotts and strikes.

Prevent their attorneys from drafting legislation and from talking to federal, state and local legislators about the problems that proposed legislation would create for their firms.

Chances are such a legislator couldn't get a serious hearing for his bill. It would justifiably be shouted down as "un-American." But a bill already passed by the U.S. House of Representatives would put the same—and even more serious—restrictions on lawyers who represent the poor.

The quality and amount of legal help follow class lines. The rich buy better service. President Johnson did correct some of the imbalance through the legal services extended through the war on poverty. But now there is an effort to restore the pre-Johnson ordering, to take back the legal assistance that did balance off some of the power held by wealthy individuals and businesses.

Many who would return the level of legal services to the pre-Johnson days argue that those who can pay deserve a greater share of legal representation. That runs counter to the basic American concept that all men are equal before the law. Such equality demands that a lawyer representing a poor person or group of poor people should be allowed to give the same services as one representing a rich person or major corporation.

That's not what the poor will get under the plan for the National Legal Services Corporation under the House-passed bill.

The corporation came close to being an excellent proposal as it was drafted in committee. The problems came when it got to the floor. A series of amendments were passed in an atmosphere that can best be illustrated by one which prevents poverty lawyers from assisting "indigent, abandoned Watergate defendants."

That's a far cry from the mood during the Johnson years when the legal services idea became a key part of the war on poverty. In fact the success of legal services in challenging oppressive legislation and practices is the reason its opponents now want to turn it around. They find it easier to win when they place unreasonable handicaps on their opponents. That may be the American way but it is far from the American ideal.

One reason the poor worked within the system over the past decade is that legal services programs permitted them to do that effectively. To deny them that opportunity now would only feed the argument that the poor must return to the streets.

The senators have a lot to do, but a high priority should go to rewriting the legal services bill. It should pass in the form it was in when it came out of House committee.

Anything less should be rejected outright in favor of continuing the current, though limited, program that is a spin-off from the U.S. Office of Economic Opportunity.

TOWARD EQUAL JUSTICE

After months in which it appeared that the federal legal services program might die, and with it the concept of equal justice in America, Congress now seems close to hitting on a formula for maintaining the program under the auspices of an independent Legal Services Corporation.

The proposal for such a corporation, as originally presented in a bill before the House, was clearly unacceptable. It would have placed unreasonable restrictions on the ability of attorneys in the program to provide the best of legal services for the poor. But amendments to the bill have brought it much closer to the ideal of providing the same range of legal remedies for the poor which the affluent enjoy. And we hope the House will give it quick approval.

Speed is of importance because the present program expires at the end of this month. At the very least, Congress should approve an extension of the present program, until the Senate has had an opportunity to act on the new measure and inevitable differences between House and Senate versions have been worked out.

It is essential that the program which finally emerges from the Congress provides for complete legal representation for the poor. This means not only that the great bulk of legal services work for individual clients be carried on, but that legal services attorneys be permitted to represent the poor in so-called "class action" or "law reform" cases. For such cases bring about changes of the greatest benefit to the poor.

It is essential also that political influence be eliminated from the program. For this reason, a better means of supervision must be devised than that of state advisory committees appointed by the nation's governors. And politics should play no part in the appointment and confirmation of the new corporation's board.

Whatever modifications are made in the bill now before Congress, they must be with an eye to insuring that the program is unencumbered in its effort to serve those who would otherwise be denied full protection of the law. Otherwise the program will be unable to continue, in President Nixon's words, "to breathe new life into the cherished concept of equal justice for all."

TELEGRAM

Text of a telegram to be sent to the Michigan members of the U.S. House of Representatives and Congressmen William Steiger and Augustus Hawkins concerning the "Legal Services Corporation Act," H.R. 7824.

The undersigned members of both political parties of the Michigan House of Representatives urge you to oppose any amendments to the "Legal Services Corporation Act," H.R. 7824, which would restrict the ability of legal service attorneys to represent their clients in legislative matters at the state and federal level. The poor have as great an interest in the legislative process as those who can retain private counsel. In our experience as legislators, we have found legal service attorneys to be an invaluable resource in providing technical and background information and in legislative drafting. We would urge the Congress to insure that legal service attorneys are not limited in the forms of service they can provide their clients.

THOMAS J. ANDERSON,
(and 51 others).

Mr. STAFFORD. Mr. President, I rise in support of the Legal Services bill which we are now considering.

This bill is the result of a lot of hard work on the part of the committee to come to grips with the issues that face us on legal services and write a bill which we can put forth as an honest compromise that will maintain the goals of the legal services program.

Mr. President, I would like to include a statement of the Vermont Legal Aid Incorporated on the Legal Services bill in the RECORD at this point in support of the bill and showing the work done by Vermont Legal Aid as a result of this bill.

I would ask that my colleagues support this measure.

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

STATEMENT OF VERMONT LEGAL AID, INC., ON LEGAL SERVICES

The Senate will consider this week the Legal Services Corporation Act of 1973. Similar legislation has been pending in Congress since 1971. It has passed the Senate twice before and nearly became law on both occasions. We have no doubt that the Legal Services program has been controversial, especially in some parts of the country. In its controversiality, we cannot overlook the tremendous positive gains that have been made by the program and the basic fact that often its most successful actions have produced the controversy. The Labor and Public Welfare Committee has for three years studied the pros and cons of the programs, including those aspects that have drawn controversy, and produced what we believe is a fair and workable compromise bill. If the nation's commitment to equal justice under law for all Americans has meaning, we believe it is imperative that we act favorably on the bill as reported from the Labor and Public Welfare Committee.

We think it will be helpful to some parts of the debate on this legislation to describe the experience in my own state of Vermont with Vermont Legal Aid, Inc.—the OEO Legal Services program. The program enjoys strong local bar association support. On March 3, 1973, at the midwinter meeting of the Ver-

mont Bar Association the membership passed the following resolution:

Whereas: there is a continuing need for legal services for the poor.

Whereas: there are federally funded Legal Service Programs to meet this need in each of the states.

"Whereas: these programs are facing an expanding demand for legal services and increased operating expenses.

"Whereas: the funding for these programs have not increased since 1970 in spite of the increase in demand and operating expenses.

"Whereas: this Association continues to support the need for adequate legal services to the poor and the need for vital and independent programs to provide this representation.

"Now therefore, it is resolved:

"1. The United States Government should increase the level of funding of Legal Services Programs to enable them to provide adequate legal services to eligible clients and to prevent a serious deterioration of the quality and quantity of service because of increased expense and mounting caseloads.

"2. Government of all levels and lawyers from both the public and private sectors should take every step necessary to insure that legal services lawyers remain independent from political pressures in the cause of representing clients.

"3. The Congress of the United States should enact a Legal Service Corporation of a design consistent with the foregoing principles and the need to maintain full and adequate legal services for the poor."

Further, the governing body of Vermont Legal Aid contains the present President of the Vermont Bar Association as well as last year's President of the Vermont Bar Association. Both are strong supporters of the program and have served as Presidents of Vermont Legal Aid. We emphasize the close working relationship between the Vermont Bar Association and Vermont Legal Aid both to demonstrate the high caliber and responsibility of the leadership of the program and to refute claims that legal services programs operate without bar support and in opposition to the desires of local bar associations.

Vermont Legal Aid is primarily a service organization. In 1973–74, it will handle approximately 6,000 individual cases in addition to those where simple advice is given in an office interview. It has offices around the State of Vermont and attempts to reach all eligible Vermonters. This is no small task. The program has approximately 2% of the lawyers in Vermont but must represent 15% of its citizenry.

Most of the cases handled by Vermont Legal Aid are in traditional service areas: domestic relations (30%), consumer (15%); administrative hearings (20%); landlord and tenant (15%), miscellaneous (10%). This does not mean that Vermont Legal Aid has not taken on cases challenging laws that discriminate against the poor or represent barriers against the elimination of poverty. Indeed, it has but these cases have not detracted from the overall service mission of the program.

Again, we emphasize these facts to demonstrate that, in my experience, legal services programs have not embarked on ideological vendettas, as some suggest, to the detrimental of the clients they serve. Lengthy debate over one or two cases which produced a result with which some persons may disagree does a great disservice to lawyers who have put in long hours at less than comparable salaries to give high quality service in cases like divorce, non-support, eviction, etc.

Nor, is it appropriate to enact restrictions on the advocacy of programs which make the legal services available less complete than that available to the rest of society. We speak particularly to type of case limitations and limitations on particular forums—for example, the Congress and State Legislatures. We see no evidence that it is somehow in the public interest for the poor to be excluded from our courts on particular issues while other segments of society have free access; or that the poor be excluded from legislative bodies while other interest groups freely participate.

Finally, we must avoid needless restrictions of lawyers off-time activities. In Vermont, about one-third of the lawyers turn over every year. It will be difficult to attract qualified and dedicated lawyers if we impose such limits on their own time that they will not be able to draft a will for a relative or become political gimmicks.

All of these issues and arguments were fully considered in the Labor and Public Welfare Committee. The product is a compromise that deserves the support of each member of the Senate. We urge you to do so.

Mr. TUNNEY. Mr. President, in the course of yesterday's debate on S. 2686, a question was raised concerning possible jurisdiction of the Committee on the Judiciary over the legislation. The senior Senator from California (Mr. CRANSTON) stated, on page S22564, that he had discussed the matter with me, in my capacity as chairman on the Subcommittee of Representation of Citizen Interests, and that I had made it plain that I did not wish the matter to be referred to my subcommittee. Senator CRANSTON referred further to correspondence which I had with the Senator from North Carolina (Mr. HELMS) on this issue.

I feel it important to amplify my position in this regard. S. 2686, in its present form, is the product of months of delicate negotiations. It was reported unanimously by the Committee on Labor and Public Welfare and has the explicit support of the administration. Because the legal services program has traditionally been a part of the Office of Economic Opportunity, the Labor Committee has had jurisdiction over it. This year's bill is drafted as an amendment to the Economic Opportunity Act. Even though the future of OEO seems uncertain, and the Legal Services program contemplated by this legislation is to be directed by a national corporation, and is not a subdivision of OEO, I view it as completely unnecessary for the Committee on the Judiciary to devote further consideration to the substance of S. 2686. In addition to bipartisan Senate support and White House support, S. 2686 is overwhelmingly supported by the American Bar Association, numerous State and local bar associations, the National Legal Aid and Defender Association, and consumers of legal services in every part of the country. There is no reason whatsoever for any further delay in passing this vital legislation.

I ask unanimous consent to insert in the RECORD at this point, my correspondence with the Senator from North Carolina (Mr. HELMS) on this issue.

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

U.S. SENATE,
Washington, D.C., June 26, 1973.

Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As one of the main cosponsors of S. 1990, the bill to create a Federal Legal Air Corporation under the revenue sharing concept, I respectfully urge you to bring it speedily to hearings in the Judiciary Committee.

As you are no doubt aware, H.R. 7824, the Administration's Legal Services Corporation bill, was amended beyond all recognition, first in the House Education and Labor Committee, and then on the House Floor. The House action demonstrated the complete lack of concensus on Federal action for legal aid, and ended up as a divisive force.

No hearings were held in the House on H.R. 7824. The bill is now being held at the desk in the Senate. If it should move to the calender without hearings, the result would again be divisive and acrimonious. Since S. 1990 has already been referred to your committee, I submit that it would serve as a convenient vehicle to air important opinions on this topic. The revenue sharing concept initiates important reforms in legal services without getting bogged down in a mass of prohibitions and restrictions which would undoubtedly fail in execution. I hope that the Judiciary Committee can consider it promptly.

Sincerely,

JESSE.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Building,
Washington, D.C.

DEAR JESSE: On June 26, you wrote to Senator Eastland concerning hearings on S. 1990, a bill which you are co-sponsoring. Senator Eastland has referred that letter to me, since I am Chairman of the new Subcommittee on Representation of Citizen Interests, to which that bill was referred.

As you know, legislation concerning legal services for the poor has been referred traditionally to the Labor and Public Welfare Committee, since that Committee has had jurisdiction over the Economic Opportunities Act. The increasing focus on an independent legal services corporation—in lieu of or in addition to subdivisions of the Office of Economic Opportunity—has confused the parliamentary situation. This year, as you know, there are four legal services bills now pending in the Senate: H.R. 7824 has been held at the desk by unanimous consent; S. 706 and S. 1815 have been referred to the Labor Committee; and S. 1990 is in the Judiciary Committee. It is my understanding that the Poverty Subcommittee of the Labor Committee will hold a mark-up session within the next week or so on legal services legislation before it.

It is my intention that the Subcommittee on Representation of Citizen Interests shall review carefully all existing Federal legal services programs to determine whether or not they are adequately serving the needs of the poor. Further, the Subcommittee will consider whether existing programs need to be modified or new ones created which would respond to the legal needs of low and middle income citizens, a group which comprises approximately 70% of the population. Responsible members of the American Bar Association and other members of the legal profession who have studied this issue have indicated that many of the legal needs of this group of citizens have been ignored by our present system of delivering legal services. Since the Subcommittee is just beginning its work, a precise schedule has not yet

been developed. I will be in touch with you again as activities progress.

Best regards.

Sincerely,

JOHN V. TUNNEY.

ORDER FOR RECOGNITION OF SENATORS TOMORROW AND FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished junior Senator from Alaska (Mr. GRAVEL) be recognized for not to exceed 15 minutes; that he be followed by the distinguished senior Senator from Louisiana (Mr. LONG) for not to exceed 15 minutes; that he be followed by the distinguished majority leader for not to exceed 10 minutes; that he be followed by the distinguished minority whip for not to exceed 10 minutes; at the conclusion of which there be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes.

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

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, may I ask the Chair whether the order for the convening of the Senate at 11 a.m. tomorrow has been entered.

The PRESIDING OFFICER (Mr. WILLIAM L. SCOTT). The Chair is advised that it has not. The order is for 10 a.m.

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

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 o'clock a.m. tomorrow.

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

Mr. HARRY F. BYRD, JR. Mr. President, I have a number of questions which I am anxious to discuss to direct to the proponents of S. 1868. I have been in the Chamber a number of times prepared to ask the questions of the proponents of that legislation. I am here again tonight seeking an opportunity to ask questions and bring out facts.

I do not see any of the chief sponsors of that legislation present in the Chamber. That being the case, I have no objection if the leadership desires to terminate the session of the Senate.

Mr. ROBERT C. BYRD. Mr. President, the leadership is overwhelmed by the multifarious offers of cooperation on the part of Senators on both sides of the aisle, during these last days of the session, to voluntarily surrender their cherished prerogative of rendering eloquent speeches. [Laughter.]

I do not recall having seen such a willingness before during my 15 years in the Senate on the part of Senators on either side of the aisle to allow the leadership to adjourn with contentious questions pending before the Senate.

I also have not seen as much sparring as has been witnessed lately on the floor by Senators on both sides of the aisle on various questions, hoping to incite on the part of Senators on the other side of the various questions a desire to engage in gruelling debate.

Perhaps dueling has gone out of date because of the reticence on the part of individuals today to accept a challenge to do to the death with pistols at short range. It may be a good thing. And speaking on behalf of the leadership, I welcome this additional good thing, that Senators are so willing at the hour of 15 minutes to 6 to yield their rights to expound and to edify, under the rules of the Senate, so as to allow the leadership to adjourn, now that the cover of darkness has fallen out of doors.

ORDER TO CONSIDER DEPARTMENT OF DEFENSE APPROPRIATION BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, if the motion to invoke cloture on the Rhodesian chrome bill does not carry and if the motion to invoke cloture on the Legal Services bill does not carry tomorrow, immediately upon the disposition of the vote on the motion to invoke cloture on the Legal Services bill, the Senate then proceed to the consideration of the defense appropriation bill and that the unfinished business be laid aside temporarily until the close of business or until the disposition of the defense appropriation bill tomorrow, whichever is the earlier.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at the hour of 11 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, the disinguished Senator from Alaska (Mr. GRAVEL) will be recognized for not to exceed 15 minutes, after which the distinguished Senator from Louisiana (Mr. LONG) will be recognized for not to exceed 15 minutes, after which the distinguished majority leader and the distinguished minority whip will be recognized, respectively, each for not to exceed 10 minutes, at the conclusion of which there will be a period for the transaction of routine morning business not to extend beyond the hour of 12 o'clock noon, with statements limited therein to 3 minutes.

At the hour of 12 o'clock noon, the Senate will begin debate on the motion to invoke cloture on S. 1868, the Rhodesian chrome bill, and, by unanimous consent, that debate will be limited to 30 minutes. At the hour of 12:30 p.m. an automatic quorum call will take place, and upon the establishment of a quorum, the vote, also automatic under the rule, will occur on the motion to invoke cloture at, roughly, 12:45 p.m.

Immediately upon the completion of the vote on the motion to invoke cloture on S. 1868—if cloture is not invoked—debate will begin immediately, and be limited by unanimous consent to 30 minutes, on the motion to invoke cloture on S. 2686, the legal services bill. A yea-and-nay vote will occur immediately upon the conclusion of the 30 minutes for debate, without the automatic live quorum call under the rule, as agreed to by unanimous consent earlier today.

Therefore, the rollcall vote to invoke cloture on the legal services bill will occur at circa 1:30 p.m. If cloture is invoked on the Rhodesian chrome bill, however, a vote to invoke cloture on the legal services bill would not occur, under the rule, until action on the Rhodesian chrome bill is completed. In that case, the Senate would proceed to act on the Rhodesian chrome bill to the exclusion of all other business until the final action occurs on that bill.

If the vote to invoke cloture on the legal services bill does not carry, the Senate will then take up the defense appropriations bill, with yea-and-nay votes to occur on amendments thereto.

If the vote to invoke cloture on the legal services bill does carry, then action would insure on that bill, to the exclusion of all other business, until action has been completed thereon.

A late session can be expected on tomorrow. I repeat, a later session can be expected tomorrow.

If action on the defense appropriations bill is completed before Saturday, Mr. President—and much of history has hinged upon that word "if"; if Hitler had won the war, for instance, how different the world now would be; and much of the future, as well, depends on that word "if"—if action on the defense appropriations bill is completed prior to Saturday, there will be no Saturday session.

A reminder—a yea-and-nay vote will occur at about 12:45 p.m. on the cloture motion with respect to the Rhodesian chrome bill. A vote will occur at about 1:30 p.m. on the cloture motion on the legal services bill, providing the prior motion to invoke cloture on the Rhodesian chrome bill does not carry.

ADJOURNMENT TO 11 A.M.

Mr. NELSON. Mr. President, I move in accordance with the previous order that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 5:45 p.m., the Senate adjourned, until tomorrow, Thursday, December 13, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 12, 1973:

DEPARTMENT OF STATE

Arthur A. Hartman, of New Jersey, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

Robert C. Hill, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

IN THE MARINE CORPS

The following-named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Spinks, Grafton

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Gallegos, Joey R.
Roten, Richard C.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 12, 1973:

CIVIL AERONAUTICS BOARD

G. Joseph Minetti, of New York, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1979.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE COAST GUARD

Coast Guard nominations beginning Charles J. Robinson, to be lieutenant commander, and ending George R. Speight, Jr., to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 5, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, December 12, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Thou shalt do that which is right and good in the sight of the Lord; that it may be well with thee.—Deuteronomy 6: 18.

Our Father God, who dost lift the shades of night when purple morning breaketh, revealing the wonder of new day, may there dawn upon our minds the consciousness that we are with Thee. In this faith we face the duties of these days. We pray not for tasks equal to our strength, but for strength equal to our tasks; not to do what we like to do, but to like what we have to do.

Bless Thou our Nation. May she become so good in spirit, so great in loyalty to the truth, and so genuine in sympathetic outreach that she may be a channel through which Thy healing mercy can flow into the heart of our disturbed world.

May the love which came to life at Christmas be cradled anew in all our hearts.

In the spirit of Him, who is the hope of the world, 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 agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3180) entitled "An act to amend title 39, United States Code, to clarify the proper use of the franking privilege by Members of Congress, and for other purposes."

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1745. An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes; and

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.

CONFERENCE REPORT ON S. 14, PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93-714)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill insert the following:

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, with the following table of contents, may be cited as the "Health Maintenance Organization Act of 1973".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Health maintenance organizations.
"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS
"Sec. 1301. Requirements for health maintenance organizations.
"Sec. 1302. Definitions.
"Sec. 1303. Grants and contracts for feasibility surveys.
"Sec. 1304. Grants, contracts, and loan guarantees for planning and for initial development costs.
"Sec. 1305. Loans and loan guarantees for initial operation costs.
"Sec. 1306. Application requirements.
"Sec. 1307. Administration of assistance programs.
"Sec. 1308. General provisions relating to loan guarantees and loans.
"Sec. 1309. Authorizations of appropriations.
"Sec. 1310. Employees' health benefits plans.
"Sec. 1311. Restrictive State laws and practices.
"Sec. 1312. Continued regulation of health maintenance organizations.
"Sec. 1313. Limitation on source of funding for health maintenance organizations.
"Sec. 1314. Program evaluation.
"Sec. 1315. Annual report."
Sec. 3. Quality assurance.
Sec. 4. Health care quality assurance programs study.
Sec. 5. Reports respecting medically underserved areas and population groups and nonmetropolitan areas.
Sec. 6. Health services for Indians and domestic agricultural migratory and seasonal workers.
Sec. 7. Conforming amendments.

HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. The Public Health Service Act is amended by adding after title XII the following new title:

"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

"REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1301. (a) For purposes of this title, the term 'health maintenance organization' means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b), and (2) is organized and operated in the manner prescribed by subsection (c).

"(b) A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this title, basic and supplemental health services to its members in the following manner:

"(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary.

"(2) For such payment or payments (hereinafter in this title referred to as 'supple-