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Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

SENATE—*Wednesday, December 19, 1973*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Our Father God, who amidst the traffic of our busy ways points us to the love and wisdom and faith of the Bethlehem event; grant us such love that every barrier to brotherhood and equality may be beaten down; such wisdom that every boundary of geography, language, and culture may be solved; such faith that when the way is long and hard we may yet persevere, in the knowledge that Thy sovereign will reigneth. Guide us here by the spirit of incarnate Deity revealed for all time to all men at the first Christmas.

We pray in the name of the Word which became flesh and dwelt among us. 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 19, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 18, 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.

SENATE JOINT RESOLUTION 182—EXTENDING THE TIME FOR THE TRANSMISSION OF 1974 ECONOMIC REPORT AND REPORT OF JOINT ECONOMIC COMMITTEE

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

The ACTING PRESIDENT pro tempore laid before the Senate, Senate Resolution 182, which was read the first time by title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022 (a)), the President shall transmit the 1974 Economic Report to the Congress not later than February 1, 1974, and (b) notwithstanding the provisions of clause (3) of section 5(b) of such Act (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's 1974 Economic Report with the Senate and the House of Representatives not later than March 13, 1974.

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

There being no objection, the Senate proceeded to consider the joint resolution, which was ordered to be engrossed for a third reading, was read the third time, and passed.

PROGRAM FOR THE 2D SESSION OF THE 93D CONGRESS

Mr. MANSFIELD. Mr. President, for the information of the Senate, and so that sufficient notice will be given, when the Senate returns for the opening of the second session of the 93d Congress on Monday, January 21, 1974, it is the intention of the leadership to lay before the Senate at that time S. 2798, a bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.

Mr. BUCKLEY. I have no objection.

Mr. MANSFIELD. Following that it is anticipated that around the hour of 3 o'clock on that date the Senate will vote on Executive P, 93d Congress, 1st session, the Customs Convention on the International Transit of Goods.

UNANIMOUS-CONSENT AGREEMENT FOR VOTE ON EXECUTIVE P, 93D CONGRESS, 1ST SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on Executive P, 93d Congress, 1st session, the Customs Convention on the International Transit of Goods, occur at 3 o'clock in the afternoon on Monday, January 21, 1974.

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

Mr. MANSFIELD. Mr. President, following the disposition of S. 2798 it is anticipated that the Senate will then turn to the consideration of Calendar No. 582, H.R. 8547, an act to amend the Export Administration Act of 1969.

For the further information of the Senate it is anticipated that on Wednesday or Thursday—and that would be the 23d or 24th of January—the leadership intends to call up Executive O, 81st Congress, 1st session, the International Convention on the Prevention and Punishment of the Crime of Genocide.

So the Senate is on notice as to its prospect during the first week of its return.

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

Mr. MANSFIELD. I yield.

Mr. ROBERT C. BYRD. In other words, what the distinguished majority leader is saying is that the Senate is going to get moving immediately upon its return following the Christmas and New Year's holiday, with plenty of business pending and yea-and-nay votes occurring.

Mr. MANSFIELD. The Senator is correct.

Mr. ROBERT C. BYRD. And the distinguished majority leader also is indicating that we have not only those measures which he has specified but also the legal services bill which will be coming along that week.

Mr. MANSFIELD. That would be on the 28th, under the agreement reached. That legislation will be the pending business on that day.

Mr. ROBERT C. BYRD. And the budget control bill will be coming along on about what date?

Mr. MANSFIELD. I would have to bow to the judgment of the distinguished assistant majority leader because it will have to come out of his committee. It already has been reported by the Committee on Government Operations. So what date would the distinguished Senator think possible?

Mr. ROBERT C. BYRD. I think perhaps in the early part of February or mid-February.

Mr. MANSFIELD. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nominations on the executive calendar, beginning with new reports, will be stated.

DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of Rodney Eugene Eyster, of Illinois, to be General Counsel of the Department of Transportation.

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

THE JUDICIARY

The second assistant legislative clerk read the nomination of Hebert J. Stern, of New York, to be U.S. district judge for the district of New Jersey.

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

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice, as follows:

Donald E. Walter, of Louisiana, to be U.S. attorney for the western district of Louisiana.

Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada.

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

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

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The second assistant legislative clerk read the nomination of Thomas B. Davies, of Ohio, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

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

DEPARTMENT OF STATE

The second assistant legislative clerk read the nominations in the Department of State, as follows:

Walter J. Stossel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be, an Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

Helmut Sonnenfeldt, of Maryland, a Foreign Service officer of class 1, to be Counselor of the Department of State.

Robert J. McCloskey, of Maryland, a Foreign Service officer of class 1, to be an Ambassador at large.

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 an Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

Lloyd I. Miller, of Ohio, to be an Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

Mr. FULBRIGHT. Mr. President, on behalf of the Committee on Foreign Relations I wish to make a few brief remarks on the nomination of Helmut Sonnenfeldt to be Counselor of the Department of State.

The committee on December 18, ordered Mr. Sonnenfeldt's nomination to be reported favorably to the Senate without any objection. It did so after having heard the nominee in open session on December 17, and after having reviewed testimony given over a period of 3 days before the Senate Finance Committee in connection with another appointment.

The Foreign Relations Committee decided not to duplicate the thorough work of the Finance Committee and not to hear witnesses who had already made a record before that committee.

The committee's examination of that record, together with a staff report on the contents of the security files on Mr. Sonnenfeldt led it to the conclusion that there was either lack of substantiation of the charges made before the Finance Committee or the charges themselves were of little substance. Hopefully, the committee's favorable action will lay to rest, once and for all, all questions concerning the nominee.

The nominee's background, training, and experience, eminently qualifies him for the position to which he has been appointed. Mr. President, I ask unanimous consent that his biographic sketch be printed in the RECORD at this point.

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

HELMUT SONNENFELDT

Position for which considered: Counselor of the Department of State.

Present Position: National Security Council (on detail).

Office Address: The White House, Washington, D.C.

Born: September 13, 1926, Berlin, Germany (naturalized 1945).

Legal Residence: Chevy Chase, Maryland.

Marital Status: Married.

Family: Wife: Marjorie Hecht. Children: Babette, Walter, and Stewart.

Home Address: 4105 Thornapple Street, Chevy Chase, Maryland.

Education: 1942–44, student Manchester University (England); B.A. 1950; M.A. 1951, Johns Hopkins University.

Language Ability: German and French.

Experience:

Non-Government, 1944–45, Photographer, Commercial company.

1952, Translator, language services.

Military, 1945–46, United States Army, Sergeant.

Government, 1947, Clerk (CAF–3), Department of State.

1952–58, Analyst, then later Specialist, Division of Research for USSR and Eastern Europe, Soviet Foreign Branch.

1958–60, Specialist, Bloc Internal Political Relations Branch, Bureau of Intelligence and Research (GS–12).

1960–61, Foreign Affairs Officer, United States Arms Control and Disarmament Agency (GS–13).

1961–69, Chief Bloc International Political Activities Division; Deputy Director, then Director (1966), Office of Research for Soviet Bloc, Bureau of Intelligence and Research (GS–14/15; FSR–2).

1967, Appointed FSR–1.

1969 to present, National Security Council (on detail).

1970, Appointed FSO–1.

Awards: Superior Honor Award, 1968.

Mr. FULBRIGHT. Mr. President, this data speaks for itself and there is no point in repeating it.

There are two aspects of this matter that I wish to stress before closing. One is that Mr. Sonnenfeldt's loyalty to the United States has never been successfully challenged at any time or by anyone. The other point is that there is little if any doubt about his ability to perform the duties of the office to which he is now nominated.

On behalf of the Committee on Foreign Relations, I recommend that the Senate confirm Mr. Sonnenfeldt to be the Counselor of the Department of State.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

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

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow morning.

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

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I understand the following request has been cleared with the authors of the amendments. I ask unanimous consent that on the amendment by Mr. BUCKLEY—the so-called deregulation amendment to the FEEA bill—there be a time limitation of 2 hours to be equally divided between Mr. BUCKLEY and Mr. RIBICOFF; and that time on any amendment to that amendment be limited to

1 hour, to be equally divided and controlled in accordance with the usual form.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BUCKLEY. Mr. President, reserving the right to object, and I shall not object, I also ask if the distinguished assistant leader would add to that request, the request that that amendment be made the next order of business after the Mondale amendment.

Mr. ROBERT C. BYRD. Yes. I add that to my request.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment to be offered by the Senator from New York (Mr. BUCKLEY) to the amendment of the distinguished Senator from Minnesota (Mr. MONDALE) there be a time limitation thereon of 30 minutes, to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on an amendment to be offered by Mr. JACKSON to the FEEA bill there be a time limitation thereon of 30 minutes, to be equally divided and controlled in accordance with the usual form.

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

CONGRESS GREATEST CHRISTMAS GIFT—ADJOURNMENT

Mr. HUGH SCOTT. Mr. President, Congress is about to present its greatest Christmas gift to the American people—adjournment.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair recognizes the distinguished Senator from Texas (Mr. BENTSEN) for not to exceed 15 minutes.

ENERGY AND ECONOMICS

Mr. BENTSEN. Mr. President, the size and scope of the energy crisis is slowly but surely making itself felt on the general economy of the United States.

Recent statements by respected economists have noted that the energy crisis means shortages in consumer products, higher prices, critical dislocations for energy intensive and energy based industries such as transportation, petrochemicals, automobile manufacturing, tourism, and in some cases, basic manufacturing.

The effects of the energy crisis on unemployment are already being felt. Even the more optimistic forecast predicts close to 6 percent unemployment by the end of next year. The fact is that unemployment for some Americans means lost production, slower national growth, and higher unemployment compensation cost for all Americans. And, unemployment means lost opportunity for working persons, their families, and their children.

Already, for example, layoffs have become widespread in the airline industry. Eastern Airlines, according to latest reports, plans to furlough 4,000 employees. TWA has laid off 100 pilots. In addition, about 10,000 gas stations have closed this year, further aggravating the employment situation.

Mr. President, even without the energy crisis, our country is still in the midst of an inflation spiral—most of which can be traced back to the decision of the Nixon administration to remove phase II controls in January 1973. That decision, and the resulting uncertainty flowing from it, help unleash a price explosion that has been plaguing our economy ever since. The recent food-price spiral, the zigzag nature of the stock market, the increased interest rates and credit crunch—all meant nothing but ill will for the consumer's pocketbook.

The latest Consumer Price Index—issued on November 24—showed the cost of living accelerating at a 9.6 percent seasonally adjusted annual rate. These October figures were 7.9 percent higher than 1 year earlier, and were the largest year-to-year jump in consumer prices since 1950.

And, the price inflation could become worse than it is. Herbert Stein, Chairman of the President's Council of Economic Advisers, on December 11, said that fuel prices might rise as much as 50 percent—boosting the cost of living by 3 percent or about $27 billion next year.

Not only are prices and unemployment increasing, but real buying power has decreased—placing a further burden on the working families of this country. American workers are on a treadmill, making more money that will buy less food, less in services, less in consumer goods.

Mr. President, the oil shortage will only aggravate those problems—and make solutions more difficult. The solutions are not just a matter of inconveniences such as lower thermostats or slower driving. The solutions have become a matter of balancing and adjusting our economy to dampen higher prices and protest jobs in the face of a national economy that is complex, interrelated, and runs on a high consumption of increasingly scarce petroleum and petroleum products.

In short, Mr. President, we must take effective action immediately to provide the assistance necessary to our business and their employees so that the economic effects of the energy crisis do not result in millions of employees losing positions and earned benefits, the closing of businesses, and further increased prices.

As a first step, Mr. President, we must conduct a review and reexamination of the price and wage control system, to evaluate its impact in view of new economic demands and make the changes required to minimize future economic dislocations. As a member of the Joint Economic Committee, I intend to participate fully in the upcoming review of our economy conducted by the committee. I want the committee to explore in detail the various policy alternatives and make recommendations based on the criteria of protecting jobs, lessening economic dislocations, and slowing the inflation spiral.

As a second step, Mr. President, I firmly believe that the Government of the United States bears a special responsibility to work with industries and employees affected by the energy crisis to reduce the curtailments of production and to keep factories operating and our workers on the job.

In other words, we need to assist the economy as it moves from petroleum abundance to petroleum scarcity.

To aid in that transition, last week, I introduced legislation that would establish within the Department of Treasury an agency for energy adjustment to administer a guaranteed government loan program for adjustments necessary to convert to a petroleum-scarce economy.

Under this legislation the Federal Government would guarantee the principal and interest of loans made for three purposes:

One, installation of energy-saving production equipment;

Two, conversion from industrial usage of petroleum and natural gas to more abundant forms of energy, such as coal;

Three, conversion to other lines of products and services less dependent on high energy usage.

The bill also grants borrowers a priority under the Federal energy allocation programs to insure that plants are able to continue production during the conversions.

The bill provides for loan guarantees of up to $1½ billion over the next 18 months.

Since the demand for loans such as these are unknown, this figure must be the subject of hearings. But whatever the amount eventually agreed upon I believe the cost of unemployment and plant closings is greater. A 1-percent increase in unemployment reduces revenue to the Federal Treasury by over $10 billion—in addition to the human loss.

I believe that such a program as outlined in my legislation would help keep factories and plants open, production lines moving, and American workers on payrolls instead of in the unemployment compensation or welfare rolls.

The proposal will help move this Nation toward energy self-sufficiency and economic security.

Mr. President, I hope that the Senate will consider the legislation I have introduced as expeditiously as possible.

THE ECONOMY: NEW PROBLEMS IN SEARCH OF NEW SOLUTIONS

Mr. McGOVERN. Mr. President, first, I commend the Senator from Texas, who has just made some remarks with reference to the economic problems facing the Nation. I want to follow up on his comments with some observations on other aspects of the economic situation which confront our country today.

Mr. President, this morning a number of us on this side of the aisle will be discussing legislation which the Congress has adopted this year and could adopt next year to help solve the problems which plague the economy.

Each of us has chosen a topic on which he places a high priority. In my case it is tax reform. But before offering some specific suggestions, I want to underscore the nature of our economic plight today.

For the first time since the 1930's, American jobs and American prosperity are seriously threatened. The increasing inflation, unemployment and shortage we have today are symptoms of serious economic illness. And the fault lies not with the free enterprise system, but in how that system has been perverted for the special interest of a few at the expense of the worker, the farmer, and the small businessman.

The problems we have today are not simply the result of incompetent administration. They are rooted in fundamental choices the Government has made over the past few years—in the budget and tax policies developed to counter inflationary pressures spawned by the Indochina war and its $100 billion deficits.

Despite frequent talk of returning to a "free economy" and getting Government out of the people's pockets, the Nixon administration has intervened extensively in economic matters—trying and abandoning several different policies.

During the first 2 years of his Presidency, Mr. Nixon practiced the economics of Herbert Hoover, seeking to restrain prices by raising unemployment. The result was a major recession and an actual increase in inflation.

To combat this new crisis the President sharply altered his economic policy. Relying on an unprecedented array of economic tools, he sought to pull the country out of recession by raising Government spending and budget deficits more than at any other time of peace. And to combat the inflation in 1970–71, the President imposed the first peacetime wage-price controls in our history. At the same time he radically altered the tax structure.

But the emphasis of his program was to benefit the corporate sector. He hoped that higher profits would lead to greater investment and expansion and thus to more jobs.

Wages have been kept under strict control, while profits have been permitted to soar to record highs, fattened by multimillion dollar tax writeoffs.

The President is following the same strategy in dealing with the energy crisis today—permitting oil prices and profits to soar, and recruiting 250 oil executives to run the emergency energy program.

A decade earlier, President Kennedy also intervened, using fiscal tools to help the Nation recover from the last Eisenhower recession. His program involved fiscal stimulation through increased Government spending and tax reduction, freer trade with foreign nations, and wage-price guidelines.

But while President Nixon has relied on wealth to trickle down from big business to the rest of us, President Kennedy sought to benefit workers and consumers directly. Thus, his program for tax relief, impemented by President Johnson, was basically a lowering of individual income tax rates to increase consumption and therefore production. And his attempts to restrain inflation concentrated on prices rather than wages.

The policies I advocated last year—tax reform, decreased military spending, selective price controls and tougher antitrust enforcement in the case of highly concentrated industries, and income redistribution—basically followed in the Kennedy mold. Their purpose was to stimulate consumption and thereby increase investment and jobs, while moving to balance the budget by closing tax loopholes and reducing unnecessary and unproductive military commitments.

I think that approach would have been more effective as well as more equitable. Although the abuses of the past would still have taken their toll, an earlier return to sound policy would have lessened the cost.

But now we have a new dimension which pushes even this debate into a secondary role. It virtually guarantees that the 1970's will mark a major turning point in American economic thinking—a period no less profound, and perhaps no less traumatic, than the 1930's.

Today the question is no longer one of choosing between alternative strategies, either of which will produce some measure of prosperity. It is one of coping with shortages of essential commodities which cannot be replaced.

Inefficient uses of industrial commodities in short supply will insure that industry will not soon catch up with the demand for many essential products. And a shortage economy will insure that inflation will continue at the high rates we have seen this year.

No economic forecast I have seen paints a hopeful picture. Even the usually optimistic administration projections herald hard years ahead, regardless of what happens with the Arab oil boycott. Just last week the Chairman of the President's Council of Economic Advisers projected a 33-percent increase in the unemployment rate, coupled with 6-percent inflation. The Department of Agriculture has forecast a 17-percent decline in farm income. Housing starts are already down by 25 percent, paced by the highest interest rates since the Civil War.

And on top of this, no expert is sure what effect the energy crisis will have on unemployment or inflation. In terms of jobs, estimates range from 6- to 10-percent unemployment, depending on how serious the shortage is.

As far as prices are concerned, the energy shortage may add as much as 3 percent to the earlier projections.

But for the American people, the question is not who is to blame, but what can be done.

To some extent, past errors in government policy should humble us in our future efforts. But because bad policy has been a major source of the present disorder, only better policy will enable us to restore order.

I personally believe that the tax code furnishes us with one of the most effective means of restoring strength to the economy. For by making certain changes, we can overcome the effects of inflation, put our wealth to more productive use, and begin to end the energy crisis.

I was heartened by a statement the President made at his September 5 news conference. He said:

> A number of my economic advisors, including, incidentally, Arthur Burns, have strongly recommended that the whole answer to this problem of inflation is in the tax structure.

He went on to endorse the concept of a variable investment credit.

Tax reform is essential, and I was disappointed when the President did not follow up his trial balloon with specific proposals. But Chairman MILLS has pledged to report out a comprehensive tax bill next year.

Among the highest priorities for tax reform should be an attempt to distribute the tax burden more equitably among all our citizens. A recent poll reflected that 76 percent of the people now believe that "the rich get richer while the poor get poorer." And the President himself has had an opportunity to personally experience the ire of taxpayers who see someone earning an income of a quarter of a million dollars paying the same amount of tax as a working family of four with an income of only $8,000.

Yet one consequence of inflation has been to redistribute income upwards in the form of higher profits for big business. For example, the profits of the largest corporations have increased at a rate of 30 percent this year. And compensation for executives has gone up a comfortable 13.5 percent. But wages for working people have not even kept pace with inflation. Their purchasing power has actually gone down.

For the rich and superrich, tax shelters have proliferated. The overall effect is that the highest income taxpayers have been able to escape the tax the law appears to require them to pay while inflation forces the average citizen's wages into higher income brackets: a greater tax on a lesser income which they cannot escape.

Last Spring Secretary Shultz endorsed the concept of "minimum taxable income" originally put forth by Professor Surrey of Harvard. Under this concept, wealthy taxpayers would be taxed at normal rates on at least half of their real income. But whatever formula is adopted, an effective minimum tax should be the first priority.

A second area which should be explored is the concept of a variable investment tax credit. Many industries today are experiencing serious capital shortages. They will be unable to readjust to changed times unless they are granted incentives to modernize. The problem with the current investment incentives is that they reflect basically a shotgun approach, rewarding unproductive investments equally with useful ones. So any program of reform in this area should include a repeal of the accelerated depreciation provisions. We should also return to the form of the investment tax credit which worked successfully during the Kennedy years, limiting the credit to actual increases in investment.

This revision of accelerated depreciation and the investment tax credit would permit a reallocation of between $7 and $8 billion into more productive uses.

A third area involves channeling the increased profits of energy companies to uses which will help solve the energy crisis. Chairman MILLS has already endorsed the concept of an excess profits tax, as have many segments of organized labor, including the AFL–CIO. Last Wednesday, Representative LES ASPIN and I introduced legislation to impose a nominally high rate of tax on increased energy profits, coupled with an investment credit. Under our bill, energy companies would be able to avoid paying that tax if they used their increased profits for certain designated types of investments which would increase the domestic supply of energy. In other words, the excess profits tax would only apply to increased profits which were used for higher dividends, retained earnings, or unproductive investments. Certainly no group should reap windfall profits from a crisis which will force all Americans to sacrifice.

Fourth, we should close the loophole for unrealized capital gains at death, with an exception for estates of moderate size, a deferral of taxes on property left to a spouse and extended averaging provisions. The inevitability of death should not assure the avoidability of taxes. We should no longer permit the passage from generation to generation of vast sums of unearned and untaxed wealth. And if wealthy estates paid taxes on the real value of property, we would have $2.5 billion more in revenues each year.

Fifth, we should grant a more equitable $160 tax credit in place of the regressive personal exemption. Under the present system, a personal exemption reduces taxes by $525 for taxpayers in the highest bracket, but only $107 for those in the lowest bracket. By changing from an exemption to a tax credit, we would reduce taxes for more than 85 percent of American families and at the same time raise nearly $1.5 billion in additional revenue.

Sixth, we should remove the $100 dividend exclusion. For 86 percent of the benefits of this loophole go to the richest 5 percent of our taxpayers, while only 4 percent goes to the average citizen. Its elimination would yield $400 million.

Seventh, we should subject those who earn income from investments to the same withholding and reporting requirements as wage earners. Because the banks and Wall Street brokerage houses did not want the annoyance of extra bookkeeping, withholding for the rich was repealed during the Eisenhower administration. But the question in this age of computers is which problem is the more serious—bookkeeping for banks and brokers, or the revenues lost in unreported dividend and interest income. One commentator has estimated such unreported income at $6 billion a year, with a $1 billion revenue loss.

Eighth, we should repeal DISC and other tax breaks for foreign earned income. In a period of high unemployment, corporations should be encouraged to export their products, but not the jobs of American workers. And by enacting that principle into the tax code, we can raise $1.3 billion more.

In addition to these eight steps, we should carefully review the tax code as it relates to agriculture. The $4 billion projected drop in farm income next year seriously threatens the goals the Congress and the President have set for increased farm production. We must make sure that there is sufficient supply of capital to plant new acreage and avoid the kind of chaos which price controls caused this year.

If we take these steps in the tax area alone we will have gone a long way toward solving many of the problems which face us. By readjusting rate structures to offset the regressive effects of inflation, we can restore equity to the tax code. By reordering investment incentives, we can insure that our capital is used productively in both industry and agriculture. And by providing a stick as well as a carrot to the major oil companies, we can assure that their record profits will be the solution rather than the spoils of the energy crisis.

In conclusion, Mr. President, let me again stress that the problems which we face are new.

If we treat shortages, inflation, and unemployment as temporary aberrations, and continue special interest policies, our wealth and prosperity will ebb.

But if instead we come home to the democratic principles from which our strength once grew, our wealth and strength will be renewed.

RETURN TO A FREE ECONOMY

Mr. BUCKLEY. Mr. President, a few weeks ago I said that I thought we were approaching a watershed between a return to economic freedom and the widespread material benefits that historically have been associated with that freedom, and the adoption of a control mentality that can only remove the elasticity of our economy and create greater shortages and higher prices for the American people.

That was in mid-November. It seems now, however, that the approaching watershed I spoke of has given way under the ascending wave of bureaucratic inertia and congressional rhetoric to tighten further the Government's ill-advised intervention in the market.

In the face of the resounding failure of every facet of the wage-price control program, and with the advent of a largely regulation-induced energy crisis, one could reasonably expect a congressional clamor to dispatch this unwelcome intrusion into a free economy. Incredibly, the manifest failure of controls is being met by suggestions in some quarters for additional controls. Mr. President, there is no alternative to abandoning controls if we are ever to regain a free and prosperous economy.

We often lose perspective in this Chamber and in this city. We tend to think that what is before our nose is what is important. But I say today that history will judge this Congress and this administration not on the matters of peripheral importance, even if they do dominate the front pages, but on how we stand on the question of a free economy. For the first time in American peacetime history, we are living under an authoritarian economy. In 1970, the Congress gave the President of the United States the most broad and sweeping standby powers over the economy that he did not want. Nevertheless, bowing to political pressures, the President invoked more powers 1 year later with results that can only be described as disastrous for the people, for the economy, and for the cause of freedom. To whose benefit?

Since the Nixon administration took office in 1969 we have had an opportunity to test the efficacy of controls. Between December 1970 and August 1971 when controls took effect the Consumer Price Index grew at a 3.8 percent annual rate. Since controls were first imposed in August 1971, the index has reflected an acceleration in consumer prices that demonstrates the futility of wage and price controls.

In August 1971, the index stood at 122.1. By October of this year, it had reached 136.6 and during the most recent 12-month period for which figures are available, it was rising at a rate of 7.4 percent per year.

Thus we have suffered the trauma of dislocations resulting from the imposition of controls only to discover that the problem they are supposed to solve is still with us and growing worse.

If there are any lingering doubts that the whole fabric of controls is harmful to our economy, they will soon be dispelled by the results of a forthcoming study commissioned by the National Association of Manufacturers. In a survey of hundreds of manufacturing firms, preliminary results reveal the cascading series of shortages which have been produced by controls, 83 percent of those surveyed indicate that the continuation of wage and price controls will further worsen an already critical supply situation. At the present time over 150 critical industrial commodities are in short supply. Because these industrial commodities are intermediate products in the production process the shortages will sooner or later affect every corner of American economic life. Thirty-one percent said that they were forced to cancel or postpone expansion plans because of wage and price controls while over two-thirds stated that controls had imposed financial damage to their industry—35 percent of the firms were forced to reduce output as a result of price controls. To add insult to injury, it cost responding firms an average of $100,000 to comply with a set of regulations which have been an unmitigated disaster for the American economy.

Government controls are the primary cause of our current economic difficulties. Organized labor called for their abolition in October. Ninety-six percent of the firms surveyed by the NAM want them abolished.

Wage-price controls have not worked. The evidence is everywhere. Or rather I should say that the lack of materials and food and energy sources are an eloquent, if silent, testimony to the damage done by wage and price controls.

Yet in spite of this overwhelming evidence of deep economic dislocations, despite the growing list of shortages, the regulators and influential voices in the Congress say that the moment is not right to lift these shackles from the American economy. The fact is that the time is never right to abolish controls, and the longer they remain in place, the greater will be the temporary shock as the economy readjusts to the stimuli of the marketplace.

Happily, it does not require an act of Congress to return to conditions of a free economy. The President invoked controls under the authority of the Economic Stabilization Act of 1970. He can, by Executive decree, abolish them. The time for him to bite the bullet is now. The excuse of political pressures will no longer suffice to justify retention of controls. I urge the President to begin the new year by returning freedom to the American economy. If he fails to do so in the face of the overwhelming evidence we now have of their disastrous effect, he alone must bear the heavy responsibility for the damage being inflicted by them.

INFLATION AND SMALL BUSINESS—THE SORRY MANAGEMENT RECORD OF THE NIXON ADMINISTRATION

Mr. BIBLE. Mr. President, this country is in the grip of rampant inflation.

By October 1973, the Consumer Price Index reached 136.6 percent of its 1967 average. This means that more than one-third of the purchasing power of the dollar has been lost to inflation since 1967.

We know that the average American family has less purchasing power today than in 1966, and the average small businessman is probably in the same difficulty.[1] The cost of everything needed in business has soared.

At the beginning of October this year, things were bad enough. Wholesale prices were 16.6 percent higher than a year before. Now, at the beginning of December 1973, the Wholesale Price Index stands at 141.8, 17.5 percent higher than in November 1972. Food and farm prices were 42.9 percent higher than 12 months ago, and fuel prices had escalated 47.7 percent above the levels of a year ago.[2]

In historical perspective, these increases have been astronomical.

I believe it necessary to understand the reasons for this sad state of affairs if we are going to do anything about it. Although worldwide shortages of grains, fuels and other commodities are part of the problem, many commentators seem to agree that our Government has not properly planned to meet these conditions and that the inept performance of the administration in the face of these shortages is a larger part of the problem.

During 1973, so far, prices to the consumer have been increasing at a rate of more than 7 percent.[3]

WHAT INFLATION WILL MEAN TO EVERYDAY PRICES

What does this mean to the average American family and small businessman? Financial commentator Sylvia Porter has illustrated the drastic consequences to our people of even a 5-percent inflation rate. By the year 1985:

Steak would sell for $3.23 a pound;

An average man's suit, instead of $125.00, would cost $224.48;

A new car price would rise from $3,500 to $6,285;

Gasoline would be 72 cents a gallon; and

Milk would be 57 cents a quart.

With wages rising to chase this kind of escalation, the cost of every necessity and convenience would also rise. For instance, at even a 5-percent inflation rate, the items below would cost about two-thirds more than they do now:

Rent;

Bus fare;

Sandwiches;

Sales, property, and income taxes;

Shoes;

Admission to weekend movie would rise from $2.50 to $4.49; and

The New York subway that once upon a time you could ride for a nickel would cost $.63.

Mr. President, I ask unanimous consent that three articles by Miss Porter itemizing these price increases and illustrating the decline in purchasing power of wages be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, as prices increase monthly, or even weekly, some American families can just tighten their belts and give up steaks or movies or an extra piece of clothing. But, there are also many Americans who will simply not be able to pay some of these price increases for necessities.[4] Small enterprises are also buyers of these items. Many of them can also tighten their belts and pay less to their owners and their employees. But many others may be forced out of business, and some already have been.

If inflation is not brought under control, many of our citizens face grim alternatives. For over 20 million elderly and other persons on fixed incomes, their daily lives can become desperate. Small business provides over 50 percent of the jobs in our economy, and close to 40 percent of the gross national product, including many goods and services which are essential. Disruption of small business can severely dislocate the entire economy. This makes inflation a quiet but pervasive national crisis.

Mr. President, as 1973 draws to a close, small businessmen needing to borrow capital are facing interest rates close to or in double figures. Some lending rates have reached as high as 14 to 15 percent when money is available.[5] For the home-building industry for the coming year, economists predict a 30 percent drop in production and a much larger drop in profits.[6] With building hit this hard, there are sure to be ripple effects to home furnishings, appliances, furniture, hardware, and general retailing, in all of which small business firms have a very large stake.

These conditions constitute a radical change from a United States of the 1960's, which enjoyed one of the most stable economies and money systems in the world until the buildup of the Vietnam war.[7]

VERDICT OF THE ECONOMIC EXPERTS

However, the Vietnam inflation came to an end in the recession of 1970. The responsibility for the inflation we are in now is very clear. It was described by two economic authorities as follows:

Eminent financial editor Hobart Rowen has said—"The Nixon administration has itself to blame for the present mess."

Financial columnist Sylvia Porter stated—

> An objective study of these several explanations (failure to correctly assess the worldwide boom, underestimation of the impact of food sales overseas on the U. S. economy and particularly U. S. consumers, and failure to plan for fuel and transport shortages, failure to propose a tax increase or other anti-inflationary fiscal policy, tardiness of the Federal Reserve in fighting inflation, and lack of policy to deal with the energy crisis) must lead you to conclude that on fighting inflation—the No. 1 economic problem to the American public—this administration has been a disaster.[8]

In support of these findings, Mr. Rowen itemizes the following examples of mismanagement by the Nixon administration:

Mr. Nixon's spending budgetary policies resulted in deficits of over $63½ billion during the first 3 fiscal years of his administration. Furthermore, because of high interest rates prevailing during most of that time, there was a runup of over 25 percent in the national debt between June 30, 1969, and June 30, 1973, with interest on the debt now accounting for 9.8 percent of Federal expenditures, compared to 6.0 percent in fiscal year 1969.[9]

Mr. Nixon's tax policy of benefits for big business as indicated by his proposals in 1969 and 1971. I have previously estimated that after Congress succeeded in reducing or eliminating taxes for many citizens under the poverty line in 1969, Mr. Nixon's administration succeeded in legislating approximately $5 billion worth of tax cuts for about 400 of the country's largest corporations in 1971.[10]

Another aspect of Mr. Nixon's fiscal policy referred to by Ms. Porter and others has been the series of announcements during 1972 and 1973 that ruled out any tax proposals in the effort to fight inflation.[11] This policy threw a disproportionate burden on monetary policy, and made the tasks of others seeking price stability—and making the control of inflation—much more difficult.

The Chairman of the Federal Reserve Board, Arthur F. Burns, has repeatedly suggested a variety of possible tax increases and has stated that "the looseness of our Federal fiscal policies (are) the most important underlying cause of inflation."[12]

Most Americans could tell Mr. Nixon from experience that "Inflation is the cruelest tax."

POLICIES AIMED AT LIMITING SUPPLIES

Mr. Nixon's agricultural and fuel policies in the first 4 years of his administration were aimed at assuring scarcity and higher prices. These objectives were not reversed until well into 1973.

It is apparent that some of the short-

Footnotes at end of article.

ages causing inflation in the United States are worldwide in scope. However, the Nixon administration was caught flatfooted in the face of international shortages of grains and petroleum. Just how ill-prepared is illustrated by the fact that it sold a quarter of our 1972 feed grain crops to the U.S.S.R. at $1.50 to $1.60 a bushel, when a year later the price would be $4.80 a bushel.[13]

Mr. Nixon's price control policies which resulted in a year and a half wait after Congress had authorized him to first impose controls before the President would act. Then, in a staggering miscalculation last January he ended controls just when they seemed to be working. Later, he was required to reverse himself again and impose another freeze and another set of controls.

Mr. Rowen might also have cited Mr. Nixon's statement in January 1969—while a war was still in progress—that companies and unions under our system of government should raise prices at will. This declaration terminated a policy of voluntary price cooperation by basic industries which had limited their price increases to 1.7 percent per year for the previous 3 years. Following President Nixon's statement, there was a 6-percent increase in the cost of basic industrial materials in a single year.[14]

SHIFTS IN POLICY ARE ALSO A FACTOR

These actions have been cited as "sudden violent swings in public policy which have created an atmosphere of uncertainty that encourages speculation and therefore inflation." [15]

A recent editorial spells this out:

The succession of phases, and the changing of basic rules every few months, creates a hostile climate for orderly investment. It jeopardizes the calculations of businessmen and induces them to grab for the nearest profit rather than building for a longer prosperity. The extraordinary rises in industrial prices last spring were obviously owed, in some considerable part, to companies' jittery anticipation of another price freeze. By anticipating it, they made it necessary.[16]

Of course, the Federal Reserve and the Congress are participants in the process of economic policymaking, and we are not blameless.

The Federal Reserve is generally considered to have expanded the money supply much too rapidly in 1972—an election year—in the face of several clear signals to the contrary.[17]

Congress has consistently cut the President's budget proposals. However, its own efforts to formulate adequate procedures for taking an overall stand on budget levels and priorities are just beginning to meet the test of adequacy. Congress should also be doing better in formulating action on overall economic policy.

THE LEADERSHIP POSITION OF THE PRESIDENCY

However, the major responsibility for economic policy and for coping with inflation belongs to the executive branch of Government, and specifically to the President. The Treasury and the Commerce Department and the Council of Economic Advisers, among others, are staffed with full-time experts who have, as their only jobs, analyzing and making recommendations to the President on the economy. The Small Business Administration is in a position to maintain close contact with 8¼ million small business firms and their representatives. The President has continuing access to the Federal Reserve organization. Beyond this, the President is free to draw upon advice of our private financial institutions, our great universities, foundations, "think tanks" and indeed almost any expert in our society.

Added to these manifold resources of the Presidency, Congress in March 1970, gave President Nixon extraordinary authority to impose controls on wages and prices in order to bring inflation under control. President Nixon pointedly declined to exercise this authority at all, which, as it turned out, made their ultimate imposition necessary on August 15, 1971.

President Nixon has, up to the present, gone through several game plans and four phases. In my opinion they add up to a record of consistent mismanagement of the American economy. Economist William Fellner described a recent part of this performance as follows:

Under pressure from their opponents in 1972, government policy makers expanded the economy too fast and only belatedly did they shift to restraint.[18]

In an essay published in September, Mr. Fellner said further:

In 1972 the economic policies that determine subsequent aggregate demand were much to expansionary, and a number of special supply-limiting factors became significant. If the basic demand-supply discrepancy is allowed to continue, then price-control measures purporting to be "anti-inflationary" can do no more than to suppress symptoms; and to do even this effectively, such measures would have to be enforced ruthlessly and supplemented by a system of allocations and rationing for which both public opinion and the administrative apparatus are wholly unprepared.[19]

Perhaps it is a somewhat hopeful sign that a man of Mr. Fellner's independent views was nominated for the Council of Economic Advisers.

However, it is a mystery to me how President Nixon, with the whole Republican corporate and financial establishments to choose from, would not for the last 4 years assemble an executive team capable of doing a better job of managing the economy.

It is not difficult to see what needs to be done. The Federal Government as well as State and local governments must address the fundamental structural problems of the economy. This is a task for all parts of the U.S. Government—the executive and legislative branches and also independent regulatory agencies. We are in a new era of worldwide scarcity of basic commodities which calls for multinational consultation and cooperation.[20] We need to maximize efficient production and conservation of food and fiber; fuels and energy; housing; health care; and basic public facilities.

To do this we need the very best talent in both the Government and the private sector who can cooperate to guide our economy in the direction of production and equitable distribution of the goods that the world has to offer.

The Nixon administration has given us a surplus of inflated rhetoric, rosy statements, and determined but often wrong-headed action. The Washington Star-News has described our current economic position "an inflationary debacle that our leaders have been partly unable and partly unwilling to avoid. . . ." [21]

Inflation is raging in our country, and many of our small businesses and ordinary citizens are in trouble. We sorely need leadership of a wise, constructive and patient nature, and solid professional competence in solving the Nation's economic problems. In the Nixon administration, those commodities are in short supply.

FOOTNOTES

[1] "Families Losing to Inflation," *Washington Post*, Aug. 13, 1973, page D11:1. Based upon a study by the Tax Foundation, Inc., a family of four earning $10,000 in 1966 earned raises of $3500, but currently has $466 less in purchasing power.

[2] "Farm, Food Prices Drop at Wholesale," by Peter Milius, The *Washington Post*, Oct. 5, 1973, p. A1: left lead. "Fuel Leads Wholesale Price Rise" by James L. Rowe, Jr., *Washington Post*, Dec. 7, 1973, page A1.

[3] *Economic Indicators*, prepared by the Council of Economic Advisors, Oct. 1973, Prices, p. 26. The consumer price index for all items rose from 127.3 in Dec. 1972 to 136.6 in Oct. 1973, (1967–100) for an increase of 7.3 percent.

[4] A recent study suggests that more than half of our citizens have a net worth of less than $3,000. See "4.4 Pct. Form Affluent Elite" by William Chapman, The *Washington Post*, Sept. 24, 1973, p. A1:2; also see " 'Middle Class' is a Myth" by William Raspberry, The *Washington Post*, Oct. 5, 1973, p. A29:4.

[5] Federal Reserve Statistical Release of Oct. 19 indicates that for Sept. 1973, the interest rate for loans of $10,000 to $25,000 payable within a year or less was 9.4%, with the "prime rate" for small businesses at 8.17% compared to 9.75% for large businesses. Somewhat less than 10% of customers are believed to receive the "prime rate." See also "Financing Crises Won't Ease Until Early in 1974," Economic News Notes, the National Assn. of Home Builders Journal, Oct. 1, 1973, p. 52.

[6] See "Housing, Back in the Cycle," *Monthly Economic Letter*, First National City Bank, September 1973, p. 4.

[7] Between 1962 and 1967, the rate of depreciation of the dollar in the U.S. was approximately 2.0 percent per year.

[8] "Economic Policy-makers Prepare to 'Tough It out' " by Hobart Rowen, the *Washington Post*, Aug. 19, 1973, p. F1: 1.

[9] *Economic Indicators*, Oct. 1973, loc. cit., p. 36. Also see "High Money Market Rates Spur Increase in U.S. Government Interest Payments," Comments on Credit, Salomon Brothers, Dec. 7, 1973, p. 4.

[10] "Questions About the President's Phase II Tax Bill," *Congressional Record*, Nov. 8, 1971, vol. 117, pt. 30, p. 39759.

[11] See, for instance, "President Repeats Tax Vow" by Peter Milius, The *Washington Post*, Oct. 8, 1972, in which he reported the President's Oct. 7 three-network radio speech which dealt with taxes in considerable detail, and stated his goal as "no tax increase in the next four years," p. A1. The President also told Garnett Horner of The *Washington Star-News* (see Nov. 9, 1972 edit.):

"You must start with an honest awareness of the . . . problems . . . (But) let me begin with some of the restraints we have. First, there will be no solutions of problems that require a tax increase . . ."

See "Can Nixon Avoid a Tax Hike?" by Hobart Rowen, The *Washington Post*, Nov. 12, 1972, p. E1:1. About this time, the White House Press Secretary, Ronald L. Ziegler, was quoted as saying: The Nixon Administration

"contemplates and plans no tax increases in the second term . . . we don't contemplate contemplating (a) tax increase." "Nixon Planning No Tax Boost for 2nd Term," The *Washington Star-News*, Sept. 7, 1972; "Shultz Calls Tax Rise Unlikely for Phase IV," The *Washington Post*, July 14, 1973, p. A3.

[12] "Federal Reserve Chief Warns of Higher Prices," by Hobart Rowen, *The Washington Post*, Sept. 9, 1973, p. A2:7.

[13] See "Commodities, Cash Prices," *The Wall Street Journal*, Oct. 9, 1973, p. 40. Number 2 ordinary hard Kansas City wheat was quoted at $4.82½ per bushel.

[14] President Nixon's Jan. 27, 1969, statement was as follows: "I do not go along with the suggestion that inflation can be controlled by exhorting . . . the leaders of management and labor to follow certain guidelines . . . (These leaders) much as they might want to do what is in the best interests of the Nation, have to be guided by the interests of the organizations they represent."

[15] "The Economy: What Went Wrong" editorial, *The Washington Post*, July 28, 1973, p. A14:1.

[16] *Ibid.*

[17] See, for instance, *Comments on Credit*, Salomon Bros., July 11 and Oct. 13, 1972.

[18] "Nixon Nominee Blames Government for Inflation," *The Washington Post*, Sept. 28, 1973, p. A1:16.

[19] *A New Look at Inflation*, Cagan, Estey, Fellner, Haberler and McLure, American Enterprise Institute, Sept. 1973.

[20] "A Producers World," Joseph Kraft, *The Washington Post*, Sept. 16, 1973, p. C7:1. "Controlling Runaway Inflation Worldwide," by Hobart Rowen, *The Washington Post*, June 14, 1973, p. A31:5.

[21] "Inflationary Shock" editorial, *The Washington Star-News*, Sept. 10, 1973, p. A12:1.

EXHIBIT 1

WHAT 3 PERCENT INFLATION MEANS

(By Sylvia Porter)

If the price of food you eat at home continued to rise at the 14.5 percent rate of the past 12 months, the food market basket you buy for $100 today would cost you $258 by 1980, $508 by 1985 an incredible $999 by 1990.

If the price of meat alone continued to soar at its current 24.7 percent annual rate, your meat bill would spiral from today's $100 to nearly $470 in just seven years!

If the rate of rise in prices of fruits and vegetables persisted, your $100 fruit and vegetable bill would be up to $295 by 1980. Similarly, your $100 home fuel oil bill would be $182. And the used car you could buy today for $1,000 would cost $1,900.

We could not expect our wages, salaries and other forms of income to climb at annual rates matching—much less exceeding—these annual increases. Even if this were possible, the leapfrog of prices over wages and wages over prices and over-and-over would lead only to utter destruction.

There would be no way for older people forced to live on fixed incomes to survive at all. Inflation would wipe them out even more surely than a worldwide pestilence. Cash savings would become worthless in a short time. Security and dignity for the individual would become unattainable.

We simply cannot afford to risk it.

We must find ways to bring the worldwide inflations of the 1970s under control just as an earlier generation found ways to bring the worldwide depressions of the 1930s under control.

The economic-financial-political leaders of the world are tackling the problem of monetary reform together and they will rebuild a workable monetary system. Inflation is a worldwide phenomenon, a worldwide threat, and it too commands a worldwide approach. Who will seize the role of initiator?

In the United States, the Nixon administration has now made our target for yearly price increases 3 percent—but that is not good enough. For that 3 percent means that, from time to time, the rate of annual rise must swell to 4 and 5 percent and even if it were to hold, it would be 3 percent a year compounded. It would be 3 percent year after year on top of a price level increased by 3 percent year after year.

Do you have a clear concept of what price increases of 3 to 5 percent a year would mean to a list of goods and services familiar in your everyday life by 1985, a mere 12 years from now? Here is what it would mean:

Item, price now	3 percent	5 percent
Sirloin steak, $1.80 lb	$2.57	$3.23
Butter, 85c lb	1.21	1.53
Milk, 32c qt	.46	.57
Oranges, $1.05 doz	1.50	1.89
Coffee, $1.00 lb	1.43	1.80
Potatoes, $1.35/10 lb	1.93	2.42
Hamburger, 95c lb	1.35	1.71
Ice cream, 45c qt	.64	.81
Beer, $1.25 six pack	1.78	2.25
Meal out, $15 for two	21.39	26.94
Man's suit, $125	178.22	224.48
Women's shoes, $15	21.39	26.94
Dungarees, $8	11.41	14.37
Bed sheet, $3	4.28	5.39
Lipstick, $2.50	3.56	4.49
Vitamins, $3.75	5.35	6.73
Hair cut, $3.50	4.99	6.29
New car, $3,500	4,990.00	6,285.00
Bicycle, $80	114.06	143.67
Subway fare, N.Y., 35c	.50	.63
Gas, 40c gallon	.57	.72
Movie admiss., $2.50	3.56	4.49
Refrigerator, $275	392.08	493.86
Hospital room, $100 day	142.58	179.59
Physician visit, $15	21.39	26.94

EXHIBIT 2

PAYCHECK VALUES DECLINE

(By Sylvia Porter)

If you earned a salary of $10,000 in 1966 and if you have received raises adding up to $3,500, or 35 percent, since then, how much of your extra pay do you have left in terms of buying power?

Not a cent. In fact, your net purchasing power is down. Your $13,500 is worth $466 less in the open market than your $10,000 was worth in buying power seven years ago.

If you are the sole breadwinner in a family of four and you have been able to hike your salary from $20,000 to $27,000 in the past seven years, what's your extra $7,000 worth to you?

Less than nothing. Your apparent gain of $7,000 has been more than wiped out by the increased taxes you pay and the loss is your after-tax income due to inflation. Your higher pay is actually worth $889 less in the marketplace than your smaller pay in 1966.

And what about you, the man with a wife and two children at home, who earned $50,000 in 1966 and earns $67,500 today—equal to pay increases of 35 percent. What have taxes on your increased income and inflation done to your additional $17,500 in this short span?

They have translated your $17,500 of raises into a net loss in purchasing power of a whopping $3,286!

This is the dreadful story of inflation in our era and it is a tale against which all others place into significance. The Gallup Poll is touching the most sensitive spot on the U.S. body politic—the pocketbook nerve when it reports that by an overwhelming percentage, you consider "inflation" our No. 1 problem today.

Salary 1966–73	Increased taxes	Loss from inflation	Buying loss
$5,000 to $6,750	$288	$1,602	$140
$10,000 to $13,500	950	3,016	466
$15,000 to $20,250	1,421	4,416	587
$20,000 to $27,000	2,132	5,757	889
$30,500 to $40,500	4,000	8,144	1,644
$50,000 to $67,500	8,670	12,116	3,286

If you've been lucky enough to win cumulative raises of 35 percent in only seven years, you are behind. And that suggests that all of us are behind—despite our seeming prosperity and despite our supposedly sophisticated economic leadership.

This is the fundamental message of these estimates put together for me by the Tax Foundation in New York City.

The Watergate scandal and the testing of the historic doctrine of the separation of powers—no one denies; the importance of these events. The emergence of an era of peaceful co-existence, the new global power blocs, the creation of a modern monetary system, the downgrading of the U.S. dollar's role—all of these are developments of monumental significance.

But "inflation" is your everyday life. It is food on your table, a roof over your head, a sense of security now and in the future for your family.

And inflation is the enemy we must now tackle on a worldwide basis, for this is a worldwide enemy. All of us are infecting each other with the disease, exporting it and importing it. How far down must we dig for the causes in international trade jealousies, quotas and walls? In currency relationships and money flows? In sovereignty? Must we create a global central bank to help regulate us? Must we strive for new heights of cooperation? I ask the questions, certain that in them we will find some of the answers.

The accompanying table shows the awful figures. The Tax Foundation assumes a family of four with one member working. It estimates federal and state income taxes and Social Security taxes based on official statistics. It assumes cumulative raises of 35 percent and a cumulating rate of inflation of 36.6 percent for 1966–73.

And, of course, if you haven't received pay increases equal to 35 percent—which millions certainly have not—you're even worse off. And if you have been living on a fixed income in this period, your position is becoming or already is desperate.

EXHIBIT 3

REASONS FOR AN 8-PERCENT INFLATION

(By Sylvia Porter)

The upsurge in our cost of living in 1973 is approximating an oppressive 8 percent, triple the increase projected by President Nixon at the start of the year.

The great business boom of 1973 is to go down in the record books as the most queasy and despondent of modern times.

What went wrong? Why?

There are, I submit, at least seven basic reasons why:

(1) From the very beginning, the White House failed to grasp the awesome power of 1973's worldwide economic boom superimposed on our own boom—and the subsequent explosive demands for our foodstuffs, goods and services.

We have been in a global boom without precedent. All over the world, people have been eating more and better food. Hundreds of millions of customers have been clamoring for our production everywhere.

Nixon encouraged this boom and perhaps he has fully appreciated it. But by no stretch of the imagination have the economic policies he has proposed for the U.S. matched the challenge.

(2) The administration shockingly underestimated the impact of its foreign sales of foodstuffs—particularly of wheat to the Soviet Union—on food prices here. As a result, Nixon did not simultaneously fight for an early overhaul of our agricultural policies to bolster our production of foodstuffs.

Not until August 10 did the President sign into law a new farm program designed to stimulate full production. The White House's failure to concentrate on immediately in-

creasing food supplies (inherent in Shultz's overconfident forecast) was a crucial error.

(3) Bad weather, droughts and crop failures, interfered with food production all over the world. Throughout the year—and long before the Arab oil embargo—shortages of fuel and transportation facilities also adversely affected farm and food prices as well as many other vital prices across the board.

(4) The successive devaluations of the dollar to the point where our dollar has become among the most undervalued currencies in the world has vastly stimulated our exports, a trend devoutly to be wished. But the ironic fact is that increases in agricultural products have led the list.

The dollar devaluations may have been essential shock medicine to the world, but they have scarcely helped the U.S. consumer.

(5) Despite earnest and well publicized goals of limiting inflationary spending, the White House and Congress have continued to follow pro-inflationary fiscal policies.

There has been no anti-inflationary tax rate hike, no anti-inflationary lid on government spending, no curbs on excessive instalment buying. Let's not kid ourselves on this.

(6) Only the Federal Reserve has been fighting the spiral with a tight monetary policy, and that policy was not adopted until spring of 1973—when inflation already was at a galloping pace.

What's more, historically high interest rates have added to the cost of living and doing business.

(7) Finally, when signs began to appear that the worst might be behind us, the energy crisis broke wide open. Prices of all types of fuels have been skyrocketing and will go higher. Once again, the White House was caught utterly unprepared. When asked what energy cutbacks would mean, for instance, the President's chief economic adviser, Herbert Stein, replied: "I'm ashamed to say I can't answer the question." And now we face another upward spiral in living costs in 1974 in the midst of what will be at best, a major business slowdown.

An objective study of these seven explanations must lead you to conclude that on fighting inflation—the No. 1 economic problem to the American public—this administration has been a disaster.

INFLATION AND THE ECONOMIC OUTLOOK

Mr. PROXMIRE. Mr. President, this country has suffered one of the worst periods of inflation in its history during 1973. Consumer prices have risen 8 percent during the last 12 months—October 1972 to October 1973, the highest since the Korean war inflation of 1951. In the early part of the year, the price increases were concentrated in the food area, and by October, the price of food at home was more than 20 percent above a year ago. What is disturbing to me, however, is that as food price increases have begun to slow down, the prices of industrial commodities have surged. In November alone, the price of industrial commodities as measured by the Wholesale Price Index went up 3.2 percent. In the last 3 months these commodities have gone up at a compound annual rate of 21 percent. While a significant part of this increase can be attributed to petroleum and related increases, the prices of other manufacturing commodities have jumped sharply in the past year, and especially in the last month. Among basic materials cotton, wool, manmade fibers, paint, agricultural chemicals, lumber, paper, and metals have shown the sharpest rises. This list demonstrates how pervasive the inflation has become. In many cases these basic commodity price increases will be translated into higher consumer prices within 2 or 3 months.

Even though wages continued to rise in 1973, the rise in consumer prices was more than enough to offset these wage gains, and the average worker was worse off at the end of 1973 than he was a year ago. Real earnings in October—that is, earnings adjusted for inflation—were 2 percent below October 1972. The effect on the poor of the 1973 inflation was even greater. In the average family's budget, about 20 percent goes for food. In a low-income family as much as 40 or 50 percent of the budget is used to purchase food. This means that if the poor family spends 40 percent of its disposable income on food, and food prices have gone up more than 20 percent, then this family's real income has been cut by 10 percent. Energy, especially for home heating, constitutes a larger proportion of the low-income family's budget than other income groups. Recent price increases for gasoline and oil may cut the poor family's real income by another 2 or 3 percent. When more detailed statistics become available, they will likely show that the 1973 inflation was a regressive one, and that the distribution of income shifted, leaving the poor and those of modest income with a smaller share of total income.

AND RECESSION TOO

Unfortunately, the prospects for an abatement of inflationary pressures in 1974 are not good. Most economic forecasters are predicting very little or no economic growth in 1974, with declines in real output during the first half of the year and a gradual recovery in the second half. Walter Heller, former Chairman of the Council of Economic Advisers under the Kennedy and Johnson administrations, told the Joint Economic Committee last week:

> The first half of 1974 will look like—and perhaps by traditional standards will be—a recession. We can expect a drop in real GNP at an annual rate of about 1½ percent in the first quarter and 1 percent in the second, followed by a moderate rise in the third quarter and a more rapid recovery in the fourth.

These negative growth rates will be accompanied by continued sharp increases in price according to most forecasts. Data Resources, Inc., a highly respected economic model, predicts an increase of more than 7 percent in the Consumer Price Index in 1974. Walter Heller suggested to the Joint Economic Committee that consumer prices will rise between 7 and 8 percent in the first half of the year, slowing down to a 6 percent increase in the last 6 months of 1974. The GNP deflator, the most comprehensive measure of price increases throughout the economy, will rise by anywhere from 5½ to 7½ percent according to the private forecasts. Many of these forecasts were made before the administration began to consider actively the possibility of letting gasoline prices rise sharply to limit demand. Dr. Herbert Stein, Chairman of the President's Council of Economic Advisers, told the Joint Economic Committee last week that if energy prices were allowed to rise to a level where supply would equal demand, that consumer prices would rise by 3 percentage points more than they would have otherwise.

WHAT TO DO ABOUT IT

The course of the economy in the coming year will be an uncertain one. Inflation coupled with the threat of recession necessitates a carefully balanced policy. It would be a grave error for the administration or Congress to consider abandonment of wage and price controls at this point. As I have indicated, inflationary pressures will continue very strong in the coming year, and this is especially true for fuel prices. Retaining controls, at the very least through the first quarter of 1974, should have a significant impact on the rate of inflation. Witnesses who appeared before the Joint Economic Committee in October suggested that continuation of controls into 1974 could lower the inflation rate by 1 to 2 percent. With respect to energy sources, in particular, removal of controls would do nothing to increase supplies in the short run but would provide windfall profits to oil companies whose earnings have already jumped dramatically in the second and third quarters of 1973. Even after wage and price controls are removed, this country will need some form of incomes policy on a permanent basis. A continuation of controls into next year will provide the time necessary to either decontrol industries selectively or to develop a workable voluntary incomes policy.

Wage and price controls will also take some of the burden of fighting inflation from monetary and fiscal policy. The possibility of recession is great enough that we cannot afford restrictive monetary policy. As Walter Heller told our committee:

> The extra price jolt from the oil shortage in 1974 should not be taken as a signal—any more than the 25 percent jump in food prices in 1973—for monetary tightening. These shortages, to use the words of Arthur Burns in his recent defense of monetary policy, "hardly represent either the basic trend in prices or the response of prices to previous monetary or fiscal policies." To attempt to hammer down price increases in food and inelastic demands—by restrictive monetary policy would wreak havoc on the rest of the economy.

Fiscal policy likewise cannot be as restrictive as the administration had intended in the light of forecasts that the unemployment rate will rise to 6 percent in 1974. We should consider a variety of programs, including public service employment and extended unemployment benefits, as countercyclical measures to lessen the impact of possible negative growth rates in early 1974.

Mr. President, this administration has bungled economic policy for the last 5 years. But using monetary and fiscal policies alone under current economic conditions to fight inflation would make their previous mistakes seem minor in comparison.

AMERICAN WORKERS ARE LOSERS UNDER NIXON ECONOMIC GAME PLAN

Mr. HUMPHREY. Mr. President, the economists now confirm what every American worker has known for months, that the buying power of his paycheck is less this year than it was last year.

The Joint Economic Committee will soon release a study which clearly shows this to be the case. Their analysis concludes—

> The best measure of real per household income or per family income showed a decline to a negative 1.4 percent during 1973. [And], in conjunction with the negative rates of change we found among other measures of purchasing power, explains accurately why consumers do not believe they are better off economically in 1973. They are in fact not better off.

More specifically, the JEC analysis shows that there has been a net fall in real adjusted hourly earnings of about 4 percent from 1972 to 1973. This clearly indicates that wage rates not only have not kept pace with inflation, but also have undergone a significant setback in terms of purchasing power. Even when fringe benefits and overtime are added into the calculation, the American worker is currently unable to keep up with inflation. Not surprisingly, real weekly earnings have declined by about 4 percent from 1972 to 1973, paralleling the decline in real hourly earnings.

Perhaps the American worker was aware long before the economists that he was losing economic ground, because his main income measure is take-home pay. The economists call it "real spendable weekly earnings" and these figures, more than any others, show just how bad a beating our workers have been taking. The data show that, during the last 21 months, the average American worker has experienced a net decline in the buying power of his take-home pay of 6.7 percent.

Additional figures simply reinforce the conclusion that regardless of how you look at it, the American worker has suffered this year both as a wage earner and as a consumer.

And, unfortunately, the worst may be yet to come. According to many experts, inflation next year will be even worse than in 1973. A rate of inflation of over 7 percent is expected during the first half of 1974. Unemployment is also expected to be significantly higher, perhaps around 7 percent during parts of the year.

Economic growth and income growth are expected to be very modest next year, if there is any growth at all. In fact, it is possible that we will actually experience a real decline in GNP during the first two quarters of 1974.

If these projections are correct, the American worker will most likely see his real buying power be reduced even further in 1974.

The economic policy of the Nixon administration has proven to be disastrous for the American worker and his family. While "Nixonomics" have been very effective in holding down wages, they have been a total failure in every other respect.

Prices on nearly everything we buy have gone up at record rates—food costs rose 19 percent in the last year, fuel oil and coal prices are up about 20 percent over last year and rising, and housing costs went up by 6 percent in 1973.

Interest rates have soared to new heights with the prime interest rate now at 10 percent in many banks and home loans carrying a stiff interest charge of 9 percent or more in some parts of the country.

At the same time, industry has reaped a profits bonanza at the expense of the American worker.

Nevertheless, despite all of the evidence, the administration's economic experts have testified before the Consumer Economics Subcommittee, which I chair, and elsewhere, that the average American family never had it so good. It is no wonder that "Nixonomics" have failed to respond to the economic needs of our people. They do not even recognize the problem.

Mr. President, I intend to continue my effort to bring home to the administration the serious economic condition of the American worker and his family. Hopefully, we will have more success in making them see what the facts are than we have had in the past. I urge all of my colleagues to join me in this effort.

THE ECONOMY

Mr. KENNEDY. Mr. President, I welcome the opportunity to join other distinguished Senators this morning as we register our common deep concern over the downward plunge of the American economy in recent weeks and the pollyanna posture of the administration as we seek to cope with the very real difficulties the Nation must overcome if we are to bring the economy back to health in 1974.

The energy crisis has made all our economic problems worse. But long before the embargo by the Arab States, America was running out of oil, yet the White House refused to listen. Now, the crisis is full upon us, and still the policies are out of date.

We in Congress have a tragic sense of having seen it all before. The same dismal record of incompetence and inaction we see on energy has been duplicated on virtually every other economic issue, and the citizens of all our States have had to suffer.

The problems we face today are the culmination of years of economic neglect. Think what we've gone through in the recent past—the highest unemployment in a decade, the worst inflation since the Korean war, the highest interest rates since the Civil War, the worst trade deficits, and the fastest, steepest plunge of the Dow-Jones average in our history, a constant international money crisis, a hat trick of three successive devaluations of the dollar, a recession in 1970, and a severe new recession, or even a depression, on the horizon for 1974 if we do not mend our ways today.

It has not always been that way. Think back to the early 1960's, when the economy began to move again. In those days, we had an administration that understood the modern American economy and could keep it on an even keel. The Nation had its problems in the early 1960's, but inflation and rising unemployment were not among them. Thanks to the policies of the early 1960's, America enjoyed the longest period of sustained economic growth, prosperity, and price stability in our history. We could do the same today, if only we had the vision, will, and leadership in the administration to guide the Nation forward.

Amid the wreckage of current policy, there are two extremely important areas—one long run and the other short run—that require immediate and thoughtful action now, if we are to avoid future serious and harmful consequences to the economy.

First, in the short run, we have to move promptly into an effective program for allocating scarce supplies of oil and for rationing gasoline, and to put a firm ceiling on the exorbitant price increases that are already taking place for gasoline and other petroleum products.

There are some in the administration who favor the relaxation of all controls on oil as the way to meet the current crisis. Let the oil companies charge what the traffic will bear. No rationing. No tax increase. Let the free market ration the fuel. Let the price of gasoline rise by 50 cents a gallon, they say.

What these experts are really talking about, however, is an approach that could well become the biggest redistribution in reverse, a massive welfare plan for the Nation's richest companies, a program that means excess profits for the rich and excess poverty for the poor.

Those who advocate this action want nothing more nor less than to take $50 billion out of the pockets of the ordinary working man and woman in this country and transfer it directly into the pockets and profits of the oil producers. That works out to the forced extraction of something like $20 a week from every family in the Nation over the period of the next 12 months.

What is the administration waiting for? Fuel riots at schools or housing developments or at neighborhood filling stations? Are not the recent actions of the truck drivers enough to signal the seriousness of the situation, the enormous potential for social unrest that exists if the situation continues to fall apart?

Why wait until March for rationing, when the problem will be worse and the quota may be down to 6 gallons a week per person, when rationing today could mean 10 gallons a week? The bureaucracy of rationing, the coupons, the black market prevention measures—all may seem unpalatable today, but they are far less unattractive than the layoffs, the cold homes and schools and offices and hospitals that will be the hallmark of early 1974 if we fail to act today.

What we need is an equitable system that assures every carowner a basic allotment of gasoline to get to work and meet the other important needs of his

family, and a firm clamp on the price of gasoline to keep it from rising higher than about 50 cents a gallon.

That is the best and fairest prescription I know to solve the current crisis, a far wiser solution than the ostrich-like "pray for peace and oil," "prosperity is just around the corner" policy and philosophy we have today. That is the sort of thing they tried in 1929 and it will not work any better for President Nixon today than it worked for President Hoover in the Depression years.

Second, for the long run, we cannot afford the wholesale abandonment of phase IV that we have already begun to witness. With phase IV, we have the sort of wage and price control machinery in place that can be our best defense against serious inflation in 1974, as shortages and dislocations brought on by the energy crisis take hold next year and send prices into orbit.

Yet, developments in recent days and weeks suggest that the administration is moving in just the opposite direction. Phase IV expires on April 30, 1974, and Director Dunlop is acting as though his Cost of Living Council is going out of business on that date. But that may be a date when controls will be needed more than ever. Today, however, phase IV is being relaxed and many controls are being taken off entirely, first on one sector of the economy, then on more and more areas where controls may be needed in the future.

What we are witnessing now is the birth of a phase III, junior, with all the dangers reminiscent of the disastrous, discredited old phase III of early 1973, which let inflation loose again after phase II had it nearly under control.

Obviously, some price increases are necessary to meet the fallout from the energy crisis. But the prices of petroleum products have already begun to soar. In November alone, fuel prices led the rise in the wholesale and consumer price indexes, with increases for some components reaching the level of 20 percent for a single month. And the figures for December and January may be even worse.

Was it really necessary to abandon phase IV and essentially decontrol the auto industry altogether, in order to achieve the result desired? How can we maintain the surprisingly tranquil atmosphere in which wage agreements in major industries have been successfully negotiated in recent months, if it is open season on price increases in 1974, and the cost of living is free to rise at will ?

And the timing of the auto decontrols was suspicious in itself. Was it just coincidence that these dramatic decontrols were not announced by the Cost of Living Council until last week, after all the major labor contracts in the auto industry had finally been approved?

The danger is that Secretary Shultz and Chairman Stein are using the energy crisis as a cover and excuse to impose their abhorrence of controls and their well-known free market views on the economy, at a time when the country cannot afford it. Almost by default, the administration is currently making decisions with major longrun implications for the economy.

Yet, if we phase out phase IV now, it will be far more difficult to bring back controls in 1974. Have we not learned anything from the experience of the recession of 1970–71? Here we are, heading back toward 6-percent inflation and 6-percent unemployment or worse for 1974, and all they tell us is, have faith in market forces, that is the only protection we really need.

But that protection failed in 1971, and it will fail again in 1974. The only thing that rescued us from the consequences of this do-nothing philosophy in 1971 was the phase I freeze and then phase II. And those steps were drastic measures, forced on an unwilling administration by the pressure of public opinion, fed up with months of the worsening siege of simultaneous inflation and recession.

That is the epitaph of the administration's economic policies—"Too much, too late." We needed extraordinary remedies in 1971—the freezes, the devaluations of the dollar, the massive expansionary programs—to hold inflation down in 1971 and get the economy moving, because we had failed to take the stitch in time that could have avoided resort to these far more drastic measures.

Let us learn from 1971 today. Now is the time for preventive steps, before things begin to come apart in earnest, before more drastic steps even than rationing are needed in the future. Clearly, the economic picture is already worse today than it was in 1971, and I would hope a sufficient concern on the part of the administration exists to insure positive decisions today, and prevent the lemming-like abandonment of phase IV before it is too late.

In sum, what we need, as in so many other areas, is a healthy dose of foresight and economic leadership. A sound economy is the greatest social program America ever had. As the pending energy bills make clear, Congress is ready to act quickly and effectively. But Congress cannot do the job alone, and so the President will find us ready and willing to work together to do what must be done to make our economy strong.

ON THE ECONOMY AND THE ENERGY CRISIS

Mr. JACKSON. Mr. President, there is a pessimistic maxim known as Murphy's law which postulates that if anything can possibly go wrong it will. The corollary to this law is that things inevitably go from bad to worse. Regrettably, this law must seem an immovable polestar to the casual observer of economic conditions in America over the past 5 years. During this period, we have experienced every possible conventional economic malady plus a few new ones that do not even occur in traditional theory. For example, the "stagflation"—economic stagnation plus inflation—which occurred during the 1969–70 recession was an invention of the present administration. Previously, it was believed that recessions have a natural restraining effect on inflation. Well, we have never gotten rid of the inflation which began in 1969 and unfortunately, it now appears that we are headed for another bout of recession and "stagflation." All of this would warm the heart of Mr. Murphy though it has quite the reverse effect on the patient and long suffering American people.

I have been a careful observer of economic conditions over the past 5 years. These have not been particularly easy times in which to chart an economic course. However, I cannot accept Murphy's fatalistically gloomy explanation of our persistent economic troubles. A faltering economy is not inevitable. Rather, simple human errors of judgment on fundamental questions have in large part brought about or worsened our economic problems. I have been greatly saddened to witness these unnecessary mistakes which have cost the average American working man and woman so dearly and which impose unconscionable hardships on the millions of retired Americans on fixed incomes.

We live in times that require adroit economic leadership from the President and his administration. Instead, the record has been one of ad hoc economic policy, pliant to special interests and crippled by ideological hangups. There has also been a good share of downright economic foolishness in administration policy over the past few years.

And now, the economic crisis brought on by the energy shortage is fast approaching. In the absence of strong measures to deal with the crisis, this will be the greatest challenge to our economic well-being since the Great Depression of the 1930's. There has not been such need for a sure hand in the direction of our economic policy for decades. And yet, administration economists only very recently realized that the energy crisis is much more than a mere inconvenience to motorists and a threat to the comfort of householders in the event of a cold winter. The energy crisis means the possibility of massive unemployment, continued high inflation, and a loss of economic productivity. It means the possibility of great hardship for the American people if our policymakers are not wise.

I do not wish to sound a pessimistic chord. I believe that the economic crisis brought on by the energy shortage is manageable. But, it requires decisive leadership and Government action to shape and moderate the crisis. But, we can successfully manage this problem if we put our minds to it.

I am, however, concerned about the track record of the administration on economic matters, and I would issue these warnings. There is not a great deal of margin for error in this situation, and we cannot afford to repeat errors of the past. In particular, I would make two relatively simple but important recommendations. First, do not permit ideological biases to prevent or weaken necessary Government action. Second, use simple prudence and caution.

For example, I believe that the administration's bias for simple marketplace economic theory has greatly hampered the effort to bring inflation under control since the initial imposition of wage-price controls in August 1971. We never did have a vigorous across-the-board in-

flation control program. We had a program of ad hoc and partial freezes, and phases of poor effectiveness and failing equity. The premature lifting of controls during phase III with the resultant disastrous inflation ultimately forced reimposition of controls in freeze II and phase IV.

There is an even more recent example of the administration's ideological hangups in the early position taken on mandatory fuel allocations and on gas rationing. You will recall that my mandatory allocations bill did not have the support of the administration when it passed the Senate last June. Not only did they shrink from such action in theory, they also refused to believe that the short supply problem was really serious. As the reports of shortages in key industries poured in, the need for this kind of hard decisionmaking became obvious, and the administration horse which had been led to the water by the Congress was finally forced to drink.

Another example is in the area of gas rationing where the administration has shunned such controls but tinkered with proposals for price increases to dampen demand. And yet, "price rationing" of gas will not work unless the price is driven through the roof simply because demand to meet the necessities of everyday living such as commuting to work, is so inelastic and will continue no matter what price is charged.

I am concerned that the bias which prevented effective price controls and mandatory allocations and still prevents emergency gas rationing will continue to cripple efforts to minimize the adverse economic impact of the energy shortage. I simply urge prudence and commonsense on this score. The sooner we face the fact that direct controls are necessary under emergency circumstances the greater will be our chance of effectively shaping the solutions to our economic problems and making them less disruptive.

I am also concerned about the tendency of economic planners in this administration to make fundamental errors of judgment. Unfortunately, misguided and poorly planned policies have plagued and continue to plague us. Perhaps the most glaring example of this was the great Russian grain robbery of 1972. You will recall that in the grain deal, we awakened one day to find that the Soviet Union had purchased one-fourth of our entire wheat crop. No one in Government seemed to know ahead of time how large the Soviet need was or how large their purchases would be.

No one had calculated the domestic needs for grain and the inflationary impact that would follow from seriously depleting our own supplies. And no one stopped to think that there was no longer a need for export subsidies by the American people in order to make grain prices lower for the Soviets. All of this set off a continuing inflationary spiral in food prices costing Americans at least a billion dollars directly and indirectly.

Another particularly unfortunate mistake directly related to our energy shortage was the retention of outmoded protectionist oil import quotas which did little if anything to encourage self-sufficiency in their latter years—years in which U.S. oil companies were making huge investments in production overseas. And this occurred at a time when prudent planners should have been acting to amass a strategic stockpile of petroleum reserves to withstand precisely the kind of economic and political blackmail that has now occurred.

If it was not obvious that some nations are politically unreliable suppliers of petroleum it should have been obvious that this Nation faced a shortage of refinery capacity that was bound to cause shortages even if supplies of crude petroleum were ample. Beyond that, it should have been obvious that it just made economic sense for producers like Saudi Arabia to cut back on production of their oil resource in order to draw a higher price and earn more money with less resource depletion.

But regrettably, none of this was grasped by the economic planners and policymakers of this administration. It is this kind of fundamental error which must be avoided at all cost in the present economic crisis. We cannot afford another major blunder at this time and under these circumstances. Our economic problems are severe enough without them being made worse by foolish or shortsighted policymaking.

If there was ever a time to disprove Murphy's law it is now. The economic future and well-being of our Nation hangs in a delicate balance. Adroit leadership is essential and I hope forthcoming. Mr. Simon, who has become the new energy czar, is a very competent and hardworking individual with an extensive background in economics. I hope and trust that he will be able to forge a sensible overall administration strategy to deal with the present crisis.

I believe that the biases and mistakes of the past can be set aside and that we can deal with this crisis successfully. I renew my pledge to work for that goal in the months and years ahead.

ECONOMIC DECISIONS FOR 1974

Mr. MUSKIE. Mr. President, I am pleased to join with my distinguished colleagues in this discussion of the economy. For despite the recent public preoccupation with the energy crisis, the crisis of consumer economics of 1973 is still with us—and demands the continued attention of Congress. I commend Senator BENTSEN for bringing us together this morning for that purpose.

This discussion is important now because in the coming weeks the Nixon administration will be making decisions critical for our economic health in the coming year. Those decisions may create a new structure of wage and price controls: Phase V. Or they could follow the pattern of past administration errors by abandoning any effective effort to keep a lid on inflation.

There is little doubt that controls should be relaxed, since retaining them in their current form will cause more harm to the economy—in the form of unnatural shortages of key materials, and other dislocations and inequities—than any salutory effect they can have on inflation. But some kind of controls policy must be maintained. To be effective, the policy must allow increased freedom for economic decisionmaking in the private sector while maintaining the potential for firm administrative action to roll back inflationary price and wage increases.

This optimum policy will require great sophistication, judgment, and leadership—none of which this administration has yet demonstrated on economic matters.

The year we are just finishing, of course, has itself been one of dramatic crisis in the American economy. The figures available for the latest 12-month period show inflation in consumer prices of 9.6 percent. Inflation in food prices was 19 percent over the same period. Unemployment averaged 4.9 percent. And the real value of average weekly earnings actually declined by more than 1 percent. Throughout this crisis, the erroneous predictions of the administration, and its failure to take decisive action, eroded the confidence of the American people in economic actions of the Federal Government.

In the months ahead the American people will feel the effects of the energy crisis—caused in part by the Middle East oil embargo, but also caused in part by the administration's failure to foresee the possibilities of the shortages which are now all too evident. Finally, the executive branch may be ready to take firm action on energy matters, and Congress is this week providing the necessary authority for that action. We all have hope that the forthcoming administration action on energy will minimize the overall effects and inequities of the shortages of petroleum products. But there has been no evidence that dramatic recent price increases in such petroleum products as gasoline, diesel fuel, and heating oil have been justified. The first priority of the new Federal Emergency Energy Administration must be to mitigate the petroleum price squeeze, and insure that the consumer's pocketbook does not bear the brunt of the energy crisis.

Even assuming, however, that decisions on energy in the next few months will be wise and effective, the energy crisis will certainly cause major disruptions in our economy. Some economists now estimate that there may be no real growth of the American gross national product in 1974. Estimates of the inflation rate next year range from 8 to 10 percent. And the estimates for unemployment next year are in excess of 5 percent—again, assuming effective energy action.

These estimates about our economic condition next year—which many would call optimistic—will translate into real hardship for the American people. Not only will there be shortages of gasoline for our automobiles, and fuel to heat, light, and power our homes and factories, but also more families will be out of work and without paychecks. For them, the inevitable price rises in food, petroleum-related products, and many other items will be especially cruel.

But even before the worst economic effects of the energy crisis are felt, the

administration is now considering relaxing or abandoning the wage and price control structure. Serious inequities and dislocations have appeared in the economy during the current phase IV. Some products are not available because controls have made them unprofitable to sell. Shortages on some supplies, caused by controls or petroleum scarcity, threaten to bring some businesses and industries to a standstill. And some consumer and business purchasers are unfairly prevented from recovering, through their own wage or price increases, the rising costs they are forced to pay. But when controls are lifted, pent up inflationary pressure could be turned loose with disastrous consequences.

So although a relaxation of controls is needed, abandoning them would be a mistake. A year ago the administration was faced with a similar problem—and decided to relax controls too swiftly in phase III, bringing us the rampant inflation of last spring. When they admitted their mistake, inflation was so bad that a freeze and a tightened control system was needed.

If President Nixon and his advisers chose to heed recent history and retain controls while relaxing them in a new phase V, they will still be faced with a great challenge. They must develop a policy which will allow the economy to make adjustments in wages and prices to correct shortages and inequities, but at the same time protect the public from a new round of uncontrolled inflation.

The essential condition of that policy must be a convincing mix of fairness and firmness. Phase V must give the public confidence that unjustified inflationary wage and price increases will not be permitted, that those who seek to take advantage of relaxed controls to increase disproportionately high profit margins or wage levels will be required to justify their actions in detail, and that administrative wage and price decisions will be tempered by understanding.

That policy must include, for instance, "rollback authority"—the ability of the Government to force a retraction of an unjustified increase. I hope that phase V will include such a provision, and other tools to allow Government action to be effective.

But more important even than the detailed procedures and authorities included in phase V will be its credibility—in other words, whether the American people believe it will be administered with fairness and firmness. And the credibility of the policy will be determined by the way it is formulated, announced, and administered.

If the administration's forthcomong economic decisions are weak, arbitrary, or confusing, 1974 could be a disaster for the American economy. I hope instead that 1974 will begin with the economic leadership we so desperately need.

EFFECT OF INFLATION ON THE HOUSING INDUSTRY

Mr. SPARKMAN. Mr. President, inflation is having a serious effect on the Nation's housing industry. In turn, a sinking housing industry could send the Nation into a serious recession in 1974.

Yesterday, the Department of Commerce released the November figures for private housing starts, and they showed an annual construction rate of 1.69 million units. This is substantially below the rate of November 1972, of 2.39 million units. The Department's figures also showed that building permits continued to decline. These figures tend to confirm the September 1973, prediction of the First National City Bank of New York that there could be a decline of 30 percent in production by the first quarter of 1974, "and a much larger drop in profits."

The construction industry is the largest single industry in this country. Residential housing is a significant portion of this activity and also has great social implications. As the Senator from Nevada (Mr. BIBLE) pointed out in his statement today, a curtailment of housing starts immediately sends shock waves to other industries such as carpeting and other furnishings, appliances, furniture, hardware, and general retailing. Small businesses across the country thus have very large stakes in the number of houses built each year, as do the more than 50,000 homebuilding firms in every State in our Nation.

Thus, if homebuilding falters, our economy could be sent into a recession.

A few statistics will indicate the drastic effect which inflation has had on the financial ability of Americans to afford housing and the ability of the industry to supply it.

The Department of Commerce homeownership expense index during the period from 1969 to the third quarter of 1973 rose almost 28½ percent. This is even faster than the Consumer Price Index which rose at 24½ percent during this period.

Between 1969 and the third quarter of 1973, the median price of a new house increased from $25,600 to $32,900 or 28.5 percent. During this period, the price of the average used house jumped from $21,790 to $29,830 or 36.9 percent.

The average size of a mortgage loan to finance a purchase of one of these residences climbed from $25,000 in 1969 to $28,800 in November of 1973. At today's prevailing interest rates of between 8½ to 9¼ percent on home mortgages, this means that the homebuyer must be prepared for much higher monthly payments than 4 years ago.

As a result of this escalation, it has been estimated that 40 percent of our population cannot now afford to buy newly constructed housing. What is even more disturbing, the "affordability gap" may be widening. The Senator from Tennessee (Mr. BROCK) who is a member of the Senate Housing Subcommittee, which I chair, has summed the situation up by saying:

> The average American can no longer afford the average American home.

We have always prided ourselves as a nation and on the high portion of home ownership. I believe that about 63 percent of our citizens currently own their own homes. This has been a source of great community and national stability.

If more than one-fifth of our population, which could previously expect to own homes now cannot afford them, this will be a source of discontent and instability in the years ahead.

We know that inflation has driven up the cost of building materials to construction firms. There has been a wholesale price change of 10.9 percent in the past year overall in these materials. However, the major factor in the decline in housing has been the drying up of mortgage credit.

The housing industry is as dependent on credit for forward movement as an automobile is upon gasoline. The Federal Reserve estimates that about 75 percent of the average home purchase must be financed through a mortgage. The housing industry mortgages account for about 44 percent of all the funds raised in private credit markets in the course of a year.

I regret that inflation has restricted the flow of credit. It has not only decreased the supply but made it more expensive.

I am sorry that the administration has failed to use his best efforts in resolving the Nation's inflation problems. I strongly disagree with the thought that the way to fight inflation is to increase interest rates. In my view, raising interest rates raises the costs that this consumer must pay.

The economic policies of this administration appear to presage a downturn in housing similar to those in 1966 and 1969. Furthermore, permitting cycles of such magnitude to sweep through an industry periodically is profoundly destructive of orderly planning and investment.

It is my feeling that by the combined used of fiscal policy, as well as the use of monetary efforts by the Federal Reserve, inflation could be controlled. Unfortunately, inflation has such a grip in 1973 that it will take concerted and determined action by all branches of Government to do something about it.

For the sake of the millions of families which are coming into the housing market every year, I certainly hope that this action will be taken. I will continue to do all I can to promote anti-inflationary policies which will insure a steady supply of new homes and apartment residences at prices our citizens can afford.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with speeches by Senators limited to 3 minutes each.

Is there morning business to be transacted at this time?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, without amendment:

H.R. 6758. An act to amend chapter 33 of title 38 of the District of Columbia Code relating to usury, and for other purposes (Rept. No. 93-649);

H.R. 10806. An act to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes (Rept. No. 93-650); and

H.R. 11238. An act to amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes (Rept. No. 93-651).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

H.R. 2303. A bill to continue mandatory price support for tung nuts only through the 1976 crop (Rept. No. 93-652).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, without amendment:

S. 2830. A bill to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus (Rept. No. 93-653).

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

H.R. 11565. An act to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy (Rept. No. 93-654).

By Mr. HATHAWAY, from the Committee on Banking, Housing and Urban Affairs, without amendment:

H.R. 4738. An act to provide for the striking of medals in commemoration of the one-hundredth anniversary of the Statehood of Colorado (Rept. No. 93-655); and

H.R. 5760. An act to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974 (Rept. No. 93-656).

Under authority of the order of the Senate of December 18, 1973, Mr. FULBRIGHT, from the Committee on Foreign Relations, submitted a report on the bill (H.R. 11088) to provide emergency security assistance authorizations for Israel and Cambodia, which was ordered to be printed (Rept. No. 93-657).

By Mr. STENNIS, from the Committee on Armed Services, with amendments:

S. 2770. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services (Rept. No. 93-658); and

S. 2771. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the armed forces, and for other purposes (Rept. No. 93-659).

REFERRAL OF S. 2804—SINO-AMERICAN SOYBEAN RESEARCH INSTITUTE

Mr. HUMPHREY. Mr. President, on December 12, 1973, I introduced S. 2804, calling for the establishment of a Sino-American Soybean Research Institute and the bill was referred to the Committee on Foreign Relations. In view of the importance of this legislation to agricultural matters, I request unanimous consent that upon being reported by the Committee on Foreign Relations, it be subsequently referred to the Committee on Agriculture and Forestry.

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

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that S. 2804 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. 2804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall initiate immediate action 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, and is authorized to bring together representatives from the two countries for the purpose of planning for and establishing a Sino-American Soybean Research Institute (hereinafter referred to as the "Institute").

SECTION 1. The Institute should have as its major objectives the following:

(a) To immediately devote its facilities and expertise to the specific need for increased soybean yields and soybean adaptability to new producing regions;

(b) The development of additional uses for soybeans and soybean products as sources of human and animal protein, including the development of new foods and food substitutes and extenders; and

(c) To serve as a basis for full cooperation and coordination between the People's Republic of China and the United States in the field of soybean research and technology.

SEC. 2. (a) The location or locations of the Institute and its form of administration shall be mutually agreed upon by the People's Republic of China and the United States. The United States and the People's Republic of China will equally share staffing and administrative expenses.

(b) For the immediate establishment and the initial operation of the Institute, the President is authorized to use an amount not to exceed $2,000,000 annually out of any funds available for the activities of the Agricultural Research Service of the United States Department of Agriculture, or from funds available to any other appropriate Federal Agency.

(c) The President shall also request the Consultative Group on International Agricultural Research of the World Bank to consider funding for the Institute after its establishment.

SEC. 3. In working toward the establishment of the Institute, the President should fully utilize the expertise and experience of organizations active in soybean research, particularly the Agency for International Development and the Food and Agriculture Organization of the United Nations.

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. DOMINICK (for himself, Mr. JAVITS, Mr. SCHWEIKER, and Mr. TAFT):

S. 2825. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MATHIAS (for himself and Mr. EAGLETON):

S. 2826. A bill to amend the District of Columbia Code to revise and modernize procedure relating to the administration and distribution of decedents' estates and for the proof of wills. Referred to the Committee on the District of Columbia.

By Mr. HUGH SCOTT:

S. 2827. A bill for the relief of Quintin Yuyitung; and

S. 2828. A bill for the relief of Rizal Yuyitung. Referred to the Committee on the Judiciary.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 2829. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes. Referred to the Committee on the District of Columbia.

By Mr. SCHWEIKER (for himself, Mr. MCGEE, Mr. WILLIAMS, Mr. KENNEDY, Mr. JAVITS, Mr. BEALL, Mr. CRANSTON, Mr. HUGHES, and Mr. PELL):

S. 2830. A bill to amend the Public Health Service Act to provide for greater and more effective efforts in research and public education with regard to diabetes mellitus. Referred to the Committee on Labor and Public Welfare.

By Mr. CLARK:

S. 2831. A bill to authorize the establishment and maintenance of national reserve supplies of corn, grain sorghum, barley, oats, wheat and soybeans to insure an adequate supply of such commodities to protect the American consumer against an inadequate supply of foodstuffs in case of natural disaster; to stabilize farm and market prices; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of these reserve supplies; to assist in marketing such commodities and rotating stocks to insure desirable quality; to assure availability of commodities for humane purposes in the promotion of world peace, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. TAFT (for himself and Mr. PELL):

S. 2832. A bill to provide persons who unlawfully failed to register for the draft, or who unlawfully avoided military service, with an opportunity to earn immunity from prosecution and punishment for such offenses, and for other purposes. Referred to the Committee on the Judiciary, by unanimous consent.

By Mr. SYMINGTON:

S. 2833. A bill for the relief of Opal Garnet Branch. Referred to the Committee on Foreign Relations.

By Mr. THURMOND:

S. 2834. A bill to amend title 10 of the United States Code to provide that certain additional amounts received by retired servicemen employed in the Junior Reserve Officers' Training Corps shall be treated as subsistence or uniform allowances or as amounts received as commutation of quarters. Referred to the Committee on Armed Services.

By Mr. HUMPHREY:

S. 2835. A bill to rename the first Civilian Conservation Corps Center located near Franklin, N.C., and the Cross Timbers National Grasslands in Texas in honor of former President Lyndon B. Johnson. Referred to the Committee on Agriculture and Forestry.

By Mr. MANSFIELD (for himself and Mr. HUGH SCOTT):

S.J. Res. 182. A joint resolution extending the dates for the transmission of the 1974 Economic Report and the report of the Joint Economic Committee. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMINICK (for himself, Mr. JAVITS, Mr. SCHWEIKER, and Mr. TAFT):

S. 2825. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, I am pleased to introduce, on behalf of myself, Mr. JAVITS, Mr. SCHWEIKER, and Mr. TAFT, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs and which may be cited as the "Drug Identification Act of 1973." I introduced this bill during the 92d Congress, but no action was taken.

The present labeling provisions of the Federal Food, Drug, and Cosmetic Act relating to the identification of drug products and their production or distribution origin do not require that this information be shown directly on the tablets or capsules of drugs marketed in these forms. Thus, in cases of personal emergency, such as overdosages or accidental ingestion of a drug, identification may be seriously delayed and may require elaborate and time-consuming laboratory analysis. A quick identification of the drug in such emergencies, by labeling and direct product coding, could facilitate prompt and appropriate medical treatment. A uniform drug coding system to identify drug manufacturers and distributors would also be of great value to the Department of Health, Education, and Welfare and other Federal agencies and to State agencies in the administration of drug purchase and reimbursement programs.

The bill would amend the Federal Food, Drug, and Cosmetic Act to authorize the Secretary to establish a uniform code or system of coding for prescription drugs representing, first, the identity of the manufacturer; second, the identity of the drug; third, the identity of the final packager if different from the manufacturer; fourth, the dosage form and strength of the drug; and fifth, the number of drug units in the package. The applicable code information would have to appear on the label of the trade package of each prescription drug. In addition, if the drug is in tablet or capsule form, each tablet or capsule would have to be marked with the code symbol representing the identity of the manufacturer and the identity and strength of the drug. The coding requirements would apply to drugs in intrastate as well as interstate commerce.

Where compliance would be impracticable because of the size or other relevant aspects of the container or the tablet or capsule, exemptions from these requirements could be granted if the exemption would not be inconsistent with protection of the public health.

The label of the trade package of a prescription drug would also have to bear the name and place of business of the manufacturer or, if different, the final packager; such a drug could no longer be marketed carrying only the name of the distributor who is not the final packager. It is the purpose of this feature to assist the Food and Drug Administration in effecting recalls of subpotent or other dangerous drugs down to the consumer level when necessary for protection of the public health and safety.

The name of a prescription drug—whether brand or generic—as written by the prescriber, and its strength, would be required to appear on the label of the drug container which is dispensed to the consumer, unless specifically indicated otherwise by the physician. In this event the code symbols identifying the manufacturer and the drug and its strength would have to be on that label. In addition, the bill would make applicable to the container of the dispensed prescription drug the requirement of the act, now applicable only to the trade package, that the label state the quantity of the contents. I might add parenthetically that the Secretary would, however, retain his present authority to exempt from this requirement packages so small that compliance would not be practicable.

The preparation of the drug code directory and its distribution, without charge, to hospitals, to poison control centers, and to such other persons as is deemed necessary to carry out the purposes of the bill would be the responsibility of the Department of Health, Education, and Welfare. Others could, of course, purchase the drug code directory from the Government Printing Office.

The coding requirements for prescription drugs imposed by this bill would take effect 2 years after the month in which regulations establishing the code system are promulgated and would be applicable to products manufactured thereafter. This leadtime would permit drug manufacturers who do not now code their products to phase in such procedures in their manufacturing and distribution operations. Earlier effective dates are specified in the bill for other labeling requirements contained therein.

In closing, I would like to bring to the attention of my colleagues that this bill is designed to carry out the recommendation on this subject in the President's consumer message of October 30, 1969, and would carry out the recommendations by the President in his message on legislation not enacted during the 91st Congress.

By Mr. BEALL (for himself and Mr. MATHIAS):

S. 2829. A bill to amend the District of Columbia Police and Firemen's Safety Act of 1958 to increase salaries, and for other purposes. Referred to the Committee on the District of Columbia.

Mr. BEALL. Mr. President, for myself and my colleague, Senator MATHIAS, I am sending to the desk legislation designed to provide for an increase in salary for the members of the District of Columbia Police Force, the Executive Protective Service, the U.S. Park Police, and the Fire Department of the District of Columbia. A similar measure (H.R. 9922) is pending before the House of Representatives.

Law enforcement officers and firemen play an absolutely essential role in the well-being of any community. Their professions are increasingly complex, frequently thankless, and on far too many occasions extremely dangerous. Like fire insurance, we never think about the importance of our law enforcement and fire prevention agencies until we need them.

Most Americans, the overwhelming majority of whom are law-abiding citizens, never come in direct contact with the law enforcement establishment. When we do come in contact with a policeman, frequently for motor vehicle violations, we are far more likely to blame the officer for catching us violalating the law rather than blaming ourselves for the original violation. Thus, the law enforcement officer is frequently in a "no-win" situation; largely invisible to the majority of our population and vigorously resented when he fulfills the requirements of his job. I believe, however, that all of us realize that the "thin blue line" stands between a law-abiding society and anarchy. One need only refer to the serious breakdown of civil authority which took place in the city of Montreal during a policemen's strike several years ago. The absence of law enforcement officers brought out the worst instincts in far too many people and an extremely dangerous and destructive situation developed.

I would also note that our Nation's firefighters are engaged in a most hazardous profession. Their death rate is at least 15 percent greater than that of the next most hazardous occupation, mining and quarrying. Fire fighting is probably always going to be an especially hazardous profession, and like policemen, they are generally out of sight and out of mind.

Now, the Nation's Capitol finds itself confronted by a serious problem in the field of law enforcement. The District of Columbia has a fine police force which is, for the most part, well trained and highly professional. However, the surrounding counties, which have grown dramatically in recent years, are both in need of well trained policemen and prepared to pay a higher salary than is currently being paid in the District of Columbia. Just as there was an international "brain drain" during the 1950's and 1960's. The District police force could be subject to a serious depletion of its talented manpower if this condition is not corrected. Mr. President, I have prepared several tables which compare minimum and maximum salaries paid to police privates in cities over 500,000 population and in the other jurisdictions in the Washington metropolitan area. In addition, I have prepared statistics relative to the turnover in manpower on the District police force, and I ask unanimous consent that these charts be printed in the RECORD at the conclusion of my remarks.

Mr. President, almost all of the employees of the District of Columbia received the 4.7-percent cost of living increase which was granted Federal em-

ployees last October. The District's firemen and policemen were not covered by the provisions of this pay increase.

In fact, the District's policemen last received a pay increase in May of 1972. Since that time, the Consumer Price Index has risen 9.6 percent. My legislation would provide for a 15-percent pay increase effective January 1, 1974. This measure is designed to allow the law enforcement and fire protection agencies to hold their own during a period of rapid inflation. The District government has recently offered a 10-percent increase effective July 1, 1974. I believe that this is an inadequate offer in light of the fact that it will become effective 26 months after the last pay increase and it is not adequate compensation in light of the recent increases in the cost of living.

S. 2829 will also provide compensation for inservice training leading to a degree in fire or police science or administration. I believe it is essential for us to steadily upgrade the quality of our police and fire personnel. Improving the quality of our policemen and firemen will better enable them to respond to the needs of their community.

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

MINIMUM AND MAXIMUM SALARIES PAID POLICE PRIVATES BY CITIES OVER 500,000 POPULATION

Cities

	Minimum	Maximum	Steps	Years
Chicago	$10,524	$14,824	5	3½
Cincinnati	10,183	11,415	3	3
Cleveland	11,387	12,387	3	3
Detroit	10,300	13,500	4	4
Houston	11,140	12,096	4	3
Los Angeles	11,256	13,992	5	1½
New York	12,849	14,300	4	3
Philadelphia	11,447	12,022	5	2
San Diego	11,244	13,672	5	3
San Francisco	13,680	14,280	4	4
Seattle	10,512	13,032	4	3½
Wash., D.C.	10,000	14,400	8	16

Local jurisdictions

Alexandria	$10,081	$12,254	5	5
Arlington	10,605	13,536	6	6
Fairfax	9,989	14,759	8	16
Montgomery County	10,104	13,509	6	6
Prince Georges County	10,275	13,749	6	6
Wash., D.C.	10,000	14,400	8	16

NUMBER OF POLICEMEN APPOINTED

Fiscal year:	
1972	771
1973	331
Calendar year:	
1972	520
1973	476

NUMBER OF POLICEMEN RESIGNED [1]

Fiscal year:	
1972	482
1973	338
Calendar year:	
1972	400
1973	320

Average number of years experience at the time of resignation—3 years. (Salary of a policeman with 3 years experience is $11,300.)

[1] These figures do not reflect involuntary separation.

By Mr. CLARK:

S. 2831. A bill to authorize the establishment and maintenance of national reserve supplies of corn, grain sorghum, barley, oats, wheat, and soybeans to insure an adequate supply of such commodities to protect the American consumer against an inadequate supply of foodstuffs in case of natural disaster; to stabilize farm and market prices; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of these reserve supplies; to assist in marketing such commodities and rotating stocks to insure desirable quality; to assure availability of commodities for humane purposes in the promotion of world peace, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE FOOD BANK ACT

Mr. CLARK. Mr. President, the legislation I am introducing today, the Food Bank Act, would establish a domestic reserve of six basic grains and feed grains and also authorize and encourage this Nation's participation in the creation of similar reserves worldwide.

Neither kind of reserve is a new concept.

Just a few months ago, Senator HUMPHREY offered a sophisticated domestic reserve proposal as an amendment to the 1973 farm bill. He has subsequently offered a similar proposal as a separate bill, S. 2005, and the Agriculture Subcommittees headed by Senators HUMPHREY and HUDDLESTON are currently conducting joint hearings on this and other proposals. In the House of Representatives, Congressmen SMITH and BERGLAND have introduced reserve legislation of their own.

This country's participation in an international reserve has been brought up before the Senate in a resolution offered by Senator MCGOVERN, and the beginnings of an initial reserve plan have been approved by the Food and Agriculture Organization of the United Nations.

The major new contribution of this proposal then is that it represents the first attempt to draw the concepts of domestic reserve and international reserve participation into a single piece of legislation.

We must recognize the fact that the United States does not exist in a vacuum and that—because of our unprecedented capacity for food production—our food policies have a significant effect on the rest of the world community. Our obligations to that community must be considered in our formulation of those policies.

The domestic section of my proposal, similar in approach to the domestic reserve legislation being considered in the House, also contains a variety of new provisions designed to give greater recognition to the role the individual family farm plays in our agricultural economy and to assure that the reserve program will not be abused by either government or corporate interests.

I offer this measure as an alternative to the proposals already before us in the hope that it will contribute some new directions and emphasis in the final reserve bill which results from our deliberations on the subject.

The need for reserves of basic human staples and livestock feeds is overwhelming—both at home and abroad.

A domestic reserve, which would use the surpluses of good years to create stockpiles for years of underproduction, would help protect American consumers from shortages and help stabilize the price of meat and other commodities for farmers and consumer alike. It would help promote foreign trade by increasing the confidence of buyers overseas in our ability to supply, and it would guarantee a ready source of meeting emergency food needs at home and abroad.

An international reserve could accomplish the same purposes worldwide. Since world food supplies are increasingly precarious, this would not only help achieve broad humanitarian goals, but it also would greatly enhance the possibility for a permanent structure of peace.

My domestic reserve proposal would create government reserves of corn, grain sorghum, barley, oats, wheat, and soybeans.

The reserve program would be administered by the Secretary of Agriculture, through existing U.S. Department of Agriculture agencies, such as the Commodity Credit Corporation and the Agricultural Stabilization and Conservation Service, so that a new Federal bureaucracy would not be necessary.

The Government would purchase regulated quantities of these commodities whenever overproduction resulted in surplus, until maximum reserve levels were met.

The maximum reserve levels are set at 300 million bushels for wheat, 25 million tons for feed grains, and 100 million bushels for soybeans. At least 80 percent of the feedgrain reserve would have to be corn—in recognition of the importance of this crop for livestock feeding.

These reserve stocks could be released by the Secretary of Agriculture only under definitely prescribed conditions—to make up the difference between the estimated demand and supply in years of anticipated underproduction or for disaster relief and similar purposes, such as maintenance of foundation livestock heards.

Procedures for purchase and sale are designed to help safeguard the interests of both consumers and the farmers, who have labored to produce the corps, rather than provide exaggerated profits to middlemen.

Purchase orders would go to individual farmers first, through county ASCS offices. Purchase prices would be 100 percent of the average farm price for the commodity for the previous 5 years, or the target price, whichever is greater.

In the case of sales, no one buyer would be allowed to purchase more than 10 percent of the stocks of any reserve commodity. Sales price could be no lower than 120 percent of either the average 5-year farm price, the target price, or the highest price the open market would pay, whichever is higher.

Provision is made for rotating reserve stocks to insure maintenance of quality, and at least 30 percent of the reserve stocks of each commodity must be stored in or near the areas of production to aid fast interior distribution when the need for this arises.

The Secretary of Agriculture would be required to submit to Congress a detailed report each year on the amounts and locations of each commodity stored and the transactions in each commodity in the preceding year, so that Congress can exercise adequate oversight of the program.

My proposal for international reserve participation is necessarily less specific and comprehensive, since such an undertaking is far more complex, and much more study and other groundwork remains to be done.

The legislation would authorize and encourage the participation of the United States in this effort in three ways.

First, it would direct the Secretaries of Agriculture and State to coordinate with the Food and Agriculture Organization's efforts to establish a basic information system and target reserve levels for each nation.

Second, it would allow examination of the possibility of coordination with the World Bank in providing capital to underdeveloped nations for construction of reserve storage facilities in those nations.

Finally, it would permit study of the possibility of pursuing CCC type policy at an international level, to provide further funds and technical assistance for food management in underdeveloped nations.

Mr. President, these matters are of prime importance to us at this time, and I urge the serious consideration of these proposals by this body.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 2831

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 Bank Act".

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall establish, maintain, dispose of, and replenish under the provisions of this Act a separate reserve of inventories of corn, grain sorghums, barley, and oats (hereinafter referred to as feed grains), wheat, and soybeans.

(b) Such reserve inventories shall include not more than the following quantities: (1) three hundred million bushels of wheat, (2) twenty-five million tons of feed grains, of which not less than 80 per centum in reserve at any time shall be in corn, and (3) one hundred million bushels of soybeans.

SEC. 3. The maximum price the Secretary shall pay for any commodity purchased under authority of this Act shall be (1) the average price farmers received for such commodity during the five marketing years immediately preceding the year in which the commodity is purchased, adjusted to reflect the customary location and grade price differentials, or (2) except in the case of soybeans, the target price established pursuant to Public Law 93–86, whichever is greater.

SEC. 4. The net additional quantity of any commodity procured under this Act in any marketing year shall be the lesser of the following:

(1) 60 per centum of the net additional estimated total carryover for the marketing year; or

(2) the amount the maximum reserve inventory specified in section 2(b) exceeds the total stocks of such commodity owned by the Commodity Credit Corporation at the beginning of the marketing year.

SEC. 5. The maximum price to be paid for any commodity, the quantity of any commodity to be procured during the marketing year, and the estimates used in arriving at such price and quantity shall be announced during such marketing year on the last Friday of July in the case of wheat, on the last Friday of October in the case of feed grains, and on the last Friday of September in the case of soybeans.

SEC. 6. In purchasing any commodity under this Act, the Secretary is authorized to allocate purchases of such commodity among the various varieties and grades thereof to correspond to the usual demands for such commodity.

SEC. 7. (a) Acquisitions made to increase the reserve of stocks of any commodity or to rotate the stocks of any commodity in order to insure quality of the stocks of such commodity shall be made according to the following priorities:

(1) By transfer from Commodity Credit Corporation owned stocks.

(2) By offer to purchase from the producers of such commodity through the offices of the local committees, established under section 8(b) of the Soil Conservation and Domestic Allotment Act, located in the area of production of such commodity.

(3) By offer to purchase on the open market through the offices of the State committees, established under section 8(b) of the Soil Conservation and Domestic Allotment Act.

The method authorized by clause (2) may be used only in the event that the method prescribed by clause (1) fails to provide the desired quantities, and the method authorized by clause (3) may be used only in the event that the method prescribed by clauses (1) and (2) fail to provide sufficient quantities.

(b) Not less than thirty per centum of the total inventory of each commodity acquired and stored pursuant to this Act shall be stored in the area of production, and not less than eighty per centum of that thirty per centum shall be stored in United States Government owned facilities.

SEC. 8. Except when a state of emergency has been proclaimed by the President or by a concurrent resolution of Congress declaring that commodity reserves held by the United States under this Act should not be sold, the Secretary shall offer each commodity in the reserve for sale at the following price: (1) one hundred and twenty per centum of the average price farmers received in the United States for such commodity during the preceding five marketing years, (2) except in the case of soybeans, 120 per centum of the target price established pursuant to Public Law 93–86, or (3) the market price, whichever is greater. The price of the commodity concerned shall be adjusted to reflect the customary location, grade price differentials, and reasonable carrying charges computed from the first day of the current marketing year. Sales during any marketing year shall be limited to the net quantities by which estimated domestic consumption and exports exceed estimated domestic production and imports; no one buyer or single trade entity shall be permitted to purchase more than ten per centum of the current stocks of any commodity held in reserve under this Act.

(c) The Secretary is also authorized to dispose of commodities in such reserve for the following purposes:

(1) For use in relieving distress (A) in any State, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Pacific Trust Territory, declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities, and (B) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief Act of 1970.

(2) For use in connection with a state of civil defense emergency proclaimed by the President or the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

(3) For use in the preservation and maintenance of foundation herds of cattle (including producing dairy cattle), sheep, and goats and their offspring, under section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and to provide feed for livestock in any emergency area under the Act of September 21, 1959, as amended (7 U.S.C. 1427, note).

(4) For use by the President to meet famine or other urgent or extraordinary relief requirements in friendly foreign countries.

SEC. 9. The Secretary may buy and sell commodities at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent necessary to properly handle, rotate, distribute, and locate the commodity reserve authorized by this Act. The Secretary shall announce his intention to purchase to offset any sale within two market days of the date of such sale, and purchases shall be made within 20 market days after the announcement.

SEC. 10. (a) The Secretary may accept warehouse receipts in lieu of taking physical possession of any commodity, but in such cases the obligor under the warehouse receipt shall be required at all times to have the grade stated on the warehouse receipt or a better grade available for delivery.

(b) The Secretary shall make a daily list available showing the price, location, and quantity of the transactions made under this section.

SEC. 11. The Secretary shall use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this Act, and shall, to the maximum extent practical consistent with the fulfillment of the purposes of this Act and the effective and efficient administration of this Act, utilize the local and State committees, established under section 8(b) of the Soil Conservation and Domestic Allotment Act, and the usual and customary channels, facilities, and arrangements of trade and commerce.

SEC. 12. The Secretary shall make a report to Congress prior to February 15 of each year which shall include therein the quantity of each commodity owned and stored pursuant to the provisions of this Act, the location of the stored commodities, including the quantity at each location, an itemized listing of purchases and sales made during the prior year, including the commodity, buyer or seller, quantity, price, and such other data as may be necessary to determine the effectiveness of the program provided for under this Act.

SEC. 13. (a) The Secretary and the Secretary of State shall participate to the fullest extent practicable with appropriate international organizations, including the Food and Agriculture Organization of the United Nations, in an effort to establish and maintain world reserves of basic food commodities.

(b) In connection with any action taken

under subsection (a), the Secretary and the Secretary of State shall conduct a study to determine the feasibility of the United States providing financial assistance and of the World Bank providing financial assistance to carry out a program to establish and maintain world reserves of basic food commodities, including increased storage facilities in other countries for the storage of such commodities.

(c) The Secretary and the Secretary of State shall submit a joint report to the Congress within one year after the date of enactment of this Act setting forth the results of actions taken under subsection (a) and the results of the study conducted pursuant to subsection (b). Thereafter they shall submit a joint report to the Congress each year describing any actions taken under subsection (a) together with any recommendations they deem appropriate.

SEC. 14. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. TAFT (for himself and Mr. PELL):

S. 2832. A bill to provide persons who unlawfully failed to register for the draft, or who unlawfully avoided military service, with an opportunity to earn immunity from prosecution and punishment for such offenses, and for other purposes. Referred to the Committee on the Judiciary, by unanimous consent.

THE EARNED IMMUNITY ACT OF 1974

Mr. TAFT. Mr. President, I ask unanimous consent, out of order, to introduce a bill dealing with the Selective Service Act and that the bill be referred to the Committee on the Judiciary.

Mr. President, it is understood that if and when this bill is reported from the Judiciary Committee, the Armed Services Committee, under whose jurisdiction it would normally fall, may want to take a look at it. Should that be the case, necessary steps will be taken to allow the Armed Services Committee to take a look at it.

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

Mr. TAFT. Mr. President, on December 14, 1971, I introduced S. 3011, the Amnesty Act of 1972. That bill offered a procedure of resolving the very difficult and very practical problem of many young Americans who are in prison, overseas, or living underground in the United States because of their resistance to the Vietnam draft. As I indicated before, many of these draft resisters have been victims of bad judgment and poor advice. Others, however, have acted out of deep personal objection to the cause which our country followed as the United States became involved in the Vietnam war.

Unfortunately, S. 3011 was not acted upon in the 92d Congress as it was not considered by the Subcommittee on Criminal Laws and Procedures of the Judiciary Committee. However, the same questions remain before the country today. Will we offer these young men an opportunity to become productive citizens in their country? Is it more in the interest of the country to have them spend time in jail and in exile or to have them serve their country through some type of alternative service, such as VISTA?

Senator PELL and I believe these young men should be provided with an alternative other than prison or exile and therefore, are introducing today the Earned Immunity Act of 1974. This legislation, while patterned after our proposal in the 92d Congress, does contain some significant changes in that it would require 2 years of alternative service, as compared to 3 in S. 3011. Further, it would create an Immunity Review Board, patterned after the procedure implemented by President Truman in 1946 after World War II. This board would be composed of five members appointed by the President with the advice and consent of the Senate. Of the five members, four would be nominated by the President from individuals recommended by the majority and minority leaders of the Senate and the Speaker and minority leader of the House. The duration of the Board would be for 4 years with the President appointing the chairman.

It is important to note that the Board could only review violations of the Military Selective Service Act from August 4, 1964—the date of approval of the Gulf of Tonkin resolution—to January 27, 1973—the date of the Paris Peace Agreement. Any individual falling into this category would have 1 year from the effective date of the act to present himself to the Board.

Our proposal does not involve unqualified amnesty for draft dodgers and deserters. Quite frankly, we would seriously question such an approach. We believe that deserters should not be encompassed within such legislation for several reasons.

First, those who are in the military are under the Code of Military Justice which involves an entirely different system of law and procedure than those who are merely draft resisters.

Second, those who leave the military and particularly those who leave combat units, have a far more disruptive impact on our Nation's defense posture than those who merely fail to show up at the induction center.

Finally, and most critically, the military estimates that less than 5 percent of those who desert do so for ideological reasons. Some young men desert because they get into trouble with an officer, commit a crime on the military base, or get into difficulty with civilian authority near a military base. A blanket amnesty that would include all deserters would be unfair and very disruptive of military discipline.

From July 1, 1966, through June 30, 1971, for example, there were 354,429 deserters. Desertion is defined administratively as being absent without leave for 30 consecutive days or more. Of this number, 319,168 were returned to military control as of September 1971. Those who would advocate amnesty for deserters, in my judgment, fail to appreciate the extensive number of deserters involved, the reasons for their desertion, and the fact that very few are related to an ideological opposition to the war.

I believe that it would be a great mistake to grant unqualified amnesty without any service requirement. I recognize that there are some Americans who believe that draft resisters should be welcomed back to our country as heroes with a tickertape parade. Certainly there are others who believe that they should be shot on sight. In my judgment, the sensible approach is to offer these young men an opportunity to earn their readmission to American society. Such a service obligation recognizes the indebtedness which they have to their country. In addition, a service requirement recognizes that many who served in Vietnam and died in Vietnam were just as opposed to the war as those who went to Canada. Since we impose a service requirement on our conscientious objectors, I see no reason why those who fled the country should be permitted to come back without undertaking the same type of service which our conscientious objectors have performed.

The case for qualified service becomes compelling when one considers the effect of the change in our Selective Service Law in 1970. Until the U.S. Supreme Court decided Welsh against United States, on June 15 of that year, individuals seeking conscientious objector status had to raise their objection in relation to their belief in a Supreme Being. When the Supreme Court ruled that a belief in a Supreme Being was no longer required, and that other deep-felt personal views could suffice, obvious inequities became evident.

In one family, two brothers might have held the same deep felt opposition to war. The elder son, who became draft eligible before the Welsh decision, could not have been classified as a conscientious objector and might have gone to prison or into exile. His younger brother, holding exactly the same views on war, could have become a conscientious objector. He would not be a criminal, and could be lawfully serving his country in alternative service.

Is it really fair for us to treat the elder brother as a criminal and the other brother as a lawful citizen? I think not.

Because over 55,000 young Americans have lost their lives and many more were wounded serving their country in Southeast Asia, we should not grant amnesty to draft resisters without requiring them to perform alternate service for America. But it would also be a great mistake for us to forever foreclose those who seek to change their status from participating in American life.

Those who are in the military are under the Code of Military Justice which involves an entirely different system of law and procedure than those who are merely draft resisters.

A Gallup poll commissioned for Newsweek indicates that while only 7 percent of Americans favor unqualified amnesty, and while only 22 percent of Americans oppose amnesty in any form, 63 percent of Americans favor a qualified amnesty with a service requirement such as I have proposed.

The Earned Immunity Act of 1974 would permit draft resisters to be released from prison or returned to the United States if they agreed to serve their country for a period of 2 years. They could serve America as members of our Armed Forces or they could elect to serve in alternative service. The alternative service could be in the public or

private sector as long as such service was approved by the Board. Because of the strength of our country, I believe America should give these young men an opportunity to return home and make positive contributions to our country.

I realize there will be those in the country that may abuse us for even offering such a proposal and question whether we have lost all sense of patriotism. I feel this is unfortunate and would ask such individuals to focus closely upon what we have proposed. Further, I would ask such individuals to consider the virtue of forgiveness, especially at this time of year.

I ask unanimous consent that the Earned Immunity Act of 1974 be printed in its entirety, and that a memorandum that my staff has prepared stating the general objectives that Senator PELL and I have with regard to this legislation also be printed in the RECORD.

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

S. 2832

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 Earned Immunity Act of 1974".

SEC. 2. (a) Notwithstanding any other provision of law, any person who, subsequent to August 4, 1964, and prior to January 27, 1973, unlawfully failed to register under the Military Selective Service Act or failed to comply with a lawful induction order for service in the Armed Forces of the United States may secure immunity from prosecution and punishment for offenses described in section 12 of the Military Selective Service Act and other related offenses if such person completes the period of public service hereinafter prescribed. To be eligible for immunity under this Act, an applicant shall—

(1) present himself by individual appearance, or that of an attorney at law or family member to the Immunity Review Board (established pursuant to section 4(a) of this Act) no later than one year after the effective date of this Act at such place and in such manner as may be required in regulations issued pursuant to section 4(a) of this Act;

(2) enter into a written agreement with the Immunity Review Board under which the applicant agrees, in return for immunity upon completion of the full performance of the agreement, to enlist and agree to serve two years in the Armed Forces of the United States, or up to two years in such alternative service, public or private, contributing to the national health, safety, or welfare as may be approved by the Immunity Review Board, including, but not limited to, service in Public Health Service hospitals, VISTA, and the Peace Corps, except as such term may be otherwise decreased by the Board pursuant to section 4; and

(3) agree to compensation for such period adequate to provide a standard of living reasonably comparable to that which the same man would have enjoyed if he entered the Armed Forces of the United States at the lowest pay grade without promotion and otherwise comply with such regulations as to compensation as are promulgated by the Immunity Review Board established pursuant to section 4(e) of this Act.

(b) During the term of any agreement entered into by any person pursuant to subsection (a)(2), the United States shall withhold any administrative or judicial action to prosecute such person for any violation of any law referred to in such agreement, and any applicable statute of limitations shall be tolled during the period such agreement is in effect.

(c) The willful failure of any person to comply with any term of an agreement entered into under this Act shall constitute grounds for termination of such agreement by the United States. Such termination of the agreement shall void any conditional grant of immunity made under this Act, but any evidence accumulated by or submitted to said Immunity Review Board shall not be released to any governmental agency.

SEC. 3. Any person otherwise eligible for immunity under this Act who is under indictment, who has been convicted, or who is serving a prison sentence arising out of conduct described in section 2 of this Act shall be eligible to earn immunity hereunder, including the revocation of any judgment of conviction, termination, or suspension of any action upon any indictment heretofore entered; but any person subject to the Uniform Code of Military Justice (chapter 47 of title 10, United States Code) shall not be entitled to earn immunity from the sentence or other punishment imposed by any military court under such Code.

SEC. 4. (a) There is hereby established a board which shall be known as the Immunity Review Board (hereinafter referred to as the "Board"). The Board shall be empowered to execute such agreements necessary to effectuate the purposes of this Act and to determine the length of service, if any, required hereunder to earn immunity in accordance with individual circumstances. The Board shall be empowered to issue rules and regulations to effectuate the Congressional intent manifested herein and such rules and regulations shall be promulgated in accordance with chapter 5 of title 5, United States Code.

(b) The Board shall be composed of five members appointed by the President, with the advice and consent of the Senate, four of whom shall be appointed as follows—

(1) One member shall be appointed from among individuals recommended by the majority leader of the Senate.

(2) One member shall be appointed from among individuals recommended by the Speaker of the House of Representatives.

(3) One member shall be appointed from among individuals recommended by the Minority Leader of the Senate.

(4) One member shall be appointed from among individuals recommended by the Minority Leader of the House of Representatives.

A vacancy on the Board shall be filled in the manner in which the original recommendation was made. Members shall be appointed for the life of the Board.

(c) Members of the Board shall each be entitled to receive an annual salary and reimbursement for expenses equal to the annual salary and expenses payable to a United States district court judge.

(d) Three members of the Board shall constitute a quorum. The Chairman of the Board shall be selected by the President from among members of the Board.

(e) The Board shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of 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.

(f) Each department, agency, and instrumentality of the executive branch of the government, including independent agencies, is authorized and directed to furnish to the Board, upon request made by the Chairman, such information as the Board deems necessary to carry out its functions under this Act.

SEC. 5. (a) The Board shall designate one or more of its members to study each application filed with it under this Act and such member or members shall make a recommendation to the full Board. Prior to the final decision by such Board, the applicants must be timely furnished with a written copy of such recommendations and shall have the opportunity to submit, in accordance with regulations and procedures established by the Board, any additional statements he deems appropriate. The decision of a majority of the Board determining the period needed to earn immunity shall be a final determination not subject to judicial review in any form, notwithstanding any other provision of law.

(b) The Board shall determine the length of alternative service to be included in any agreement consummated in accordance with section 2 of this Act when the applicant demonstrates to the satisfaction of the Board that:

(1) At the time the applicant performed the acts for which he now seeks immunity he was erroneously convinced by himself or others that he was not then or would not be in violation of the Military Selective Service Act by his action;

(2) The applicant could have qualified for classification as a conscientious objector under the decisions of the United States Supreme Court prevailing at the end of the time period set forth in section 2(a);

(3) A member of the applicant's immediate family is now in desperate need of his personal presence for which no other substitute could be found, and such need was not of his own creation;

(4) The applicant demonstrates a lack of mental capacity which might have rendered his acts less than willful;

(5) The applicant has been in the past, or is currently, subject to judicial sanctions for committing offenses for which he seeks immunity; or

(6) Such other circumstances as are consistent with the principles expressed herein.

(c) Nothing in subsection (b) of this section shall authorize the decrease in a term of service solely because of selective opposition to United States military actions in Southeast Asia, it being the sense of Congress that the full terms of service required by section 2 (a) shall be required to earn immunity from prosecution or punishment under such circumstances.

(d) Any assignment of alternative service pursuant to this Act shall not interfere with the competitive job market by assigning a person in a capacity for which there are other qualified aplicants not subject to this Act, nor shall assignments of alternative service pursuant to this Act be permitted to prejudice in any manner the employment opportunities for individuals who have served in the Armed Forces of the United States.

SEC. 6. This Act shall not apply in the case of any person otherwise eligible for immunity if such person (1) is serving a prison sentence for an offense not described in section 2 of this Act or is scheduled to serve, immediately after completion of his sentence for an offense described in section 2 of this Act, a prison term for any other offense for which he has been convicted, or (2) is under indictment for any offense for which immunity may not be granted under this Act.

SEC. 7. All references in this Act to the Military Selective Service Act shall be deemed to include reference to prior corresponding Acts and other statutes of the United States whose applicability depend upon the activities for which the applicant seeks immunity under this Act from prosecution or punishment under an agreement by and between applicant and the Board.

SEC. 8. The Board shall cease to exist four years after the effective date of this Act.

SEC. 9. The provisions of this Act shall not be construed as an attempt to affect in any way the power of the President under section 2 of Article II of the Constitution to grant reprieves and pardons for any offense referred to in section 2 of this Act.

SEC. 10. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) The Board shall reimburse any department or agency of the Government for the salary and other incidental expenses incurred by such department or agency in utilizing the services of persons assigned to perform alternative service under this Act.

SEC. 11. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 12. This Act shall become effective 60 days after date of enactment.

"THE EARNED IMMUNITY ACT OF 1974": SECTION-BY-SECTION ANALYSIS BY SENATOR ROBERT TAFT, JR.

I. PURPOSES OF THE ACT

A. Introduction

On January 27, 1973, the United States of America entered upon a new era in its relationship to the hostilities in Indochina. At that time, as a result of extensive negotiations, a series of agreements was entered into which has enabled the United States to repatriate its prisoners of war in that area and fulfill its pledge to bring about a cease-fire and peace. Because of these conditions, it is now appropriate to reconsider the situation of those persons who have failed to register for selective service, failed to comply with a lawful induction order, or otherwise disregarded the duties placed upon them with respect to reporting for military service.[1]

B. Those persons who have evaded prosecution for selective service violations should be granted immunity upon the completion of a contractual obligation for compensatory personal service.

In the 92nd Congress, I introduced Senate Bill 3011, which addressed itself to this problem in a preliminary manner. As I had hoped, it provoked considerable discussion and I hope the country has benefited from the many comments, both pro and con, which have been made about my original bill. I am particularly grateful for the thoughtful and serious comments which have been made in a series of law review articles.[2]

As a result of the discussions which Senator Pell and myself, together with our staffs, have held, we now feel that we are in a position to suggest to the Senate the "Earned Immunity Act of 1974" which embodies, we believe, a responsible resolution of the inherent conflict between the demand for total amnesty and the demand for total punishment. We subscribe to neither end and believe our bill reflects that commitment.

The purpose of the legislation, as stated in the purpose clause, is to offer the opportunity to men falling within the class to *earn* immunity from prosecution and punishment under the Military Selective Service Act. As is set forth in Section 2(a) of our bill, only those persons who took unlawful actions under that Act between August 4, 1964, and January 27, 1973, are eligible to seek immunity from prosecution and punishment. Furthermore, such immunity arises only upon the completion by such individual of the terms of a written agreement which such applicant undertakes with the United States. Under that written agreement, the applicant would, in return for immunity upon completion of full performance, agree to enlist and serve for up to 2 years in the Armed Forces or up to two years in alternative service, public or private, contributing to the national health, safety or welfare.

II. ANALYSIS

A. The Immunity Review Board

1. The Immunity Review Board shall determine the conditions by which each applicant shall obtain immunity

This Act contemplates the creation of an "Immunity Review Board," which we have deliberately modeled as an analogy to a board utilized by President Truman.[3] Sections 2(a) and 3 of the Act set forth the general class of persons eligible for immunity, and the general conditions prerequisite to obtaining said grant. Section 4(a) establishes the Board, and delegates to it the authority to determine, on a case by case basis, the conditions which each applicant must fulfill in order to gain immunity. Section 3 permits individuals currently subject to judicial sanctions for violations of the Selective Service Act to similarly obtain immunity through the Board from the further imposition of sanctions.

2. Congress is empowered to create the Immunity Review Board and delegate to it the authority to grant immunity

There can be no question that Congress has the Constitutional authority to enact legislation permitting certain classes of individuals to obtain immunity from criminal prosecution. It is clear that, just as the President may grant reprieves and pardons to particular individuals,[4] Congress may immunize a general class of individuals from prosecution.[5] For example, in 1865, Congress directed the President to issue a proclamation announcing a pardon for all deserters who returned to their posts within sixty days.[6]

This legislative power of immunity has also been exercised numerous times where it has been considered necessary to obtain testimony in connection with criminal investigations.[7] The responsibility to determine which persons should be granted this immunity has variously been placed in federal agencies, prosecutors, and Congressional committees.[8]

Congress also has the undisputed power to modify the terms and conditions of judicial sanctions imposed on those convicted of crimes. This authority has been delegated to the Federal Board of Parole, granting that Board broad discretion in determining whether it should mitigate or alter the form of punishment imposed.[9] The authority exercised by the Board of Parole is probably the most common use of our legislative power of immunity.

The duties and powers of the Immunity Review Board partake of all three of the foregoing examples. This Board is empowered to deal with all members of the specified class of persons to whom Congress has extended this conditional offer of immunity. The Board shall promulgate rules and regulations, and pursuant to them consider the merits of each individual case. The Board shall then offer appropriate conditions of service to each applicant, the fulfillment of which shall entitle that individual to immunity.

B. The Board shall utilize the grounds set forth in the Act in determining the appropriate length of service

Section 5 of the Act sets forth the grounds which we believe the Immunity Review Board should consider in determining the appropriate length of service required for an applicant to gain immunity. One example of the grounds that the Immunity Review Board might consider in mitigation is that of a person who thought he would have been required to perform military service but, in fact, he would not have. The usefulness of the Immunity Review Board in this context would be that each person would have the opportunity to present his individual case before the terms of the agreement would be fixed.

The second ground for consideration by the Immunity Review Board deals with the possibility that the applicant could have secured classification as a conscientious objector. The United States Supreme Court, throughout the Indochina period, gradually broadened its definition of conscientious objector. As a result, one who applied in 1972 could have secured that classification, whereas the same individual, applying in 1964, could not have.[10] We have no illusions about the difficulties involved in administering a procedure which takes into account changing judicial standards. Nevertheless, it is our feeling that any person who could have qualified as a conscientious objector on January 27, 1973 should be permitted to have that fact considered in judging the length of time he would be required to serve under his agreement in order to secure immunity from violation of law. It may be appropriate at this point to mention that we do not believe that it is possible to instruct the Immunity Review Board on how much weight to give to any one particular factor. This does not result from any desire on our part to delegate our legislative function, but, instead, it demonstrates our belief that the confusion and controversy surrounding this matter requires a qualified and thorough analysis. To that end, the legislation instructs the Immunity Review Board, in Section 4(a), to issue rules and regulations in accordance with the Administrative Procedure Act to effectuate these purposes.[11] We would anticipate that the Immunity Review Board would give serious consideration to the Congressional criteria and would establish rules based upon their experience and review.

The third ground set up by our legislation is the existence of an overwhelming need for the personal presence of the applicant with his family. We can conceive of situations where such need results from illness in the family where the person should be released immediately from any further obligation to earn the immunity. However, it is not inconceivable that the Immunity Review Board could accept a deferred contractual obligation in appropriate cases.

The fourth Congressional criterium set forth in our legislation deals with the problem of lack of mental capacity at the time of the alleged unlawful activity. It is entirely possible that there are groups of men of low mental capacity who, through peer pressure or otherwise, took action which, upon full examination, provides a basis for mitigation of the length of service.

The fifth ground provides for those persons who are presently being punished for Selective Service Act offenses. Such persons who have already served time in prisons or periods of probation and/or parole may apply to the Board for immunity from further such treatment. The Board should take this past punishment into account when fashioning the terms of agreements in these cases.

Also, it is deliberately left open to the Immunity Review Board to develop other grounds for consideration as are consistent with the principles embodied in the Act.

Finally, we believe it is appropriate to include a criterium which, when applicable, conclusively forbids reduction of the maximum term of service. Those individuals whose sole motivating factor was selective opposition to the Vietnam War, while not disqualified from securing immunity, cannot use that factor as the basis for any reduction in the term, since that has never been a basis for a similar action by any of the draft regulations.[12]

Footnotes at end of article.

C. The actions of the Immunity Review Board shall not be judicially reviewable

The Act explicitly provides that the decisions of the Immunity Review Board as to term of service proposed shall be final and not subject to judicial review. This investiture of unreviewable power, under analysis, is neither arbitrary nor unwarranted.

The Board is a Congressional mechanism to insure that a person entitled to immunity can gain it through conditions appropriate to his individual case. The Act sets forth relevant criteria for this determination, and confides total discretion to the Board in applying those criteria to the myriad of relevant facts. This exercise of discretion, as delegated to the Board by Congress, should not be the subject of judicial inquiry. It is analogous to the power of the Executive Department, which is charged with the faithful execution of the law, to determine whether or not to institute prosecution in a particular case. The leading opinion is that written by now Chief Justice Berger in the case of *Newman v. United States*, 382 F.2d 479 (C.A. D.C. 1967). In the *Newman* case the United States Attorney determined not to accept a plea from one of two co-defendants. The argument was made that this conduct denied due process and equal protection. Mr. Justice Berger held that this was a matter of first impression and that it had to be resolved on the basis of the constitutional division of power. As Chief Justice Berger stated,

"Few subjects are less adapted to judicial review than the exercise . . . of . . . discretion in deciding when and whether to institute criminal proceedings, or what precise charge should be made, or whether to dismiss a proceeding once brought." (382 F.2d at p. 480).

The Chief Justice, speaking for a unanimous panel, concluded that "no court has any jurisdiction to inquire into or review his decision." *Id.* at 482. In an earlier decision, the Court of Appeals for the Fifth Circuit, speaking *en banc*, held that:

"The courts are not to interfere with the free exercise of the discretionary powers of the Attorneys of the United States in their control over criminal prosecutions." *United States v. Cox*, 342 F.2d 167, 171 (5th Cir.), *cert. den.*, 85 S.Ct., 1767 (1965).

The powers to be exercised by the Board are dramatically similar to that of federal prosecutors. The factors to be considered in each case are so numerous and subtle as not to be susceptible of judicial evaluation and weighing. The analogy shown here leads inescapably to the conclusion that judicial review of these decisions be precluded.

A second example of unreviewable discretion also warrants attention. The Federal Board of Parole provides a striking model of the future tasks of the Immunity Review Board. Similar factors must be weighed by each board in reaching a decision. The courts have long since recognized Congress granted the Board of Parole "absolute discretion" in the grant or denial of parole.[13] In the face of this discretion, judicial review is necessarily precluded.

In the absence of evidence of flagrant, unwarranted, or unauthorized action by the Board, it is not the function of the courts to review such proceedings. *Scarpa*[14] *v. U.S. Board of Parole*, 477 F.2d at 283.

The *Scarpa* court enunciated the principle behind this viewpoint: the government may, in its unreviewable discretion, confer a benefit on an individual or refuse to change an individual's status to the better; on the other hand, where a cognizable benefit is withdrawn, the courts will examine that action to insure the presence of due process.[15] The Immunity Board of Review will confer a benefit, a reduction in service, when it finds it appropriate. The Board need not be reviewed as to the merits of its decisions.

D. Limitations of the Scope of the Act

First of all, it does not apply to anyone serving a prison sentence for crimes unrelated to selective service violations. Furthermore, it is not applicable to those persons who have deserted from the United States Armed Forces. We believe that the problems of these latter individuals are so inextricably intertwined with the considerations of military discipline that a comprehensive solution for that category of persons is beyond the proper scope of this legislation.

III. CONCLUSION

The legislative power of immunity has been little exercised in the context of military service. The reasons for this prior dormancy are varied, but sometimes readily apparent—as where action had been taken by the Executive branch, in each of the country's previous conflicts so as to make Congressional action unnecessary.

Moreover, there is some evidence that an informal type of "amnesty" has been administered on a haphazard basis throughout the United States by the various United States Attorneys. It is widely believed that a lesser sentence may be secured by prosecution in one part of the country;[16] and it is well known that the Justice Department has been less than diligent in pursuing the violations of the various acts involved. An important advantage to having an Immunity Review Board would be that of uniformity; the same considerations would be applicable to all persons who sought immunity from prosecution and, although no one would be compelled to seek immunity, it is anticipated by us that the existence of an alternative uniform procedure would cut down or eliminate the apparently discriminatory practices which are now in existence throughout the country.

We fully recognize the limitations inherent in our legislation, and we hope to provoke a further discussion of this matter with the goal that this acrimonious problem may be resolved in a manner which would benefit not only the individuals involved but the country as a whole. We believe that the time is ripe to move on this issue and that the Congress of the United States should not deny itself the opportunity to consider fully the very serious questions raised by this matter.

FOOTNOTES

[1] The exact number of such persons is in dispute. Our staff analysis, as of the summer of 1973, estimated that at least 18,500 individuals were abroad because of resistance to the draft. As of July 23, 1973, the Department of Justice reported that another 1,351 persons were indicted and awaiting trial and 300 men were imprisoned. The number of persons living "underground" in the United States is very difficult to ascertain, but the most conservative estimates place that figure at several thousand. In sum, the number of persons within the scope of this legislation quite probably exceeds 30,000.

[2] The first bill I introduced on December 14, 1971, was S. 3011. It was referred to the Committee on the Judiciary. The Sub-committee on Administrative Practice and Procedure held hearings on "Selective Service System Procedures and Administrative Possibilities for Amnesty" on February 28, 29, and March 1, 1972 (hereinafter referred to as "Hearings"). The Hearings have been printed by the United States Government Printing Office and comprise 671 pages with considerable amount of source materials incorporated therein. In addition, S. 3011 has been the subject of discussion in a number of law review articles written on the topic. They include the following: Jones and Raish, "American Deserters and Draft Evaders: Exile, Punishment or Amnesty?", 13 Harvard International Law Journal 88 (Winter 1972) (printed verbatim in the Hearings at pages 450–478); Roth and Rothman, "The Authority of a Congress to Grant Amnesty," Yale Legislative Services (1972) (printed at pages 490–501 of the Hearings); Comment, "A History and Discussion of Amnesty," 4 Columbia Human Rights Law Review 529 (Fall 1972); Comment, "Draft Resisters in Exile: Prospects and Risks of Return," 7 Columbia Journal of Law and Social Problems 1 (Winter 1971); Lusky, "Congressional Amnesty for War Resisters: Policy Considerations and Constitutional Problems," 25 Vanderbilt Law Review 525 (April 1972): Migliore, "Amnesty: An Historical Justification for its Continuing Viability," 12 Journal of Family Law 63 (1972–73).

[3] Under Article II, Section 2, Clause 1, the President has the power to ". . . grant reprieves and pardons for offenses against the United States. . . ." There have been numerous examples of the use of this power over the years and they are discussed thoroughly in the various law review articles. President Truman, before exercising that power, created an "Amnesty Board" composed of three members who examined and considered the cases of persons who had already been convicted of violations of the Selective Service Law during World War II. Executive Order 9814, 11 Federal Register 14645 (December 23, 1946). The Amnesty Board was composed of Owen Roberts, Willis Smith, and James F. O'Neil, and they submitted their report to the President exactly one year later, December 23, 1947. That report is printed verbatim at pages 485–489 of the Hearings. As is stated therein, after reviewing 15,805 convictions, the Board recommended that 1,523 persons be granted executive clemency.

[4] U.S. Const. Art. II, § 2; *Ex parte Garland*, 71 U.S. (4 Wall) 333, 380 (1866). Also see Humpert, *The Pardoning Power of the President* 40 (1941).

[5] In *Brown v. Walker*, the United States Supreme Court acknowledged that the power of reprieve and pardon expressly granted the President in no way affected the general authority residing in the legislative branch. 161 U.S. 591, 40 L.Ed. 819, 822 (1896). See also the *Laurg*, 114 U.S. 411 (1884).

[6] Act of March 3, 1865, 13 Stat. 190–91. For a similar exercise of legislative pardon, see Act of July 17, 1862, 12 Stat. 592.

[7] E.g., 27 Stat. 443 (1893), 49 U.S.C.A. § 46 (1969), constitutionality upheld, *Brown v. Walker*, supra; 32 Stat. 904 (1903), 15 U.S.C.A. § 32, 49 U.S.C.A. § 47 (1969), constitutionality upheld, *Hale v. Henkel*, 201 U.S. 43 (1906). Such statutes have "become part of our constitutional fabric." *Ullman v. United States*, 350 U.S. 422, 438 (1956). *See also* Comment, *The Federal Witness Immunity Acts in Theory and Practice: Treading The Constitutional Tightrope*, 72 Yale L.J., 1568 (1963).

[8] See, for example, the "use" immunity provisions of the Organized Crime Control Act of 1970, 18 U.S.C.A. § 6001–05 (Supp. 1973). See also, *Kastigar v. United States*, 406 U.S. 441 (1972), upholding these provisions.

[9] 18 U.S.C.A. § 4201 et seq. (1969). "By the language of [this statute], the Board of Parole is given absolute discretion in matters of parole." *Scarpa v. U.S. Board of Parole*, 477 F.2d 278, 280 (5th Cir. 1973); *accord. Hyser v. Reed*, 318 F.2d 225 (D.C. Cir. 1963) (*per* Berger, J.).

[10] *Compare, George v. United States*, 196 F.2d 445 (9th Cir.), *cert. den.*, 344 U.S. 843 (1952), *with United States v. Seegar*, 380 U.S. 163 (1965) *and Welsh v. United States*, 398 U.S. 333 (1970).

[11] In issuing rules, the Board is directed to utilize the procedures set forth in 5 U.S.C.A. § 551 *et seq.*; however, the Board is in no way subject to the other provisions of the Administrative Procedure Act.

[12] This conclusion is in accord with the Supreme Court's interpretation of the conscientious objector clause in *Gillette v. United States*, 401 U.S. 437 (1971).

[13] *Scarpa v. U.S. Board of Parole*, 477 F. 2d 278, 280 (5th Cir. 1973); *accord., Hyser v. Reed*, 318 F. 2d 225 (D.C. Cir. 1963).

[14] *Accord, Menechio v. Oswald*, 430 F. 2d 403, 406-09 (2d Cir. 1970), *cert. den.*, 400 U.S. 1023 (1971); *Dorado v. Kerr*, 454 F. 2d 892 (9th Cir. 1972).

[15] 477 F. 2d 278, 282. *Compare, Morrissey v. Brewer*, 408 U.S. 471 (1972) (revocation of parole).

[16] In fiscal year 1972, certain district courts reported widely disparate results:

Minnesota—94 convicted; 47 subsequently imprisoned (50.0%);

Washington—65 convicted; 31 subsequently imprisoned (47.7%);

California (Cent. Dist.)—168 convicted; 51 subsequently imprisoned (30.4%);

California (Nor. Dist.)—305 convicted; 55 subsequently imprisoned (18.0%);

Michigan—90 convicted; 5 subsequently imprisoned (5.5%).

Source of data: 1973 Semi-annual Report of the Director of the Administrative Office of the United States Courts, Fig. 24.

It has often been rumored among draft resistor groups that Northern California was the most lenient district. The above figures appear to dispute this. However, the disparity between belief and actual statistics simply underscores the need for a uniform coordinated approach.

Also see *Newsweek*, Oct. 1, 1973, "A Kind of Amnesty", p. 34.

By Mr. THURMOND:

S. 2834. A bill to amend title 10 of the United States Code to provide that certain additional amounts received by retired servicemen employed in the Junior Reserve Officers' Training Corps shall be treated as subsistence or uniform allowances or as amounts received as commutation of quarters. Referred to the Committee on Armed Services.

JUNIOR RESERVE OFFICER TRAINING PROGRAM

Mr. THURMOND. Mr. President, one of the most beneficial and successful educational and training programs in our country for preparing young men and women to be responsible citizens is the Junior Reserve Officers Training Corps—JROTC—program in high schools across the Nation.

The Congress fully recognized the vital importance of this program when it enacted Public Law 88-647 entitled, "Reserve Officers' Training Corps Vitalization Act of 1964." One of the provisions of the law provided for an agreement between the Military Departments and the participating educational institutions to use retired military personnel as instructors and administrators.

Since retired military pay is not sufficient to live on in most cases, an added financial incentive to attract highly qualified retired personnel was incorporated in the law. It provided for the Government and the educational institution to share equally an additional amount equal to the quarters allowance and subsistence pay which the retired member would receive if on active duty. These allowances have always been tax exempt for active duty personnel, but such exemption is not granted those retired personnel who are highly motivated to teach in the JROTC program.

Mr. President, I am confident that it was not the intent of the Congress that the Vitalization Act be interpreted to disallow this exemption. However, an effort to obtain this exemption has not been successful with the Internal Revenue Service, or in the courts, due to the lack of clarity in the current law.

There are about 3,000 retired military members who are dedicating themselves to this important citizenship program. These extra allowances are relatively a small part of their pay from the institution and the Government. The larger portion of their salary is taxable. Consequently, I am introducing an amendment to Public Law 88-647 to clarify the language in the Vitalization Act. It will allow the exemption as an incentive measure and a more livable wage. This amendment will help to insure that this vital program will continue to flourish by helping to train young people to become productive citizens in our society.

Mr. President, I urge my distinguished colleagues to join me in approving this important measure.

By Mr. HUMPHREY:

S. 2835. A bill to rename the first Civilian Conservation Corps Center located near Franklin, N.C., and the Cross Timbers National Grasslands in Texas in honor of former President Lyndon B. Johnson. Referred to the Committee on Agriculture and Forestry.

LYNDON B. JOHNSON: TEACHER, CONSERVATIONIST, PRESIDENT

Mr. HUMPHREY. Mr. President, I am introducing a bill today which would rename the first Civilian Conservation Corps Center, located near Franklin, N.C., and the Cross Timbers National Grasslands in Texas, in honor of former President Lyndon B. Johnson.

Mr. President, I ask unanimous consent that this bill be referred to the Committee on Agriculture and Forestry.

The bill pays tribute to a man who had a constant interest in the enhancement and development of people as our Nation's basic resource and in the conservation of our natural resources as basic to our people reaching their aspirations. This Nation's quest for major improvement in the quality of our national environment will be fostered by recognizing Lyndon B. Johnson's dedication to this important goal.

I propose that we name two areas for Lyndon Johnson which appropriately honor his efforts over the years to advance both the cause of conservation and the opportunity for personal development. In 1959, when the first post-war effort to reactivate the Civilian Conservation Corps concept was before the Senate, it was Lyndon Johnson as majority leader of the Senate who gave this program the impetus it deserved. He knew, from his experience as a high school teacher and from his experience as Director of the National Youth Administration in Texas in the depth of the depression, how vital it was that we give every young person an opportunity to secure an education that would enable that person to utilize fully his or her capabilities.

Lyndon Johnson knew and loved the land. He knew that people had to have a tie to the land and that this was the bedrock of national unity. The Civilian Conservation Corps of the 1930's was a program about which he had a great deal of knowledge. He knew from experience what it had done for youth and for conservation.

In the late 1950's, when I urged that we reestablish the Youth Conservation Corps, the first person I turned to for advice and counsel as a young Senator was Lyndon B. Johnson. As majority leader, the program had his full support and he made a significant effort to get a bill adopted by the Senate in 1959. That was as far as we got—and we did not get the program adopted in the early 1960's, despite the support that President John F. Kennedy gave the program.

However, shortly after Lyndon Johnson became President, he told me of his plans to do something for youth and conservation by getting a youth conservation program into action. He intended to do more than the program of the 1930's. And he did.

The 1964 Economic Opportunity Act was a broad assault on poverty and ignorance and a key part of that program were the Youth Conservation Camps established as part of the Job Corps.

The first camp was set up near Franklin, N.C. I propose that this camp be renamed the Lyndon B. Johnson Youth Conservation Corps Center.

For Lyndon Johnson the love of the land was one of the strengths of his character and the land itself a restorer of his faith in America. For him looking out over the grasslands of his native Texas kindled his energy and lit his resolve. Lyndon Johnson knew instinctively that man had to work with nature—not fight with nature—if he was going to survive and prosper on this earth. Lyndon Johnson had an intuitive understanding of ecological relationships even though I do not think he ever used those exact words. To him it was the "need to work with nature." He saw that we were mining our resources "rather than minding our resources." He set about to rekindle a national resolve to reverse the desecration of the land.

In 1964 President Johnson signed into law the National Wilderness Act and the Land and Water Conservation Fund Act. He spurred action on devising a national awareness of the vital importance of our resources. In 1967 he embarked on a program to establish natural beauty and conservation as national goals, and he convened a Citizens Advisory Committee on Recreation and Natural Beauty.

A National Grassland is located in Wise and Montague Counties, Tex. These are lands that were worn out and run down until under national programs they were purchased and the process of their rehabilitation began. This area shows not only what can be done, but it also demonstrates the opportunity that exists to do more in the way of conservation of our natural resources. But most of all this sea of restored and renewed grassland represents the faith that Lyndon Johnson had in the land. I, therefore, propose that this area be named the Lyndon B. Johnson National Grasslands.

I have discussed this matter with Mrs. Johnson and she has expressed a warm interest in and support of this proposal as one which would mark interests that were held dearly and closely by her late husband. I hope that we can move expeditiously to enact this legislation.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2718

At the request of Mr. PELL, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Maryland (Mr. BEALL), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 2718, the Federal Election Financing Act.

S. 2774

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 2774, to provide assistance in improving zoos and aquariums by creating a National Zoological and Aquarium Board.

S. 2782

At the request of Mr. NELSON, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2782, a bill to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of United States energy resources on public lands and elsewhere, and for other purposes.

S. 2786

At the request of Mr. PERCY, the Senator from Iowa (Mr. CLARK) and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of S. 2786, a bill to amend chapter 34 of title 38 United States Code, to increase from 36 to 48 months the maximum period of educational assistance to which an eligible veteran may become entitled under such chapter, and to extend from 8 to 15 years the period within which an eligible veteran must complete his program of education under such chapter after his discharge from military service.

SENATE RESOLUTION 222—SUBMISSION OF A RESOLUTION TO AUTHORIZE A NATIONAL OCEAN POLICY STUDY

(Referred to the Committee on Commerce.)

Mr. MAGNUSON (for himself, Mr. HOLLINGS, Mr. EASTLAND, Mr. MCCLELLAN, Mr. FULBRIGHT, Mr. SPARKMAN, Mr. STENNIS, Mr. LONG, Mr. PASTORE, Mr. JACKSON, Mr. MANSFIELD, Mr. ERVIN, Mr. COTTON, Mr. HUGH SCOTT, Mr. BIBLE, Mr. TALMADGE, Mr. RANDOLPH, Mr. CANNON, Mr. HARTKE, Mr. MCGEE, Mr. MOSS, Mr. WILLIAMS, Mr. BENTSEN, Mr. EAGLETON, Mr. RIBICOFF, Mr. ROBERT C. BYRD, Mr. HUMPHREY, Mr. STEVENS, Mr. KENNEDY, Mr. METCALF, Mr. STEVENSON, Mr. MCGOVERN, Mr. MCINTYRE, Mr. NUNN, Mr. ALLEN, Mr. GURNEY, Mr. HART, Mr. BUCKLEY, Mr. GRAVEL, Mr. ABOUREZK, Mr. DOMENICI, Mr. DOMINICK, Mr. PELL, Mr. CHILES, Mr. BURDICK, Mr. WEICKER, Mr. BIDEN, Mr. TUNNEY, Mr. DOLE, Mr. HATFIELD, Mr. JOHNSTON, Mr. CRANSTON, Mr. MATHIAS, Mr. MUSKIE, and Mr. BEALL) submitted the following resolution:

S. RES. 222

Resolution to authorize a National Ocean Policy Study

Whereas the oceans offer the potential for major contribution to world peace and to the quality of life, and the future of mankind, at least in part, may well be dependent upon his knowledge and wise use of the sea; and

Whereas the oceans are of enormous present and potential benefit to all citizens of the United States owing to their extensive supply of living and nonliving resources and because of their utilization as a pathway for maritime commerce and as a continuing source of impact upon the national security, balanced growth, technology, scientific understanding, and the quality of the world environment; and

Whereas the depletable living and nonliving resources of the oceans will necessarily be utilized increasingly in future years as a principal source of protein, raw materials, and energy; and

Whereas the coastal margin of the United States, as one of the Nation's prime resources, is under ever-expanding pressure due to its desirability for siting of commerce, industry, and habitation, and due to increasing needs for recreation, transportation, urbanization, and biological reproduction; and

Whereas serious national and global problems exist and are growing in ocean contamination as a result of land- and vessel-source pollution; and

Whereas the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 2 et seq.) was enacted to develop a comprehensive, long-range national oceans policy, but such Act has been neither fully implemented nor completely successful in achieving that goal; and

Whereas the utilization of ocean resources and solving ocean-related problems depend directly upon developing oceanic knowledge and technology, resolving conflicts of national and international jurisdiction over the ocean, protecting the quality of the marine environment, and, foremost, upon establishing a clear and comprehensive national oceans policy: Now, therefore, be it

Resolved, That the Committee on Commerce is authorized under sections 134(a) and 136(a) of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, as amended, to make a full and complete investigation and study of national oceans policy for the purpose of—

(1) determining current and prospective national capabilities in the oceans, including marine sciences and their application, oceanic research, advancement of oceanic enterprise and marine technology, interdisciplinary education, policy planning, professional career and employment needs, and overall requirements of the United States consistent with the attainment of long-range national goals;

(2) determining the adequacy of current Federal programs relating to the oceans and recommending improvements in agency structure and effectiveness to meet national needs and achieve oceans capabilities, and assessing existing policies and laws affecting the oceans for the purpose of determining what changes might be necessary to assure a strong and internationally competitive oceans policy and program for the United States;

(3) establishing policies to achieve the goal of full utilization and conservation of living resources of the oceans and recommending solutions to problems in marine fisheries and their management, rehabilitation of United States fisheries, current and future international negotiations on fisheries, as well as aquaculture and the extraction of drugs from the sea;

(4) assessing the needs for new policies for the development and utilization of the nonliving resources of the oceans, including the mineral resources of the Outer Continental Shelf and the deep seabed so that the national mineral needs can be met in an economically and environmentally sound manner;

(5) encouraging implementation of coastal zone management through the Coastal Zone Management Act of 1972 by assessing regional and intertsate problems, State functions and powers in coastal zone management, information sources, recreation needs, pollution problems, population trends, and future pressures in the coastal zone;

(6) establishing comprehensive national policy for the purpose of understanding and protecting the global ocean environment through education, exploration, research, and international cooperation; and

(7) making an assessment of proposals for, and current negotiations with respect to, achieving adequate national and international jurisdiction over the oceans, developing and understanding of the relationship of the oceans to world order, and examining United States policy with respect thereto.

SEC. 2. In order that other standing committees of the Senate having jurisdiction under Rule XXV of the Standing Rules of the Senate, as amended, over specific elements of the study authorized in section 1, may participate in that study, the chairman and ranking minority member of each of the Committees on Appropriations, Interior and Insular Affairs, Public Works, Foreign Relations, Government Operations, and Labor and Public Welfare, Armed Services, or a member of such committees designated by each such chairman and ranking minority member to serve in his place, shall participate in the study authorized by this resolution as an ex officio members of the Committee on Commerce. In addition, the President pro tempore of the Senate shall name three majority and three minority Members of the Senate who represent coastal States, without regard to committee membership, to serve as additional ex officio members of the Committee on Commerce for purposes of this resolution.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate.

SEC. 4. For the purpose of this resolution, the Committee on Commerce is authorized to expend, through February 28, 1975, from the contingent fund of the Senate, a sum not to exceed $200,000.

Mr. MAGNUSON. Mr. President, I rise on behalf of 55 colleagues as well as myself to introduce Senate Resolution No. 222, to reaffirm the intent of the U.S. Senate that our Nation rededicate its purpose and intensify its commitment to turn the oceans and the Great Lakes to the service of man. I am proud and pleased to be joined in this initiative by distinguished Senators of both parties, many of whom are chairmen of sister committees, to demonstrate the depth and breadth of our concern. But I am also saddened by the melancholy fact that historic cycles of national interest in the seas are once more overtaken by an interval of neglect. This will be the third occasion in 15 years that the Congress of the United States has had to remind the people and their President of this Nation's stake in the sea, and of our unsteady response to that challenge.

It was first in 1959, with a new awareness of the importance of the ocean to our national interests, and of the serious discrepancy between need and prospects, that the Senate passed Senate Resolution 136 to focus attention on the oceans. The Congress continued to hammer away, finally gaining gratifying expression of interest by President Kennedy and his staff in the early 1960's. But that fruitful spasm of increased support was not reinforced with plans or durable funding.

By 1965, it was again the legislative branch that raised questions about national requirements for a more compelling policy to unify fragmented programs and uneven commitment. Measures that 28 Senators and I had the privilege to cosponsor in 1965 were passed by the Senate, and with complementary steps in the House of Representatives, the Congress passed the Marine Resources and Engineering Development Act of 1966.

That second initiative proved to be a major turning point in our Nation's maritime history. The act focused high level attention on the peaceful uses of the sea as a highway for world trade, as a source of protein, minerals and energy, on its contribution to recreation and esthetic enjoyment for a busy people, and on its potential for international cooperation as a further step to world order.

Accordingly, the Congress mandated a policy "to develop, encourage, and maintain a coordinated, comprehensive, and long-range national program in marine science for the benefit of mankind." Then, in recognition of the breadth of involvement by so many Federal agencies and the need to direct their missions to satisfy these objectives, the President was called upon as the only individual having full cognizance over their activities to assume responsibility for high level leadership and implementation. Finally, we provided him with powerful interim machinery to advise and assist a statutory National Council on Marine Resources and Engineering Development, chaired by the Vice President. President Johnson activated the Council promptly, and Vice President HUMPHREY devoted resolute efforts to harmonize disparate goals, orchestrate the bureaucracy, and to raise marine priorities. In addition, a statutory commission under Dr. Julius Stratton brought in persuasive recommendations for a still more influential and permanent organization, not only to centralize fragmented bureaus, but to assume responsibility for realizing the promise of the sea.

During that interval, the Government successfully navigated a transition from scientific oceanography to a broadened program of activities blending engineering, legal, economic and political considerations. And the hierarchy of interested participants was elevated to the level of the President of the United States.

In 1970, a new National Oceanic and Atmospheric Administration was created within the Department of Commerce. But our expectation that it would symbolize and reinforce higher marine priorities established by the National Marine Science Council has failed to be realized. Instead, we are mothballing research vessels, constricting research and exploration, and abandoning needs to redirect our Nation's innovative technical skills to marine technology.

It is not as though the earlier statements as to the importance of the ocean were wrong. If anything, they were too modest.

Maritime transport remains indispensable to modern society. Tonnage of ocean transport will rise dramatically in the next two decades, especially in fuel and minerals required by industrialized nations, and of manufactured goods exchanged across ocean boundaries. In contrast, the fraction hauled in U.S. bottoms continues to decline. Only 5 percent of U.S. foreign trade moves in U.S. flag vessels. Furthermore, the strategic importance of a healthy Merchant Marine is obvious; the Soviet Union is presently building a merchant fleet at an unprecedented rate.

The worldwide demand for protein from the sea is growing even more sharply than world population. Indeed, the green revolution does not show prospects of meeting protein demand of the 6 billion people projected for the year 2000, only about 25 years off. Nutritional demand will be met in part by growing exploitation of fisheries, with corresponding threats of overfishing and need for wise management. Since 1955, the world catch has tripled while our domestic catch has remained almost constant. Our domestic demand meanwhile has more than tripled so we must meet the deficit with imports of foreign products while our own fishing fleet falls further behind.

Offshore oil and gas, already supplying 17 percent of worldwide demand will increase in 20 years to at least 30 percent; in overall volume, operations could quadruple, for along with requirements for increased volume will be needs for diversification of sources to assure continuity of supply.

Our domestic requirements for minerals such as copper, nickel and manganese are projected to grow significantly. These are now satisfied only by imports that contribute to our deficit balance of payments; these could be offset by seabed mining.

The most intensively used and accessible part of the ocean environment is the margin where the land meets the sea. This is where people meet the sea. Seventy-five percent of our population reside in coastal States, most near the shoreline. Little wonder it is subject to ever more pressure for private development and proposals to site inshore platforms for nuclear power generation and metropolitan jetports. Simultaneously, the need expands for public recreational access and for a stewardship of a public trust for conservation. Such conflicts urgently require ever more sensitive and visionary coastal management at State as well as Federal levels to prevent an anarchy of utilization. And we need continued vigilance over ocean disposal of waste.

Finally, we must not overlook the critical role of the sea both in contributing to our defense and in furnishing the opportunity for a bold new thrust to meet nationalistic territorialism with a sense of shared responsibilities—to employ the oceans for peaceful purposes.

Many of the problems and opportunities were copiously documented and statistics quantified at the Conference on the Oceans and National Economic Development, convened in Seattle, July 17–19 of this year.

Meeting these challenges was never easy. Many different interests, numerous institutions and Federal agencies are involved; rational analysis draws on a variety of disciplines, including social as well as natural sciences and engineering. Many political subdivisions have jurisdiction. Many ocean-based activities cannot be arbitrarily isolated from corresponding activities on land. And a partnership is required between a full array of public and private enterprises if the strengths of each are to be mobilized and blended to deal with ocean affairs if many opportunities in the public interest are not to be wasted. Indeed, the entire social, economic, and political fabric of the Nation is involved.

Given this complexity, diversity, and fragmentation, mixed and competing motivation, the Federal Government will have to play a major role in policy leadership. This responsibility stems from expectation of our citizens that the Government is the primary focus to deal with issues of world order, economic vitality, health, safety, adequacy of energy resources, humane living conditions, and stewardship of our environment for future generations. We have had to look to the Government to meet random interests and motivation with a coherent sense of purpose, with a careful assessment of our multitudinal needs and wants, and with a statement of goals, priorities, and strategies. This is what the Congress had in mind in its two earlier initiatives. This is what sparks our initiative again.

This is not to say we have not made progress. Too often we take our accomplishments for granted, measure status only by yearly increases in budgets. Given the primitive and feeble status of oceanography described by the National Academy of Sciences in 1959, we have come a long way.

From 1959 to 1966, we first reinforced our research capabilities with support for ocean science, for training of scientists, for new ships and shore-based facilities. The size and quality of our scientific cadre and our research fleet has improved manifold. That first stage was followed by a second era from 1966 to 1970 when we endeavored to draw a sharper bead on uses of the sea to meet old problems, to identify goals and to marshal strategies. We succeeded rather well. For example, attention was focused on the need for prudent coastal management, conflict resolution, increased public access, pollution control, and rehabilitation of urban waterfronts. We opened an International Decade of Ocean Exploration to foster international cooperation and increase mankind's knowledge about the largest surface feature on the planet. Principles were established for dealing with a new legal regime for the seabeds with emphasis on avoiding a race to grab marine territory.

We concluded that era with creation of new governmental apparatus; and we have subsequently passed significant new legislation to deal with coastal management by grants in aid to States, and with regulatory measures for ocean dumping and maritime safety.

But the momentum of a long-range coordinated national program that the Congress intended has been retarded; the goals are no longer defined; the nec-

essary coordination is no longer shepherded. Creation of just another agency clearly did not meet the emerging stresses in modern government to solve transdepartmental problems and the interaction of science and technology with our society and its traditional institutions.

We no longer need to grope for identification of benefits from the sea. But it is clear that we have lost their articulation within the higher councils of our Government. A maritime presence at policy levels during the late 1960's has vanished. The marine component of public policy has failed to meet tests of viability and of political energy in the familiar battleground among competitors for attention. Notwithstanding the historical importance of the oceans to this Nation's destiny, the clear manifestation of our Nation's stake in benevolent development of the seas makes the present cycle of governmental indifference all the more a paradox.

Diagnosis of such malaise comes from the statutory National Advisory Committee on Oceans and Atmosphere. In its second annual report released 3 months ago, NACOA found:

> The import of budget cutbacks . . . distorts national priorities . . . because of organizational fragmentation and the lack of a strong management focus at a sufficiently high level in government.
>
> The penalty for delay in funding the Coastal Zone Management Legislation enacted last fall has been lack of action in some states and uncoordinated action in others.
>
> National objectives for U.S. domestic and international fisheries are in disarray.

These are strong words, and they come from a distinguished committee. NACOA went on to say:

> The theme which runs through most sections of this Report is about organization for the management of marine and atmospheric affairs, and what the lack of organization does in certain critical areas.
>
> The old backing is weakening, for oceanic affairs especially . . . nothing is taking its place even though the national need in ocean affairs grows larger.

What lies behind these assertions? Here are a few symptoms of the loss in national leadership and retreat:

During the past 3 years, virtually no policy initiatives dealing with the oceans have been taken by officers of the executive branch. Neither has there been a clear restatement of goals or determination to nurture prior ones.

Government-wide funding has leveled off for 3 years in a row, and support for the presidentially initiated International Decade of Ocean Exploration has failed to mature. Sea grant has hit a premature plateau.

Our voice at international conference tables has too often become a flaccid reaction to ploys and stratagems of other participants.

The annual report of the President on ocean affairs, required by the Marine Resources and Engineering Development Act of 1966, was 7 months late in 1972, 8 months late in 1973. And it is only a pale shadow of earlier editions that set forth bold policy initiatives adopted by the Chief Executive and a candid recital of shortfall in accomplishments.

The Marine Council which provided a significant Federal focus in 1966 was disestablished in 1971. The Office of Science and Technology which inherited the Council's role of advising and assisting the President was disestablished on July 1, 1973. Its responsibilities were assigned to the already busy Director of the National Science Foundation. He has set up a Science and Technology Policy Office in NSF to assist him. We need only compare the present situation with that 4 years ago. Then the President had help from a creative policy planning capability in marine affairs. It was led by the Vice President, especially in keeping the 11 Federal agencies involved from running off in 22 directions. It was energized by a presidentially appointed staff director and 20 professionals dealing with Government-wide issues from an independent perspective. Today the same Government-wide activity is led at a substantially lower policy level, with at most two to three full-time staff assistants.

In the meanwhile, the requirement for stronger internal management increases. For despite the creation of NOAA to consolidate some activities, more, not fewer, agencies are involved. Bureaucratic infighting has again become inflamed. In the absence of high-level steering, there is grave hazard that familiar administrative diseases of delay, duplication, and timidity will further weaken the program.

The consequences of such abdication in management can only be estimated. First, domestically:

Our fishing fleet declines—and apparently is unable to provide our national demand for fish products at competitive prices;

Our balance-of-payments deficit in marine-related resources increases yearly;

Shoreline areas which cannot indefinitely absorb insults of man-induced change are increasingly vulnerable to depredation because marketplace economics put emphasis on short term benefits to private investors and seduction of local jurisdictions;

Baseline data needed to facilitate wise decisions in coastal management are not available;

Superport development is pushed to lower costs of oil transportation, with little evaluation of the total costs in port construction, disruption of shoreside petroleum transportation, and secondary social and economic impacts of siting;

U.S. industry increasingly faces foreign competition where the national governments of other countries share costs and risks with their maritime industries.

This abstract of domestic consequences portrays only a portion of the problem. We should never forget that 112 nations front on the sea, and although the ocean has served as a shield and a buffer against aggression, it also has a potential for rekindling conflict; all nations are seeking to identify their dividends from the sea. Mounting U.S. interest is thus matched by that of other countries, and old rivalries and conflicts could well be projected to the ocean arena. When considering these prospects, in a world again recently torn by war, there are opportunities for collective and harmonious relationships, conducive to world order. The United States has a clear opportunity for leadership. Indeed, for a few short years in the late 1960's, it displayed that leadership.

Prestige is still an important diplomatic tool in a world jarred by militant nationalism. The drawing of artificial national boundaries which is a standard practice in world politics is simply in conflict with laws of nature governing the sea. We could collaborate with other countries having less technological maturity, to share our maritime capabilities to extract offshore oil and gas to meet worldwide needs; we could renew efforts to produce fish protein concentrate and other innovative products to help meet worldwide hunger; we could share oceanographic data promptly and effectively with nations lacking research capabilities. These can be responsible and respected steps toward world leadership.

The resolution introduced with this message is an effort to arrest our maritime retreat, to erase present confusion as to priorities at home and abroad, to facilitate intramural communications within Government and those between Government and industry, to again match resources to goals, to mount a vigorous program of technological initiatives aimed at transferring the potential of the sea to meet goals of a stable economic well-being, wholesome environment and human satisfaction at home, to recognize the responsibility of the Government for world order sought by all peoples, and for stewardship of the global environment. In accordance with its jurisdiction under rule XXV of the standing rules, and under section 134(a) and 136 of the Legislative Reorganization Act of 1946, the Commerce Committee and its ex officio members would serve as an agent of the Senate to undertake a full and complete investigation of the evidence of marine neglect, thoroughly probe its causes, report its findings and make recommendations for legislative remedy in a timely fashion.

The Federal Government has a key role to play, partly because so many resources are common property and must be treated as a public trust, because only the Government can serve as steward for the environment to preserve it for future generations and because only the Government can reconcile the disparate sectors having interest in the ocean and establish a rational basis for undeveloped partnerships with the private sector, rehabilitate fisheries and accelerate balanced development of offshore energy and mineral reserves. All interests look to the Government to support the necessary research and surveys, to understand the vast marine world we wish to turn to the service of man. Only the Government can establish rules for safe navigation and only the Government can project the moral principles in the international community to head off anarchy.

The present policy vacuum in marine activity brings to mind a bon mot by Oliver Wendell Holmes. Speaking of our ship of state, he said:

> We must sail, sometimes with the wind, and sometimes against it—but we must sail and not drift nor lie at anchor.

Indeed, we cannot again permit a stagnation of our marine interests.

The challenge is at least as great as it was 15 years ago when, by dedication of the Congress, the Nation was awakened to the stake our Nation and all mankind have in the sea.

We deal today with a constant triphammer of crises. And issues usually find support by a vocal constituency pressing for attention. The oceans present no commanding crises. And has been so often remarked, it lacks a resident constituency; the fish indeed do not vote. Nonetheless, real crises may develop without sufficient attention paid to them and an inherent underrepresentation of the opportunities and obligations offered by the sea and its resources to help solve pressing national problems requires that the Government itself act as a sort of constituency or advocate for options not forwarded by parochial interests. Indeed, this is the fundamental embodiment of the concept of stewardship for the public trust. Under these constraints, progress requires a deliberate act of political will. We cannot afford to default a third time.

Let us set about mobilizing our technical skills and our imagination with the political will to deal with public management, to meet the promise of the sea.

Mr. President, I ask unanimous consent that an additional 400 copies of the resolution be printed for the use of the Senate.

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

Mr. MAGNUSON. Mr. President, in addition, I ask unanimous consent at this point to have printed in the RECORD, in its entirety, a statement by my distinguished colleague, Senator HOLLINGS, who cannot be here today because of his present hospitalization. Senator HOLLINGS serves on our Committee on Commerce as chairman of the Oceans and Atmosphere Subcommittee. Senator HOLLINGS has worked long and tirelessly on behalf of our Nation's oceans programs and has brought to the attention of this Senate on many occasions the need to improve our Federal oceans programs. Upon approval of this resolution, Senator HOLLINGS will be named to chair this special oceans policy study within our Commerce Committee.

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

OCEAN POLICY RESOLUTION

(Statement by Senator HOLLINGS)

Mr. President, the Senate Resolution which we are submitting today authorizes a National Ocean Policy Study by the Commerce Committee, working with other interested committees, which will contribute immensely to the welfare and well-being of the people of the United States.

There is no State in the Union that does not depend on the ocean, directly or indirectly, particularly at this time of crisis. The energy crisis has descended upon us like a tornado, threatening to disrupt in its wake all sectors of our economic, social, and political life. But through the rising dust we see a bright light of hope emanating from our ocean domain.

There is no need to reiterate and enumerate the long list of potential ocean resources. Instead, I believe that a major portion of America's hope lies in its seapower. By seapower I do not mean only the military, but also the wide spectrum of economic sea power—a large, modern merchant marine; a healthy, growing fishing industry; a dynamic ocean research program; leadership in ocean technology; ocean policy positions that represent national self-interest in international negotiations; progressive, intelligent coastal zone management; and an ocean business climate that encourages industry to tap all of the potential resources of the sea.

There is also no need to reiterate and enumerate the long list of potential ocean resources. Instead, I would like to point out that the decline in American sea power has had a direct impact on:

The present energy crisis which threatens to get worse;

The embarrassing and frightening plunge of the U.S. dollar on world money markets;

Inflation here at home;

Signs of pending raw materials shortages;

Lower demand and prices for U.S. exports;

Rising prices for goods we buy overseas;

The flood of foreign goods undercutting American products and American jobs here at home;

Our declining prestige and influence around the world; and

The rise in the economic and political strength of our competitors abroad.

These are the problems that broad-spectrum seapower must help solve if the oceans are to enjoy the priority attention we know they deserve. And we must sharpen the focus of America's stake in the oceans into critical national perspective. Although the oceans contain considerable reserves of oil and gas, we find ourselves on the brink of disaster in our energy supply. Although the oceans contain hard mineral deposits essential to our industrial demand, we find ourselves importing more and more of these raw materials from abroad. Although our waters are replete with marine life, we find ourselves importing a huge portion of our fish consumption from abroad.

For the year 1972, Mr. President, the total U.S. balance of payments deficit was more than $10 billion. With an ever-increasing dependence on foreign sources of raw materials and fuels, as well as manufactured products, it must be a matter of urgent national policy to reduce this drain on our economic well-being. The United States had an "ocean balance of payments" deficit in 1972 amounting to more than $8 billion! That is $8 billion worth of ocean-related goods, services, and miscellaneous items we are being forced to buy abroad because we have not been willing to provide them for ourselves.

In fisheries alone our adverse balance of payments last year was $1.3 billion. In metals such as copper, nickel, manganese, cobalt, and iron ore, our adverse balance of payments was close to $1.5 billion; yet the ocean floor is literally blanketed with manganese nodules that contain all these metals. We possess the knowledge and the technology to exploit them, yet we have been unable and downright negligent in providing the proper incentive to encourage their orderly exploitation.

This, Mr. President, is certainly not the fault of the Congress.

The Congress, Mr. President, has always taken the lead in formulating policy for marine-related activities in the United States. For many years we have taken the initiative, sometimes facing outright opposition from the Executive Branch. Our efforts finally culminated in the passage of the National Marine Resources and Engineering Development Act of 1966. We hoped then that we had handed the ball to the Administration and provided it with the statutory wherewithal for a concerted national effort for developing ocean resources.

Unfortunately, we are now back where we started some ten years ago. To be sure, we have had some sort of progress. We have, for example, a National Oceanic and Atmospheric Administration (NOAA) and a National Advisory Committee on Oceans and Atmosphere. We also have passed the National Coastal Zone Management Act in 1972. But our posture as a seapower, and our economic position in the world do not reflect the concerted effort and the national impetus we had hoped for, nationally or internationally.

Here again, the Congress had to do battle with the White House in order to keep some national programs from being put on the shelf. The details of some of these fights would fill a book, but suffice it to say that certain high-level bureaucrats were determined to sabotage these programs. They wanted to kill the Coastal Zone Management program for fear that it would help NOAA achieve a power base. These enemies of NOAA were afraid that implementation of this program might be a major step toward the kind of strong, independent oceans agency originally sought by the Stratton Commission and still desired by the Congress.

Then we have had the constant chipping away at NOAA by other Departments that jealously eyed the coastal zone and the ocean ever since NOAA was created. They have seen that the future of the United States will be closely tied to the ocean—as a source of minerals and fuels, for living resources, for direct energy production, for recreation, for transportation, and, of course, as a major factor in land use management.

Although the Office of Management and Budget finally reversed its opposition and funded the Coastal Zone Management Act, there is very little evidence to indicate an end to the kind of inter-agency jealousy which has stood in the way of legitimate NOAA programs.

The President's formerly proposed Department of Energy and Natural Resources was certain to promote further friction and smother our beleaguered ocean program. Mr. President, I favor an independent agency to administer our national ocean programs. I believe that we are not going to be able to get the job done if our oceans agency is scattered among a handful of agencies or submerged into a new monster department. And because of the meager attention to ocean matters that the President has shown, the proposed organization is not the direction we must take.

We need a strong ocean-related Federal agency. And I have every hope that Congress will use the occasion of debate on this matter to raise some serious questions about our present Federal oceans programs. I also hope that the study authorized in this Senate Resolution will show the need for a centralized oceans agency, not just another bureaucratic reshuffling.

I believe the United States must have an oceans goal on the national level. I believe it is vital that we set certain major priorities, and then go after them with all of our talent and imagination. But in order to set national goals, the government needs the help of the brightest minds in private industry and in colleges and universities. There ought to be a central focal point in Washington which Congress can reach for information and support in policymaking.

We have all got to start taking a little different tack if we are going to get a sound oceans program. Too few Americans are alive to the great promise of the oceans. Too few understand how closely matched are the fate of the human species and the fate of the oceans.

After all my years in politics and my close friendship with many political figures, I know why some programs succeed and others fail. Those which succeed not only make important contributions to national needs, but they have popular support. The best plans

and the finest technology all are wasted without the support of Mr. and Mrs. Average American. There simply will be no sound oceans program unless those in science and business join forces with us in the political arena. Together, we can make sure that legislation affecting ocean affairs doesn't get lost for lack of a constituency.

We are hoping that this study will help us develop a national constituency. We can do it by relating national ocean needs and opportunities to the critical national problems that face our country. We can do it by demonstrating the dependence between Americans and the oceans. We can prove that a comprehensive and well-funded program is an urgent necessity.

In a time of unemployment, it can offer jobs. In a time of rapidly-disappearing technological superiority for the United States, it offers the prospect of innovation and renewal. In a time of national drift, it holds out challenge and opportunity. And in a time when the future of mankind is by no means guaranteed, it offers the hope of human survival. And I'm talking about vital issues: food, jobs, industrial growth, balance of payments, transportation, recreation, environmental protection, and ultimately, even our own survival.

The United States must make a commitment. That commitment must be to fulfill the goal of scientific and industrial research and development of the oceans for the benefit of all Americans and for future generations.

First, we must be able to explore and exploit the resources of the ocean and ocean floor for protein, minerals, chemicals, and other benefits to the limits of our national capabilities.

Secondly, we must guarantee the protection and preservation of coastal lands and waters and the deep ocean from the degradation of manmade pollution. In this way, the living bounty of the sea can be managed and utilized wisely.

The United States must seize the initiative in the ocean. We can lead the way in attacking marine pollution which threatens life in the ocean.

We can lead the way in managing land use in the coastal zone for the 80 percent of our population which will inhabit this area by the year 1990.

We can lead the way in developing the skills necessary to safely utilize the minerals on and below the ocean floor.

We can create thousands of new jobs for unemployed or under-employed workers who may become displaced by changes of job patterns. And by so doing, we can capture the imagination and dedication of our young people. By setting such a goal, we will be able to help re-kindle the American spirit.

The oceans present the last frontier on earth. They offer the challenge of knowledge and motivation of the human spirit. But, Mr. President, we seem to lack the adequate knowledge and the necessary motivation.

It is for this reason that this Resolution is being introduced. We hope to bring up to date the national and international developments in ocean technology; we hope to focus national attention on the promise of ocean space; and we hope that Congress and the Executive would finally look to the marine environment as a national goal that deserves much more attention and a greater long-range commitment than the space program.

Mr. MAGNUSON. Mr. President, the distinguished Senator from Mississippi was called back to his State late yesterday. He has been in the front rank of our leadership in ocean-related activities with special emphasis on matters involving our country's fishing interests.

I ask unanimous consent that his statement in support of the Oceans' Policy Resolution be printed in the RECORD at this point.

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

STATEMENT BY SENATOR EASTLAND

I am pleased to be a sponsor of the Senate Oceans Policy Resolution which will provide the Congress and the people of the United States with an assessment of the potential of ocean resources for meeting both present and prospective national needs.

This resolution authorizes a series of studies to identify and describe the living and non-living resources of the ocean in terms that will be meaningful in our efforts to chart America's future. They will examine the technological and legal capabilities necessary to the development of an effective national ocean competence.

Present policies and institutional structures having to do with the sea will be investigated and evaluated, and recommendations will be made for more purposeful actions and directions of national effort. The extent of the national dependence on the ocean and its resources will be detailed in both a qualitative and a quantitative sense. Finally, the impacts of prospective activities on, in and under the ocean will be determined, and careful consideration will be given to the means of minimizing adverse environmental effects on the ocean and its resources.

Both the Senate and the House of Representatives can be proud of the many ocean initiatives launched by the Congress during the last decade. There was resounding evidence of this awareness just last week when the House overwhelmingly approved—by 405 to nothing—Senate Concurrent Resolution 11 introduced by myself and 43 other of our colleagues earlier this year. The Senate had unanimously approved this Resolution earlier. Thus, the Congress has made its feeling known on this matter in a manner that must be loud and clear to all.

S. Con. Res. 11 will enable us for the first time to assess the problems and needs of our commercial fishermen. We, the Congress, will make this determination by going to the fishermen themselves, listening to *their* story, *their* complaints and *their* suggestions. For too long, now, national fisheries policies—if indeed there have even been fisheries policies—have been dictated by bureaucrats—men who, for the most part, don't know a gill net from a shrimp trawl, a trotline from a dredge, a purse seine from an eel pot. My fishermen friends in Mississippi would have put that much more colorfully!

For over a decade—Washington based "specialists" have watched the decline and fall of the American commercial fishing industry, while at the same time observing, reporting and doing nothing effective about the catastrophic rise of foreign fishing efforts often within sight of our coasts. In that period the Federal Government has spent literally hundreds of millions of dollars, Mr. President, with seemingly little more result than to increase our dependence on foreign supplies of fish.

The coastal waters of the Atlantic and Pacific Oceans and the Gulf of Mexico provide some of the most productive fisheries in the world. Within 12 miles of the coast the rights of U.S. fishermen are more or less protected to the extent that foreign fleets are not permitted within this contiguous zone. The quantity of fish available for the catching within this zone, however, is directly affected by the degree of fishing effort immediately beyond the 12 mile limit, and it is to this region beyond the 12-mile limit that I would like briefly to address myself.

Just outside the United States 12 mile limit almost four million metric tons of fish are taken each year. Of that total American fishermen take only about 300,000 tons. Giant industrial fishing flotillas from Russia take over one million tons, while the Japanese take over two million. Much of this catch we buy back after it has been processed by foreign labor. Why Mr. President, in one month of this year, June 1973, nine-hundred and twenty-seven foreign fishing vessels were counted in waters beyond the 12 mile limit of the contiguous 48 states and Alaska.

Of these, 582 were Japanese, and 277 were Russian. And, even these numbers are misleading. These are not the small, coastal trawlers so typical of the American fishing fleet. These are factory stern trawlers of 3,000 deadweight tons or more, mother factory ships of up to 15,000 tons and countless catcher vessels, every one of which is larger than most of the American boats that must compete with them. In 1972 alone the Russian investment in its fishing fleet was over one billion dollars. The annual Soviet fishing harvest has increased from a little less than three million tons in 1958 to over eight million tons today.

As a result of the sad plight of American commercial fishing, over sixty-five percent of this nation's annual consumption of fish and fish products is imported. That's up from 40% in 1960, only 13 years ago. In 1960 the United States suffered an adverse balance of payments in its trade of fish and fish products of $319 million. Last year it was one and a third billion—a four hundred per cent increase! Our total adverse balance of payments for trade in all goods and services in 1972 was $4.6 billion. Fish, Mr. President, accounted for almost a third of that deficit, fish we could have and should have caught within a few miles of our own shore.

The National Oceanic and Atmospheric Administration and its National Marine Fisheries Service, I understand are trying to develop "new and meaningful national fisheries policies," and have been trying to do so for some time. It seems that the Office of Management and Budget wants to know just why it is that budget requests for fisheries support and research keep going up while the proportion of American needs filled by our fishermen keeps going down. It is a fair question, and one which we, too, have been asking. It is one we intend to answer, and we will do so not by pontificating from Washington but by going out to the fishermen themselves. The men who wear the boots and go out on the boats have been the last—it seems—to be asked. We are about to move them up to first.

But, Mr. President, fisheries is not the only dependence America has on the ocean and its resources. As coastal states go, Mississippi has only a comparatively short coastline, but that belies our status as a maritime state. Mississippi is fifth in the nation in tonnage of landed fisheries catch, including shrimp, oysters, menhaden and a great variety of others. Her great shipyards at Pascagoula construct both warships—including nuclear submarines—and the most modern merchant ships. Pascagoula and Gulfport are both ocean ports, international trading ports. Mississippi has some 6,000 acres in fish farms. We have some of the finest sport fishing in the world. Mississippi, Mr. President, is not only a coastal state, it is an ocean state. As a coastal state it has all the direct interests in coastal resources and activities that all coastal states have.

But, it also has the indirect interests—just as critical, just as vital—in the ocean and ocean resources that all of our 50 United States have.

The oceans are America's first line of military defense. Our Ballistic Missile submarine fleet is a nuclear deterrent that the enemy cannot find and cannot counter. It is also a deterrent that removes the threat of a preemptive strike far from our shores and our people. Our naval surface forces, which we have allowed to decline to a dangerously low level, help assure the freedom of the high seas trade routes and show the flag in many

parts of the world where American prestige is important. They are also available for timely responses when some local urgency requires a show of force or the protection of American life and property. Unfortunately, Russia now fields the world's most powerful Navy.

The oceans also constitute America's first line of economic defense. The United States is still the world's greatest trading nation, and ships—sadly—mostly foreign ships, but ships nevertheless—carry the vast majority of our $150-billion-plus of annual international trade. Serious interruption of this trade would have a far more disasterous effect on the American economy than we now suffer from the energy crisis—for not only would it cut off imports of petroleum and other fuels—but also it would sever our supplies of critical raw materials—ores and concentrates, for example, of copper, iron, aluminum, cobalt, manganese . . . sixty-nine in all of the seventy-two industrial raw materials considered critical to the functioning of the American economy and of which we must import all or part. Further, it would block us from exporting—blunting the economy with a sudden annual cutback of sales in goods and services worth over $70 billion a year. Such an eventuality is simply inconceivable. And—it would be unacceptable.

I would like to mention, too, that because so little American trade moves in American flag vessels, the United States annually suffers an adverse balance of payments in fees for handling this freight of between $750 million and $1 billion. Fisheries and the haulage of ocean freight, then, account for roughly half the nation's adverse trade balance. Considering that this adverse balance of payments, more than anything else, is responsible for the sharp and repetitive devaluations of the American dollar in world money markets—and, recognizing that this devaluation is a major driving force of inflation here at home, the reasons for supporting the Senate Oceans Policy Resolution are—in my judgment—crystal clear.

There are more reasons, however, equally as persuasive. A major contributing factor in the present energy situation has been our failure to develop our own offshore oil and gas deposits with sufficient speed and determination.

Even as the failure to take advantage of the ocean opportunities provided right at our doorstep have helped to bring on the energy crisis, so now will the exploitation of these resources help to restore our energy independence from others. Failure to develop these resources in time is not entirely industry's fault. Government policies must share the blame. Since Congress must ultimately enact legislation in the implementation of new energy policies, the Congress must know itself what the energy situation really is—what it will be in the future—what resources are available to the United States and what policies and actions are necessary to their intelligent exploitation . . . and how that exploitation can be best achieved with a minimum of environmental damage. It is one purpose of the Senate Oceans Policy Resolution to examine the roles of ocean resources in easing the energy crisis in the years immediately ahead and in assuring that in the future we will never again permit ourselves to be at the mercy of foreign powers, as we are now.

Some of our colleagues in speaking in support of this Resolution, Mr. President, have warned that we may soon be in a raw materials crisis no less critical to our well-being than the energy problem. Extensive reserves of mineral ores exist on and under the United States continental shelves and slopes. Even vaster deposits are presently being discovered and proved as covering great expanses of the deep oceanic basins beyond any present limits of national sovereignty. As well as energy, America runs on raw materials. It is the greatest consumer of raw materials on earth, and there are those who would like to see our supplies cut off, including some countries on whom we presently depend for our supplies. Mr. President, we cannot afford that risk! The studies authorized in the Senate Oceans Policy Resolution will examine the nation's present and future stake in ocean mineral resources, from the point of view of the need for political as well as economic independence.

Mr. President, the oceans offer us our best hope of independence from foreign sources of supply of all kinds of vital fuels and raw materials. However—the clock is running. It is up to the Congress to see to it that it does not run out—and that America will—indeed—achieve her true destiny. The Senate Oceans Policy Resolution is an important step in enabling Congress to fulfill its responsibilities to that destiny. I urge early and favorable consideration of this Resolution.

Mr. BENTSEN. Mr. President, in the months and years ahead the Congress and the American people are going to be asked to take definitive action on several ocean-related issues which will profoundly affect the economic and social well-being of this country as well as its National defense. Even now we are facing the challenge not only of defining the parameters of our ocean policy and its goals but also of bringing a form of orderly, rational, and equitable administration to the oceans and their resources.

The facets of ocean policy are many and touch our daily lives more closely than we might imagine. In terms of food resources, minerals, energy, defense, transportation, ecology, recreation, and perhaps a host of other ways yet unknown. Each year the Congress considers many issues arising from the oceans; legislation relating to National defense, fisheries, sea grant college programs, the merchant marine, off-shore mineral resources, coastal zone management, and preservation of the marine ecology come to mind immediately.

In particular the energy crisis on which we are being asked to act with such urgency has direct and potentially major implications for the oceanic waters continuous to the United States. Just 1 year hence we may be asked to consider ratification of a wholly new international legal regime laying out new and untried rules for governing the international use of the ocean and its resources. In considerable measure these new rules will determine the United States future rights on, under and over the high seas. For a nation whose marine tradition is well-known and whose present economic and political integrity is, I am convinced, strongly ocean dependent, this is no trivial matter.

To act intelligently on such issues and to protect and foster the best interests of this Nation, the Congress, the executive branch and the people of the United States need to be better informed. Oceanic resources, both living and nonliving, both explicit and implied need to be more closely defined. We need to know where they are and what they are. How accessible are they—physically, economically, and politically? What are the technological requirements of their exploitation? How great will be the national need for them? What share can we reasonably expect of those that are located in or under international waters? Can they be exploited without materially degrading the oceanic environment, without consequently limiting the availability or usefulness of other, perhaps equally as important, oceanic resources?

In a word, we need to know the Nation's present and future stake in the ocean. If we are to expect the Congress—not to mention the executive branch—to approve the allocation of a share of national resources to the development of a sound and competitive ocean capability, we must show both clearly and directly the Nation's need for oceanic resources. Broad generalities are not going to do the trick. They have not done it in the last 15 years, and they will not now.

For such reasons I count myself as an enthusiastic cosponsor of Senate Resolution 222 "to authorize a study of the oceans and to establish a national oceans policy." Some of you may ask: What? Not another ocean study. Well, I cannot fault that question. Ever since the first big benefit/cost analysis of oceanic resources by the National Academy of Sciences in 1958 there have been so many ocean studies and reports by the Congress, various administrations, more by the National Academy of Sciences and countless independent organizations that we are virtually afloat on a sea of oceanic paper.

No, this is not to be just another oceanic study. The intention this time is to clearly outline the need for and potential of oceanic resources, and the solution of present and the avoidance of future critical national problems. The energy crisis is a case in point. There is no need to expound it here; it is everywhere about us—not only in America but throughout much of the rest of the world. In large measure energy today is synonymous with petroleum. And, virtually no matter how you look at it, oil and ocean are inextricably entwined. If you are talking foreign oil, you are talking mammoth tankers and the deep-water ports needed to receive them, of which the United States has neither. If you are talking domestic oil, in large measure and certainly in the short term you are talking off-shore oil—for the largest potential U.S. reserves of conventional petroleum resources—other than oil shale and tar sands—lie not on land but beneath the Nation's Continental Shelves.

And, in the last 2 or 3 years strong indications have been found of substantial petroleum deposits well beyond presently exploitable depths—in 6,000 feet of water in the Gulf of Mexico, for example, and in some 10,000 feet of water off the mouth of the Congo River in the South Atlantic.

So, among other things, it will be a function of this study to examine the ocean in the context of the Nation's present and prospective energy needs—not only petroleum, but also other more exotic potential sources of oceanic energy, those possibly to be derived, for example, from hydrogen, the sun, the tides, waves, and the active geothermal sites so common beneath the ocean.

And what about fisheries? Fifteen years of platitudes about the ocean being the world's largest untapped resource of essential animal proteins have failed to halt the decline of the American commercial fishing industry. While the Office of Management and Budget toys with the idea of a national policy of benign neglect of American commercial fishermen, thus opening the doors wide to unrestricted imports, this country already has dropped from first to seventh place in world fisheries catch. Over two-thirds of the fish and fish products consumed in the United States are imported, resulting in an adverse balance of payments in 1972 on that account alone of $1,300 million. That is nearly one-third of the Nation's total adverse balance of payments in all goods and services.

Balance of payments constitutes a critical National problem, and fish are a big part of that problem. What can we do about it? This study is intended to answer just such questions.

Looking to the future, we have heard a lot lately about "limits to growth." The energy crisis, which we will solve one way or another, is an early-warning symptom of those limits. All the nations of the world are drawing down raw materials at an increasing rate. There is no way that either known or hypothesized landside reserves of critical ores can fulfill future demands. As with energy resources, the United States is increasingly dependent on foreign sources of raw materials so necessary to the functioning of our modern industrial society. Of the nations supplying us with our needs of copper, manganese, steel, nickel, cobalt, and so forth, some are friendly, some are not so friendly, and many are politically unstable. Consequently, unless we take specific action to prevent it now, we may not be through the energy crisis before we are plunged into a raw materials crisis with even more severe damage to our economy and national security. We cannot rely simply on depletion curves to forecast the time when the materials crunch will come. Political interruption of supplies could come at any time, the Arabs have shown us that with oil. And the Venezuelans show indications of using oil to extract economic concessions.

Most of us are aware of the tremendous quantities of so-called manganese nodules that carpet much of the deep ocean floor. Besides being a source of manganese, these nodules are important potential sources of copper, nickel, cobalt, even iron and a variety of other metals. Other areas of the deep ocean floor constitute incredible reserves of aluminum, titanium, iron, cobalt, nickel, copper, manganese, lead, molybdenum, and even cement. They do, that is, if the United States enjoys access to them and if the technology can be developed to recover them economically.

And, just recently it has been discovered by American scientists working under the aegis of the deep ocean drilling project and the U.S. International Decade of Ocean Exploration that new hard rock metallic ores are constantly being renewed from deep within the earth along much of the 47,000 miles of mid-oceanic ridges that occur in all of the world's oceans. Because of the mechanics of sea-floor spreading, deposits thus generated are believed to be present at various locations beneath the deep ocean floor all the way from the midoceanic ridges to the continental margins. Again, political accessibility and economical technology are the only barriers to their exploitation.

The study authorized in Senate Resolution 222 will examine these resources with specific consideration of their potential in staving off a raw materials crisis, in minimizing the political uncertainty of future sources of supply, and in reducing our large and growing adverse balance of payments in such materials.

The existence of vast, untapped energy, food, and raw materials resources in the ocean does not suddenly remove the limits to growth or open the closed ecology of space ship Earth, but it does have the potential for greatly expanding both national and global options and for removing the threat of forced, traumatic readjustment. The need, of course, is to assure the availability of a fair share to the United States and to develop the capability to exploit these resources both intelligently and economically while preserving the ecological balance.

Inherent in all man's ventures on and beneath the oceans is the absolute necessity to protect the oceanic—and, therefore, the global—environment. Clearly an essential part of both environmental protection and intelligent use of oceanic resources is proper management of the national coastal zone—a seeking and a finding of that middle ground certain to exist between absolute preservation of the natural environment, on the one hand, and unrestrained exploitation, on the other. Again, the study will examine problems and solutions of coastal zone conflicts in light of the needs, pressures, and expectations of today.

In brief, then, the purpose of the study authorized in Senate Resolution 222 is to examine oceanic resources in the light of such critical national needs as energy, raw materials, food and, in turn, balance of payments, inflation, employment, environmental protection and the general quality of American life. The resolution of such critical issues increasingly depends on the proper utilization of the ocean and its resources. This study will develop new approaches important not only to the oceanic community but also to the vast majority of Americans, many of whom are critically ocean-dependent without even knowing it.

Mr. President, I urge that the Senate join me in supporting this resolution.

THE NEED FOR A NATIONAL OCEAN POLICY

Mr. RIBICOFF. Mr. President, I am pleased to join as a cosponsor of Senate Resolution 222 authorizing a coordinated Senate overview of ocean policy.

For too many years this Nation has taken its marine resources for granted. It was assumed that the oceans and seas off our shores were immune from the increasing pollution in our inland lakes and rivers.

We now know that our oceans—the world's oceans—are also in serious trouble. If we hope to reverse this deteriorating trend, we must develop a national ocean policy. We must, for the first time, begin to tie together and study all those factors that contribute to ocean life, including coastal zone management, fishing, ocean mining, and shipping.

In 1970, the Subcommittee on Executive Reorganization, which I chair, was responsible for the creation of the National Oceanic and Atmospheric Administration. This was an important step in the right direction, but much more needs to be done before a truly national policy exists. I hope that the Senate quickly approves this resolution. It it vital that the Congress and the entire United States begin to develop the policies and take the necessary steps to save our oceans and seas. We cannot allow these great resources to turn into global Lake Eries.

EXPLOITING THE RESOURCES OF THE OCEAN

Mr. MOSS. Mr. President, today I am joining my colleagues in sponsoring the Senate ocean policy resolution.

Those unfamiliar with my activities in Congress may wonder why a Senator from Utah would be concerned with ocean affairs. The fact is that in my work on the Committee on Commerce and the Committee on Interior and Insular Affairs I have been very much concerned with the development of ocean resources, particularly seabed minerals and offshore oil and gas. And now as chairman of the Aeronautical and Space Sciences Committee I am further involved in the application of remote sensing technology to earth and ocean resources.

The foremost topic occupying the Nation's attention today is the energy crisis, and my State of Utah, with its oil shale and tar-sand resources, occupies a prominent place in the overall plans of fuel supplies. In the course of the national fuels and energy study, which is analogous to the proposed national ocean policy study, I held hearings on offshore oil and other aspects of the Outer Continental Shelf. The principal result was an acute focus on the need to resolve the many conflicts over the use of the coastal zone. On the one hand we are threatened with an energy crisis, while on the other hand we are faced with an irreversible and intolerable degradation of the environment. Both of these needs must be met, but present policies, knowledge, and programs do not permit truly wise resolution of the problems. This is one major reason why I am supporting this resolution; for I believe that the proposed study is badly needed.

We have seen documentation and heard testimony concerning the various aspects of oil production off our coasts. There is obvious disagreement concerning the best uses of these areas and differences of opinion in regard to the relative values of oil production, recreation, and other benefits. Priorities of each of the many applications and exploitable features of these coastal resources are not well identified, nor are they apt to be, based on available data. The two sides of this issue are a classic example of the dilemma of natural resources management facing the Nation

today: the need to differentiate and select the best one of several uses of a resource with minimal damage or foreclosure of other benefits inherent in the resource.

The choice is not simply one of a good and wise option over a bad and foolish one, but rather a sensitive and complicated selection among several resource allocations each of which is extremely valuable or actually essential to the Nation's continued welfare.

There is need for renewed examination of the Federal policies impinging on the coastal zone. Clearly not in dispute is the Federal jurisdiction over the Outer Continental Shelf. The other factors of energy, environment, and societal values are still very unclear.

Basic to the formulation of offshore policy is a thorough and meaningful assessment of the technology of exploring and exploiting seabed resources. In the search for oil, for example, exploration techniques employ a variety of sophisticated equipment necessary for geophysical investigations. Most of these modern devices represent breakthroughs in exploration technology, providing accurate data and at the same time causing the environment no harm.

Drilling techniques have also progressed, and production practices and instrumentation are developing in great strides, spurred for the most part by environmental awareness as well as by the normal demand of a developing offshore industry.

In the case of other minerals on the Continental Shelf, little information is available on the extent of the resources and the state of the art of mining techniques. Seabed mineral deposits such as manganese nodules and phosphorites also have to be taken into consideration. Several companies are presently engaged in research toward mining and processing these deposits, and a major breakthrough in dredging and processing of manganese nodules has been achieved. The supply of raw materials to the United States is no less critical than that of oil. For metals such as copper, nickel, cobalt, and others that can be extracted from the ocean floor, the U.S. adverse balance of payments for 1972 was close to one and a half billion dollars.

Prior to the formulation of national policy, therefore, it becomes necessary to seek answers to many questions. Some of these questions are:

First. What is the state of the art in offshore petroleum and other minerals development technology? Are present exploration and production techniques hazardous to the environment and, if so, to what degree? Are present drilling practices sufficient to avoid adverse effects? What is to be expected in further technological developments?

Second. How much petroleum is estimated to underlie the shelf areas of the United States? How much need is there for these offshore resources? How much of this lies in areas undesirable for drilling?

Third. Are there instances in which potentially oil-rich OCS acreage should be permanently reserved from development for recreational, ecological, or esthetic reasons? What standards and considerations should be applied to proposals for reservation of this type?

Fourth. What should be the extent of a marine sanctuary along our shores, and how can such areas be described and managed in order to be effective? What exactly are the components of the environment to be preserved? How intense is the need to preserve these components? How can we compare the need for preserving environmental components with the need, nationally and internationally, for offshore resources? If both needs are comparable, can we develop the technology to satisfy both needs simultaneously; that is, can we utilize ocean resources and at the same time preserve the environment?

Fifth. If all OCS operations were suspended; From what probable sources would petroleum needs be filled; To what extent would this reduce the risk of pollution of the coastline by oil; What new environmental risks would be associated with alternative sources and methods of energy supply to that area?

Sixth. What are the total cost/benefit considerations comprising adequate bases for decisions concerning proposals for exploring and exploiting our ocean domain? What is the price, considering social and ecological values, as well as economic, that the individuals, the State, and the Nation will have to pay for each of the possible alternative uses of the OCS lands?

Seventh. Should the Congress determine, on a case-by-case basis, the circumstances under which tracts of OCS lands should be used for what particular purpose?

After all these and other germane data have been assembled and assimilated, it will still be necessary to determine the proper course of action in formulating national policy concerning management of Outer Continental Shelf lands. The many questions raised by these hearings demand resolution before making definitive decisions concerning "best" usage of OCS land resources. It would seem premature to venture judgments until the studies which will satisfy these questions have been completed. Some of this information will accrue from the energy study currently underway by the Committee on Interior and Insular Affairs; other information will have to be developed by additional studies yet to be implemented.

Mr. President, it is my hope that the study to be authorized would result in answers to these policy questions. And I would like to urge all my colleagues to act favorably in support of the Senate ocean policy resolution.

Mr. STEVENS. Mr. President, the immense potential of the oceans and seas as repositories of needed foods, minerals, and energy is a recent revelation in terms of world history. As more is learned of the extent of these resources and of ways to exploit them, the nations of the world are engaging themselves in a gigantic race to glean as much as possible while the getting is good. One reason for this is that there is growing realization that the resources of the oceans, vast as they are, still are depletable—and that there just might not be enough to go around. While responsible nations are attempting to agree to means of equitable utilization of the seas and their resources, the more voracious countries are dedicated to a code of first-come first-served.

The most flagrant example of the reckless nature of this uncontrolled race for resources is found in the world's fisheries activities. Some nations have over-harvested the fish from their own adjacent waters and have launched extremely effective onslaughts against the remaining fish stocks of the world. Some of the most bountiful areas, as you know, are, or were, off our own New England and Alaskan shores. Our Government, meanwhile, is dedicated to a concept which calls for the harvest of the maximum sustainable yield of fish by our fishermen, while attempting to cajole other nations into following our example through treaties. Our fishermen have long realized that this is not going to work, because they are just about the only ones being managed. It appears a similar disenchantment is growing in Congress, and numerous bills being considered actually could alter our country's international fisheries policy. Such changes of direction will do the fish no good in international negotiations, so we must find the right policy as soon as possible and stick by it.

I point out the crisis which exists in just one ocean resource, fisheries, simply to illustrate our need for a total oceans policy having the coordinated, full sanction of our Government. As Senator from a State bounded on three sides by mostly undeveloped waters and coastlines, and on the remaining side by a foreign nation, I am concerned not only by our obvious lack of direction in fisheries, but also by the knowledge that a similar hiatus can and will develop in other marine concerns, unless we begin to act according to a defined plan.

It is with a real sense of urgency that I cosponsor this Senate resolution to authorize a National Ocean Policy Study and ask for the support of my colleagues. The resolution would enable a study by the Senate Commerce Committee, with the help of Senators from other committees concerned with ocean resources and relative matters, as well as six Senators from coastal States, regardless of their committee affiliation. It would enable that study to be undertaken almost immediately.

The study would be directed toward analyses of the status of ocean resources and of the Government programs affecting them. Moreover, the resolution requires that the analyses be followed by legislative proposals to alleviate the problems in such critical areas as fisheries, merchant marine, ocean pollution, offshore minerals development, ocean research and exploration, education, employment, and coastal zone management. In my opinion approval of this resolution is a necessity.

Mr. LONG. Mr. President, the great State of Louisiana lands more fish than any other State in the Union—over 500,000 tons a year. We have a large and exciting sport fishery. Louisiana supplies

almost 30 percent of America's crude oil production, second only to Texas, and Louisiana produces more offshore oil than any other State.

An ever-increasing share of the Nation's international trade moves through the ports of Lake Charles, Baton Rouge, and New Orleans. We also handle more river and intracoastal trade than any other port in the Nation. The Missisippi River drains the waters—and inevitably much of the wastes—of over half the United States and even part of Canada.

The Mississippi Delta region is one of the largest and in some areas most heavily modified estuarine features in the land. Louisiana has over 2,700 acres of catfish farms. It is conducting shrimp farming experiments and is exploring the feasibility of alligator farming. The great Mississippi Delta in particular and the bayou country generally have a potential for literally tens of thousands of acres of fish farming.

With the right technology and incentive, Louisiana alone could produce more shrimp through farming than is presently taken throughout the world by hunting and catching. A comparable potential exists for oysters and many other species.

These are just a few of the reasons, Mr. President, why I join my distinguished colleagues in cosponsoring the Senate oceans policy resolution. Louisiana's stake in the ocean is already great, and it has the potential for becoming even greater. There is more oil and gas to be discovered beneath Louisiana's offshore waters. There are more fish to be caught and a lot more to be farmed. The port of New Orleans is currently undergoing a period of rapid growth and development.

When it comes to ocean resources of all kinds, Louisiana produces far more than its proportional share of the Nation's needs, and now it is being asked to produce more—especially fuels. This, in many ways, is at the heart of the problem. My constituents do not mind pulling harder for the national well-being, so long as other States do their share and so long as the technological and other means exist for minimizing the adverse environmental, economic, and social impacts that may accompany more intensive development of coastal and ocean resources.

Louisiana has not shirked from pushing development of the petroleum resources that lie within its jurisdiction, and it has not tried to block development of the Outer Continental Shelf resources that reside within the Federal jurisdiction. We have welcomed it, for it has been good for Louisiana, good for all the people of the State, as well as good for the Nation as a whole.

Now, however, we are being pushed to try harder, to increase the rate of extraction of oil and gas from fields under our control. Petroleum is a nonrenewable resource. If we pump it too fast we will exhaust that asset too soon. The State will lose a substantial share of its revenue, and thousands of our citizens will have to seek other employment.

I do not suggest, Mr. President, that Louisiana would shirk its duty to the rest of the country and not do everything reasonably possible to help alleviate the energy crisis. What I do say, however, is that other States—those who also have offshore petroleum resources to exploit—must do their share, too. They cannot expect Louisiana to permit a crash drawdown of its vital resources while they hoard theirs.

I appreciate environmental concerns. Louisiana has environmentalists, too, and each of us has concern for the environment. We have had our share of oil spills, we worry about modification of our valuable wetlands, and we worry, too, about the potential of refineries for air pollution, the potential of offshore platforms for interference with shipping, and the way these installations may alter a pristine view. But, we have met these problems and dealt with them rationally and intelligently.

With occasional altercations the oil men and the commercial fishermen are now reasonably good neighbors. Sport fishermen cluster around oil platforms because they draw, rather than drive away, gamefish. Ocean freighters and tankers have now been assigned fairways through the oil fields to reduce the chances of collision. They are not required to use them, but commonsense says they should, and by and large they do.

Louisiana has had some oil spills as a result of offshore activities, but considering the volume and intensity of such activities they have been few, and they have done no permanent damage. So, Louisiana has shown that we can have our oil and our fish, too—oil and a clean environment—oil and wilderness lands. And, of course, we have the prosperity that oil production brings with it.

An important function of the Senate ocean policy resolution will be to explore and evaluate the ways that offshore resources of all kinds can be exploited without damage to the environment and without assaulting the esthetic senses of those who live on nearby coasts and without hindering their recreational activities.

As a concomitant function, these studies will also point out the importance and the advantages of each and every State reaping full measure from the opportunities that nature and the accidents of geography make available to them—the need, for example, for an equitable sharing among all States of the burden of meeting the Nation's energy requirements and, indeed, such other requirements as the future may unfold.

This Nation's rising ocean dependence has been documented by others of our colleagues both today and in times past. So, I shall not try either to enumerate or to discuss all of them that come to mind. I think it is important that each of us realizes that conditions today are greatly different from what they were a year, or even a few weeks ago. We are cut off from a major foreign source of our petroleum supplies not because those supplies have run out, not because we cannot afford to buy them, but simply because those who control those resources have decided to use them for political leverage.

This places the United States in a totally unacceptable position. It also tells us, or at least it should tell us that what has been done with oil can be done with other materials where we are foreign-dependent for more than our marginal requirements. There is a pressing national need, therefore, that we make ourselves as independent as possible of the threat of such extortion attempts and that we do so as soon as possible. The greatest potential for giving us that independence lies in the ocean, for there is virtually no raw material that is not, theoretically at least, available from within or beneath the sea.

We must elaborate in hard, practical terms—not just scholarly theory and hypothesis—what those materials are and how available they really are, or can be made to be, politically, economically, and technically.

We have to chart specifically the extent to which these resources can relieve America's dependence on other nations and meet its own supply requirements with its own people, its own capital and its own enterprise.

We must examine these resources with the pragmatic eye and viewpoint of the exploration geologist and the miner or oil man, or the fishery biologist and the fisherman, and so forth.

We need to look at the law critically—international law, national law, State law, and local law.

We must examine the present state of the requisite technologies and the incentives for going to sea to fill gaps we know exist now and fear will exist in the future.

We need to plot the lowering costs of ocean exploitation against the increase of prices pushed by demand. When these curves cross, ocean resources offer a viable alternative.

To repeat, we need to know what's available in the way of resources, where they are, when we will be able to exploit them, and how much of our national requirements we can expect thereby to fill. The time has passed, Mr. President, when broad generalities, hypotheses and glowing rhetoric extolling the bounty of the sea will serve any useful purpose. Now is the time to get down to cases, to develop an ocean prospectus that will admit the hazards and pitfalls as well as the promise and potential of reward and that will plot a sound course from the recognition of need to the fulfillment of that need. It is the purpose of the Senate ocean policy resolution to help us plot that course.

The studies to be undertaken will examine not only future needs and possibilities, but also it will take a critical look at the present—things we can do quickly which will produce a rapid return. Protecting fisheries stocks off our shores from exhaustion by foreign fishing fleets is one such example. Increasing the capabilities and safety of the commercial offshore divers that make our ocean oilfields work is another, and one which is close to my heart.

As our colleagues well know, the quest for offshore oil and gas goes ever deeper. Wells are now being drilled in over 300 feet of water. Exploration permits in some countries—Canada to be exact—

have been let for depths in excess of 10,000 feet of water. Exploration—geophysical surveys and the like—is taking place in the United States at depths of 3,000 feet or more. While free divers are not likely to work at such depths, they are or soon will be asked to work at depths of 300 to 600 feet. Right now they work routinely at all depths down to 300 feet.

These men, Mr. President, every day risk their health and even their lives because sufficient research has not been done, because safe operational standards do not exist—or if they do exist, the information has not been sufficiently disseminated and enforceable standards have not been promulgated. These are not just scuba divers, Mr. President; they are professional commercial divers who also know how to use tools underwater and what to do to complete a producing well on the seafloor, how to repair a failure, and what steps to take in an emergency.

National standards of operational safety need to be developed and enforced. These men are a valuable human asset, and their talents are going to be needed now more than ever as the Nation is asked to produce more oil and gas from deeper water farther off shore. To develop standards that will protect the health and safety of the commercial oilfield diver and at the same time raise America's oil producing potential will require a 4- to 5-year, and perhaps an ongoing research program. We cannot simply take Navy diver experience and apply it to the oil industry. The circumstances, including the volume of work, are entirely different.

Another area of oilfield activity that needs investigation is the competitive advantage the United States now has in providing offshore oil services. This competitive advantage earns us dollars—in the North Sea, for example, where American know-how is preferred, and in many other parts of the world. We need to be alert, Mr. President, that unnecessary and cumbersome regulation here at home, and unfair competitive rules abroad, do not erode this important source of dollar earnings.

There is a need, too, to substitute reason for emotion in the whole matter of oil pollution. For example, Mr. President, what is the real risk—both long and short term—from an oil spill far offshore? What is the real nature of the damage? The answer is that right now we do not know. There is a lot of emotion on the subject and a scattering of miscellaneous, uncoordinated fact, but the real truth of the matter still alludes us.

We need to find out, and we can find out, if we decide what it is we want to know, why we need to know, and if we then proceed to conduct a research program that will give us the real answers. This is something that can be done and done fairly quickly. I would hope that the studies authorized under the Senate ocean policy resolution would determine all such present needs and then recommend the policies and procedures for fulfilling those needs in an orderly fashion.

This is an area of activity that calls for large investments of American capital in what at best is a risky business—whether it be distant waters commercial fisheries, offshore oil, or deep ocean mining. If we expect the American public to invest its money and if we expect American industry to take the plunge, we must remove as many artificial constraints as possible. The acceptable risks of the marketplace, of the anticipated pace of the requisite technological development and of that provided, simply, by competition both at home and abroad are hazardous enough without making Government the most dangerous adversary of all.

I am speaking, Mr. President, of the need for consistency in Federal policies and actions. It is the uncertainty, the unpredictability factor that chases capital away—the threat, Mr. President, of instant shutdowns for environmental or whatever reasons. It costs $20,000 to $30,000 a day to operate an offshore drilling platform. That platform may have been transported halfway around the world to drill in a certain area. When it is shut down, it costs almost as much as when it is operating. And, it costs more than dollars. There are opportunity costs to be figured, the productive work that it could be doing elsewhere while it's sitting idle here. If a long shutdown seems likely, the rig may be towed off to the North Sea, Africa, Australia, or Indonesia and be lost for domestic oil development for a year or more.

Knee-jerk Federal management is the direct result of a lack of knowledge and the necessity, therefore, to respond to protest in ignorance—simply to stop everything until we find out who is right, who is wrong, just what is going on. This is the kind of management you expect in a nursery school—not in the biggest Government of the biggest Nation on Earth.

We can avoid this kind of mismanagement and preclude the uncertainty factor if we anticipate the problem in advance and set about to obtain the knowledge we will need before, rather than after, the fact. I am convinced, Mr. President, that the studies authorized in this resolution will go a long way toward enabling us to put in order our ocean affairs in the critical years ahead.

The studies authorized by the Senate ocean study resolution should take a thorough and critical look at each of America's bounding seas—at their resources and at the competition we are encountering in our efforts both to exploit and to conserve those resources.

I am talking about Artic and Pacific Oceans and the Bering Sea that bound Alaska, the Pacific around Hawaii and our west coast States, the Atlantic on the east coast and the Gulf of Mexico that stretches across more than half our southern border. What is the real potential of these areas? What are the barriers, today and tomorrow, to their rational exploitation for the benefit of America? What competition will we have in our efforts to put them to our own use? We cannot say where we are going, Mr. President, until we first determine what lies ahead.

The National Petroleum Council estimates that of 38.6 billion barrels of discoverable oil in the U.S. offshore lands of the Gulf of Mexico only 11.5 billion have been discovered; 27.1 billion barrels, or 70 percent of the total remain to be discovered.

Indeed, of all the oil believed to lie under America's continental shelves, including the oil believed to be offshore of Alaska's North Slope, over 90 percent remains to be discovered, 160.2 billion barrels in all. That is over 40 percent of all the estimated undiscovered oil believed to exist in the United States both on and offshore—not counting the vast oil-shale reserves. At present rates of consumption that is around 30 to 40 years' supply.

I might add, Mr. President, that offshore oil also means a lot in Federal revenues. Since operations first began on Louisiana's Outer Continental Shelf, over $4 billion have been paid by Louisiana alone into the U.S. Treasury from bonuses, royalties, rentals, et cetera. As you know, Mr. President, several offshore revenue-sharing bills have been introduced in the Senate which would allocate a portion of these revenues for ocean resource research and technological development. Considering our present and prospective reliance on ocean resources, I would hope that the studies authorized in the Senate ocean study resolution would provide sound arguments for the enactment of this legislation.

I have already alluded to Louisiana's record commercial fisheries landings. Though these are the largest in America, they can be made even bigger, not only for my State but for others of the Gulf of Mexico as well. As several of our colleagues have pointed out, the United States adverse balance of payments in fish and fish products is a billion-and-a-third dollars a year and rising. A substantial portion of this is accounted for by fish meal reduced from industrial and trash fish. For every pound of shrimp caught in the Gulf of Mexico 8 pounds of trash fish are caught and thrown away. Is there some way this throw-away catch can be landed profitably? Can gear be developed that catches only shrimp? Only trash fish?

Because, perhaps, of this tremendous overboarding of dead fish by the shrimpers, the shark population of the Gulf of Mexico has become both more numerous and larger. What is the economic potential of this resource? As food? As leather? As fish meal?

Also, in the last decade or so the average size of the croakers in the Gulf of Mexico has increased substantially—again perhaps because of the ecological interplay of shrimping operations, trash fish and sharks. As a result a potentially important commercial croaker fishery has begun to develop. In view of our balance-of-payments problems, is there any way this process can be speeded up?

Because of the National Marine Fisheries Service's inadequate budget, far too few dollars are spent on fisheries research in Louisiana and in the Gulf. We need to look into the potential of commercial fisheries, the unexploited potential, all around the United States. We

need to do so with an eye toward increasing the profitable catch—reducing our adverse balance of payments and improving the fishermen's wages. The studies authorized in the Senate the Oceans Policy Resolution will examine this problem, too.

But others are fishing in the Gulf of Mexico, competing with the United States for these resources—sometimes within sight of our own shores. The current expansion of Cuban fisheries, for example, is both rapid and substantial. In the last couple of years they have ordered 120 fishing vessels—all shrimpers—from Spain and France. Their catch in the Gulf of Mexico has risen from 62,000 metric tons in 1969 to an estimated 80,000 tons in 1973.

Mexico, too, and others are also increasing their fishing effort. Though Russian and Japanese fishing fleets have not yet invaded the Gulf of Mexico in any substantial numbers, that remains an imminent possibility; they are virtually everywhere else off our shores. We need, therefore, to give careful attention not only to the protection of the rights of American fishermen along the American Gulf coast, but also we need to examine the security of the Gulf of Mexico's basic stocks in light of the inevitable continuing rise of fishing effort in the gulf as a whole. No fishery can survive unrestrained expansion of fishing effort indefinitely.

Finally, Mr. President, it is evident to me that the whole institutional and programmatical structure of the Federal ocean program—if such can be called—needs to be closely scrutinized. The Congress in the last decade has made many efforts to bring order and substance to the national ocean program. The administration has not always carried out the intent of Congress; indeed, quite frequently it has been downright obstructive.

The sea grant program, for example, which has a tremendous potential for upgrading the coastal zone management potential of local, State and Federal officials has been repeatedly level-funded. With inflation what it has been and continues to be, level funding is a cutback. This is despite the fact that one of the fundamental raison d'etre's of the Sea Grant Program Act was to provide continuity of effort and to enable the creation of a sound body of knowledge on which to base coastal zone management decisions.

There is a pressing need for the sea grant program to be closely analyzed and for the benefits that derive from it to be specifically identified and described. This is needed, apparently, to convince the Office of Management and Budget that sea grant is not a welfare program for universities and that, in fact, it is producing tangible benefits, not only locally but nationally, worth many times over the expenditures of Federal funds.

Four years ago the Commission on Marine Science, Engineering and Resources produced "Our Nation and the Sea—A Plan for National Action." This report and its supporting volumes was the most comprehensive, most explicit and most complete analysis of the potential productive interrelationship between the United States and the ocean ever produced. It made a series of specific recommendations designed to optimize America's use of the ocean of its resources and to assure an American preeminence in the ability to economically exploit and to wisely govern those resources. If this Nation had taken the advice of the Commission 4 years ago, the energy crisis would not be so severe as it is today, our adverse balance of payments in ocean and ocean-related goods and services would not equal some $8 billion or more, and our position of power and prestige in the world would not be so precarious.

It has been the Congress, Mr. President, almost without exception that has taken the ocean initiative—the Commission, the National Council on Marine Resources and Engineering Development, Sea Grant, most recently concurrent resolution 11 and many others. Each time we had thought that the administration would see that America's maritime heritage, its vital stake in the ocean is no less today than it has been throughout this Nation's great history, that indeed today with demand for all kinds of raw materials—not just fuels—pushing the limits of landside resources, America's oceanic dependence is greater than ever.

But, these things have not happened. Instead, either the administration has ignored recommendations or at best only made a pretense of carrying them out. Those few that have been executed are now undergoing a kind of budgetary starvation. Worst of all, the decisions being taken of what to support, what to shelve, what to ignore do not seem to be based on any kind of logic or rationale relating benefits to cost, national need to national opportunity.

The time has come once again, Mr. President, for the Congress to take the ocean initiative. Perhaps in light of the energy crisis, the international payments crisis and the frightening prospect of yet other crises of shortage, we can make the ocean story even more pragmatic, even more convincing. I hope so. Our Nation's future depends on it. This is why, Mr. President, I give my unqualified support to the Senate oceans policy resolution and hope that our colleagues will do likewise.

Mr. PELL. Mr. President, I am delighted to join in support of the proposal submitted today to the Senate for a comprehensive study of U.S. oceans programs and policies.

The United States is and has been throughout its history an oceanic maritime nation. In nearly every facet of our national life the oceans, their resources, and the manner in which we manage and utilize them, are of major, if not vital, importance.

Our oceans policies are an important part of our relations with other nations, and must be an integral part of any realistic national policies dealing with energy sources, mineral resources, food and protein supplies, environmental protection and conservation, transportation, commerce, and national defense.

As our Nation and other nations of the world turn increasingly to the sea as a source of food and minerals, and oil; and as the oceans assume ever greater importance in national defense strategies, the need for a vigorous and comprehensive national oceans program becomes increasingly apparent.

During the decade of the 1960's, substantial progress was made toward a more vigorous and effective national oceans program, largely as the result of congressional leadership and initiatives, and with cooperation from an executive branch that was at least receptive, concerned, and interested.

But, during the past 5 years, while the need for a strong national oceans program has grown more urgent, the current administration has given the oceans programs little priority, and little high-level attention. Lacking essential budgetary support and backing from the Office of Management and Budget or the White House, the very capable administrators of Federal oceans programs have struggled simply to maintain their programs.

Clearly, it is time again for a reassertion of traditional congressional leadership to assure a valid and vigorous national program, consistent with our national needs.

That is why I believe the comprehensive review of our national oceans policies proposed by this resolution is both timely and necessary.

As chairman of the Subcommittee on Oceans and International Environment of the Committee on Foreign Relations, I have been particularly concerned with the development and implementation of our international oceans policy. My subcommittee, and indeed the entire Foreign Relations Committee, has devoted a great deal of time and effort to review and oversight of our foreign policy in oceanic and environmental affairs. And I believe the committee's efforts, including hearings, resolutions, and legislation, have been successful in providing guidance and stimulus to the executive branch. I look forward to the continuation of this effort.

As the coauthor, with Representative PAUL ROGERS of Florida, of the National Sea Grant College Program Act, I have also had a continuing interest in the development of our domestic oceans program. The sea grant college program, I believe, has been highly successful in focusing the resources of industry, and educational and research institutions, on the high priority national needs in education, technology, and applied research in the oceans. But this program, too, has suffered from an attitude of indifference in OMB and the White House.

In conclusion, I congratulate the senior Senator from Washington (Senator MAGNUSON), and the junior Senator from South Carolina (Mr. HOLLINGS), both of whom have contributed so greatly to the advancement of our national oceans program, on their leadership in offering this resolution.

I hope the resolution will be approved promptly by the Senate, and I look forward to contributing to the study myself in any way that I can.

Mr. WILLIAMS. Mr. President, I am a cosponsor of, and give my strongest support to the Senate Oceans Policy

Resolution. I am convinced that the well-being of these United States is heavily dependent upon the development of a sound national oceans policy and its energetic implementation. By well-being, I mean a sturdy and growing economy, high standards of living, an independence from others in energy and raw materials, national self-confidence and pride and a restoration of confidence in the national leadership. Neither the American system nor any other system of government, economics and people is a collection of independently functioning parts. Rather, it is a totally interdependent system in which a shock to one part produces a staccato of impacts among all the other parts. That is painfully apparent in these times.

We did not develop a timely energy policy and we now have an energy crisis which shakes the very foundations of our economy and threatens the health and welfare of our citizens. The fuel shortage is increasing prices not only of the fuels themselves, but of every other product and service that requires energy in production that has to be moved by truck, train, air, or rail, and that traditionally has been a byproduct of the energy industry. This is especially true of petrochemicals and all the modern materials that flow from them. Many homes this winter may be cold. Few will get as much gasoline as they would like. Many of us may not get what we need. And already thousands of people are being laid off their jobs. Even now, I do not believe that the administration understands the direct and repercussive impacts that the fuel crisis will inflict upon the American economy.

For over a decade, the Congress has tried to reason, cajole, lead, and force the administration toward a national oceans policy, without any evidence of success. I had planned originally to warn our colleagues that if we do not develop an oceans policy today, we will find ourselves plunged into another crisis tomorrow. But, we are in an oceans crisis right now.

The energy crisis is an ocean crisis. The importation of overseas oil in quantities sufficient to meet our present and future needs requires ships we do not have calling at ports we do not have. It is being suggested that the development of national energy independence may depend on the development of our national offshore petroleum resources and ultimately on America's having fair legal access to, and the capabilities to exploit, petroleum resources in the deep ocean beyond any limits of national jurisdiction.

This is in the short term, between now and the mid-1980's. In the long term, the heat-receiving limitations of the whole planetary ecosystem could force not only America, but the whole world to abandon the further use of both fossil and nuclear fuels, including as yet unrealized fusion power production. This will leave us only solar and gravitational energy. The ocean, Mr. President, makes it easy to use both. The driving force for all the motion in the ocean except the tides is the heat the Earth receives from the Sun. Gravitational attraction of the Moon and the Sun drives the tides. Some of these energy sources are competitive today. These energy sources do not pollute, and they do not use up fixed resources. The "fuel" for them is free and will be available for as long as the Sun and the Moon hang in the heavens. The studies authorized in the Senate Oceans Policy Resolution will explore ocean energy potentials—both the short and the long term, both the prosaic and the exotic.

The national balance-of-payments crisis is also an ocean crisis. Again, jobs, standard of living, national confidence, and pride are at stake. The adverse balance of payments for trade in goods and services in 1972 could have been entirely eliminated merely by cutting in half our adverse balance of payments in those goods and services that are being, or could be, provided through the proper use of ocean resources.

Ocean opportunities are synonymous with jobs, energy, a sound dollar, standard of living, individual health, and well-being. They also offer great promise of providing enervating challenges to our technology, new demands for new skills, new profit potentials for capital, and new and expanding tax bases. They also offer the challenge of a new and demanding frontier—a challenge which has always inspired the American people to excel.

I wish to discuss two other points: The importance of sound coastal zone management and the deliberate administration efforts to block America's ocean initiatives.

NEW JERSEY AND SOUND COASTAL ZONE MANAGEMENT

New Jersey, Mr. President, has a population of about 7½ million. That is not large, but New Jersey is a small State, and it has the highest population density of any State in the Union. Ten percent of its overall area represents water surface. It is entirely surrounded by water except for the 48-mile boundary it has with New York State to the north. New Jersey is a manufacturing State with a third of all employment being in that category. New Jersey is a gateway State. Over 500 New Jersey firms export goods and materials abroad worth over a billion dollars a year. Twenty-nine percent of the exports are chemicals, followed by nonelectrical machinery, transportation equipment, and food. As an exporting State, New Jersey ranks eighth in the Nation. New Jersey's ports combine with the ports of New York and Philadelphia which handle over 50 percent of the North Atlantic ports foreign commerce tonnage.

New Jersey is also an energy State. Of the 10 major refineries that serve the east coast, five are in Pennsylvania and five are in New Jersey. The refinery throughput of the 10 are approaching 1½-million barrels of crude oil a day. By 1985, east coast requirements will amount to some 5 million barrels a day.

With its many miles of Atlantic Ocean barrier islands, New Jersey is also a recreational State; its beaches are intensely used by the people of New Jersey and adjoining States. It is an agricultural State and a fisheries State, though the fishing industry has suffered a serious decline in the last 18 years, with the annual catch having dropped from 270,000 tons in 1956 to 95,258 tons in 1972.

As a national human and material resource, New Jersey is intensely used to serve the national energy, as well as other needs, and is being asked to intensify that usage. Much of that activity is coastal zone oriented, and much of it is in apparent conflict. Unless we have a sound knowledge base, unless we are familiar with all the alternatives and with the experience of others, and unless the Federal and State governments are acting together, the result can be disaster for New Jersey and a much reduced efficiency in the State's service to the rest of America.

For example, overuse of land, air, and water resources as well as the rising environmental objections of individuals ashore now has resulted in plans to consider locating much needed new electrical generating capacity offshore in the Atlantic Ocean. At the same time, the desire to accommodate supertankers has intensified pressures for deepwater oil port facilities being located offshore of the entrance to Delaware Bay.

The conditions that beset New Jersey and encourage plans to look offshore for locating new and necessary facilities are also causing other States to consider similar action. This raises many questions, the answers to which bear vitally on the future well-being of both the affected States and the country as a whole. We need those answers as soon as possible, before we make irreversible decisions.

This brings me to my last point. The Congress in the last decade has taken many initiatives to see to it that America became oceanwise. Most have been blunted, if not blocked, by subtle inaction if not by overt opposition. For some reason, the administration has been strongly reluctant to build a strong American ocean posture. The military posture and a belated attempt to rebuild the American merchant marine are almost the only exceptions, and even those actions are open to question.

One of the most innovative and most promising efforts initiated by Congress was the National Sea Grant College program. It was the purpose of the sea grant program to build a multidisciplinary broadly based body of knowledge, experience, and human competence in the utilization and management of the Nation's ocean, particularly coastal resources. As conceived and now so well directed by Dr. Robert Abel, this program was sure to accomplish its purpose. Furthermore, given adequate support, particularly in its building stages, it promised to enable the development of a tax base, a new tax base which would produce tax revenues far in excess of its costs. I will not detail the methods and accomplishments of the sea grant program here, Mr. President; I understand that this will be among the things to be looked into under the Senate oceans policy resolution.

I do want to say, however, that there appears to be evidence that the Office of Management and Budget may be making a conscious effort to destroy sea grant. With its dictatorial control of the Nation's purse strings, both before and after Congress acts, OMB will have no

trouble doing this unless Congress takes effective action to the contrary. As part of its planned orderly growth process, sea grant would gradually increase its support of academic institutions in both the coastal and noncoastal States until it reached a plateau level of support. For the last 3 years sea grant has been virtually level-funded. I understand that in the fiscal year 1975 budget request, which we are to receive next month, sea grant will be cut even below the present level of support. In these latest Nixon years, inflation has been the rule and, we are told, the rate of inflation is now going to increase. Under such conditions, level funding means reduction in funding.

New Jersey has brought all of its State universities and colleges under a single sea grant administrator so that we would be able to coordinate our efforts effectively. We have worked out State financing so that New Jersey would meet its matching funds obligations. We have now been told by sea grant that we did a great job, but that sea grant has no money.

This is not an isolated instance. Alabama and Mississippi joined together into a single coordinated consortium. They were told the same thing. Maine and New Hampshire face a similar prospect. New York, Maryland, Virginia, North Carolina, Georgia, and other States, ready either to enter the sea grant program for the first time or to go on to the next stage of development, are all being told that there is no money.

There is no better way to destroy a program than to permit the several States to build up their hopes, spend time and effort, develop a wholly new system for working together and change ingrained mental attitudes and then to tell them that they did it for nothing.

Sea grant can be a major factor in restoring American commercial fisheries, in developing optimum solutions to offshore siting problems, in enabling both local and Federal administrators to resolve coastal and ocean resource use conflicts equitably, and for introducing wisdom and foresight in America's use, conservation, and management of its ocean and coastal resources. In many critical areas, sea grant is the only centralized, coordinated structure for assuring the kind of know-how we must have in order to realize our true oceanic potential at all levels of national effort.

The Office of Management and Budget takes a shortsighted view of the American commercial fisheries. It has suggested that, rather than try to help restore the American commercial fishing industry to its previous position of world preeminence, we should simply give up and buy our fish from abroad. This raises just one final question in my mind. How many other OMB policies so cavalierly ignore America's foreign trade status and the balance of payments? The OMB may share a portion of the blame for the present international payments crisis.

I hope that the studies authorized under the Senate oceans policy resolution will look into OMB's role in bringing on the ocean crisis which lies at the bottom of so many other of the crises that now buffet America.

New Jersey needs that Senate oceans policy resolution and America needs it. I support it. I hope that all of my colleagues will, also.

NEED FOR A NATIONAL OCEANS POLICY STUDY

Mr. HUMPHREY. Mr. President, I am pleased to join with Senators MAGNUSON and HOLLINGS and others in sponsoring a Senate resolution to authorize a study of national oceans policy, by the Senate Committee on Commerce with the participation of the chairman and ranking minority members of six other Senate committees, as well as six Senators representing coastal States, as ex-officio members.

The purpose of the study authorized under the resolution which we are introducing today would be to conduct a complete assessment of the Nation's capabilities in the oceans; consider changes necessary in existing agencies, policies and laws; establish policies for the full use and best conservation of ocean recources; coordinate coastal zone management; establish a total ocean environmental policy; and assess questions of national and international jurisdiction.

Mr. President, such a study can become the basis for the kind of initiative needed to revive the spirit of concern and enthusiasm toward oceans policy which existed during the 1960's.

The opportunity and the need that present themselves are little different in scope and seriousness from those we faced in the late 1950's and early 1960's in embarking on the Nation's space program.

With a growing world population demanding to be fed, the oceans offer a source of food. With fuel and other vital resources in short supply, the oceans offer both living and nonliving resources. With efficient means of transporting food, raw materials, and finished products essential to meeting the world's needs, the oceans are a natural pathway of commerce. With the world environment being threatened from all sides, the oceans constitute a major potential victim of pollution. And with nations continually maneuvering for strategic military superiority, the oceans represent potential battlegrounds and weapons launching bases that must be kept under international control.

More than 7 years have passed since a Democratic administration launched a major initiative by enacting the Marine Resources and Engineering Development Act of 1966. That act recognized the importance of the oceans, as the dominant single element in our global environment, both physically and economically, and sought to provide means of developing a sound national oceans policy and program.

Unfortunately, Mr. President, what began as a promising endeavor has been largely sidetracked by the present administration, which has seen fit to downgrade continuation of activities begun in 1966. There have been some laudable achievements under the act, including formation of the National Oceanic and Atmospheric Agency. A companion law, the National Sea Grant and College Program Act, has produced valuable research and other work in the field of oceanography.

But for the most part, the Nation remains without a comprehensive, long-range oceans policy or a means of carrying out such a policy if one were created.

It is not as though there were no foundation to build upon. Following President Johnson's signing the Marine Resources and Engineering Development Act into law in 1966, he asked me as Vice President to activate and chair the Marine Resources and Engineering Development Council, more commonly known as the Marine Sciences Council. I was privileged to serve as the Council's chairman from its first meeting on August 17, 1966, through the year 1968.

Mr. President, we undertook a broad and deep examination of our subject matter. One of our responsibilities was to work with the National Science Foundation, setting policy guidelines for NSC administration of the sea grant program. But our major effort began as an extensive evaluation of all continuing Federal marine science activities of that time, both by purpose and by agency, to identify gaps and imbalance.

We selected nine programs for priority attention. These included international cooperation in marine sciences; food from the sea; the sea grant programs; an ocean data systems study; a comprehensive estuary study; an offshore mineral resources survey; ocean observation and prediction; deep ocean technology; and subpolar oceanic research.

We reported our recommendations to the President, and they were contained in the fiscal 1968 agency budgets submitted to Congress in January 1967. We followed these recommendations by presenting later that year a broad range of policy considerations aimed at relating the potential of the oceans to national goals, coupled with programs to aid in achieving those goals. We attempted to lay a foundation for broadened Federal participation in the field, and for increased emphasis on the nine priority project areas we had selected.

We sought during 1968 to assure that our early initiatives were being carried out and to develop a sound framework of institutions and policies to support our long-term program. We put increased emphasis on rational development of the coastal zone, Arctic research, and efforts to create a new structure for international law and international cooperation.

During this period, a 2-year study was being conducted by the Council's complementary body, the Commission on Marine Science, Engineering and Resources. In January 1969, the Commission issued the results of its work—a magnificent document containing 122 principal findings and recommendations. These were turned over to the new administration for study and implementation.

Since that time, there has been some effort to translate these recommendations into action. A major proposal by the Commission was formation of a separate agency to mobilize the Nation's new ocean policies and objectives. The National Oceanic and Atmospheric Agency was established in the Department of

Commerce in October 1970. A companion body, the National Advisory Committee on Oceans and Atmosphere, was established when legislation was signed by the President in August 1971. In October 1972, the Coastal Zone Management Act became law.

Mr. President, these actions have led to some worthwhile achievements, but they fall far short of the objectives we had in mind during my tenure on the Council.

It has been largely through the continued interest of the Congress in pursuing these goals that some of the programs have survived the budget-cutting and priority downgrading of oceans and atmosphere programs by the present administration.

The National Oceanic and Atmospheric Administration, though formed, exists as a skeleton of what it was originally conceived to be and should be. The administration's fiscal year 1974 budget would reduce the budget of NOAA by $50 million, and make reductions in ocean-related activities of other agencies.

Mr. President, much has been said recently about the Congress taking greater initiative in setting the Nation's course for the future. The failure of this administration to chart an oceans policy of its own requires the Congress to assume responsible leadership in this vitally important area.

Mr. President, I urge the Senate to act at its earliest possible convenience to approve this resolution. This is a measure by which we may resume development of strong national and international policies and programs to assure both maximum use and the most effective conservation of our planet's most dominant element.

EMERGENCY SECURITY ASSISTANCE AUTHORIZATIONS FOR ISRAEL AND CAMBODIA—AMENDMENTS

AMENDMENTS NOS. 930, 931, AND 932

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

Mr. FULBRIGHT. Mr. President. I submit three amendments to H.R. 11088 and ask unanimous consent that the text of the amendments be printed in the RECORD.

I proposed all of these amendments during the consideration of the Israel aid bill by the Foreign Relations Committee. All were rejected. I believe that the issues involved in this bill are of such significance that all Members of the Senate should have an opportunity to go on record on each of these amendments.

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

AMENDMENT No. 930

At the end of the bill, add the following new section:

SEC. 7. Not more than $1,200,000,000 of the funds made available pursuant to section 2 shall be furnished to Israel until the President has found that Israel is taking appropriate steps to comply with Resolutions 242 (1967) and 338 (1973) of the United Nations Security Council. Any such finding shall be reported promptly to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives.

AMENDMENT No. 931

At the end of the bill, add the following new section:

SEC. 7. Military and economic assistance provided by the United States to Israel and authorized or appropriated pursuant to this or any other law shall not be construed as a commitment by the United States to Israel for its defense.

AMENDMENT No. 932

At the end of the bill, add the following new section:

SEC. 7. (a) Except as otherwise provided in this section, none of the funds appropriated to carry out the provisions of this Act shall be obligated or expended after January 31, 1974, until the Comptroller General of the United States certifies to Congress that all funds previously appropriated (including any authorization to create obligations in advance of appropriations), and thereafter impounded during fiscal years 1973 and 1974 for activities, programs, and projects under the Departments of Agriculture, Transportation, Housing and Urban Development, and Health, Education, and Welfare, have been released for obligation and expenditure.

(b) The provisions of this section shall not apply with respect to funds impounded in accordance with any provision of law specifically authorizing the impoundment of funds of any such department if (1) such provision is contained in any law authorizing, or making appropriations for, any activity, program, or project of such department, and (2) the impoundment is made only with respect to and in accordance with such provision authorizing the impoundment.

(c) For purposes of this section, impounding includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made;

(2) withholding any authorization to establish obligations in advance of appropriations; or

(3) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

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

Mr. MONDALE. Mr. President, I am submitting an amendment to the Export Control Act designed to provide the data and the analysis needed to deal more effectively with shortages.

My amendment would require that the President prepare each year a national shortages report and a national food policy report. It would establish a National Shortages Board to collect, analyze and disseminate information about scarcities of minerals, food, raw materials, industrial products, and vital services. The Board would also make recommendations regarding methods to prevent or minimize the effects of shortages, and it would cooperate with existing agencies in seeking to carry out these objectives.

Today a number of experts are arguing that we have entered a new era, one that will be dominated by the economics of scarcity. The United States has in the past 32 years consumed more minerals than all of the human race in all previous history. As other countries seek the benefits of industrialization and as the world's population continues to grow, these experts argue that shortages will spread.

Whether or not this view is correct, it is clear that for the immediate future shortages will continue to plague our economy.

Prof. Otto Eckstein, who heads the Data Resources, Inc., recently said:

> The energy crisis, combined with the shortage of primary processing industry capacity, will give the entire economy a condition of shortage in 1974. Even in many of the finished goods industries, where physical capacity will be ample, the lack of sufficient input materials and energy will depress production and maintain a sellers' market.

In 1973, in addition to the obvious cases of food and energy, we have experienced shortages of a wide variety of other products, ranging from glass to paints, from antifreeze to furniture. Industries such as steel, petrochemicals, rubber, paper, and plastics cannot get raw materials from their suppliers; and they cannot supply their own customers.

Often and increasingly, shortages in one area of our economy are creating or aggravating shortages in other areas. Earlier this year, for example, consumers were alarmed by skyrocketing food prices. At the Government's urging, farmers responded with fence-to-fence planting. Yet, shortages of propane, gasoline, fertilizer, and machinery are now endangering farm production goals.

Government so far has failed to anticipate shortages and, once they were upon us, has failed to act until we were in a crisis situation.

How was it that we could sell off a quarter of our wheat stocks to the Russians—at ridiculously low prices—and then find out that supplies for American consumers were dangerously low?

Why was it that only a year ago the major oil companies and the administration were fighting to keep oil imports out—when today we desperately need added supplies?

The administration's economic policies in response to shortages have been a disaster. And in large part this failure can be attributed to the lack of any systematic planning. The administration's failures cannot be excused because the facts were not available. The facts are available; the Government has hundreds of economists working on projections of supply and demand for food products, raw materials, and energy. But the administration has failed to bring the facts together and has failed to establish any systematic analysis. The administration's inability to carry out this analysis is an example of Executive mismanagement on a massive scale.

As Senator JACKSON pointed out in a foreword to the December 4 Interior Committee staff analysis of the energy emergency:

> Since before the outbreak of hostilities in the Middle East, this Committee has made persistent efforts to obtain from the several departments and agencies of the executive branch an accurate estimate of both the nature and extent of impending shortages and analysis of their potential impact on the social and economic future of our nation.

Responses to the Committee's inquiries were typified by varying, uneven and sometimes conflicting estimates of the shortages. Virtually no analysis was provided of existing data.

The chairman of the Interior Committee further found:

From the study of the material contained in this document, there are three inescapable conclusions: First, the information required to determine and assess the extent of impending energy shortages in most cases has been available in the public domain, but no agency of the Federal government has complied or made any competent analysis of such data. Second, there has been no adequate analysis of the anticipated social and economic impacts of projected fuel shortages. Third, the extent of shortages and the threat they pose to the economy and to national security exceed by far any savings resulting from measures taken to date by the executive branch.

The Interior Committee's findings with respect to energy accurately portray the lack of analysis of shortages among a wide range of other products as well.

Obviously, we need better forecasting, as the Banking Committee rightly pointed out in its report on the export control amendments.

The amendment I offer today is not an instant solution to the problem of shortages. I recognize that there are limitations on our ability to predict future economic trends. And even with better analysis we cannot guarantee that better policies will result.

But my amendment would provide for a centralized information system that could make use of advanced forecasting techniques. It would establish the kind of systematic analysis we need.

And my amendment would force the President, the executive agencies, and the Congress to weigh evidence of impending shortages before they get out of control. It would bring together information that is now scattered throughout the complex of Federal agencies, and make sure that the data and analysis are made available to the Congress and the public on a regular basis.

My amendment would first require the President to prepare an annual shortages report, including:

A list of raw materials, minerals, services, and manufactured items known or expected to be in scarce supply;

Projections of the actual and projected supply and demand for such goods and services;

An analysis of the impact of shortages on the economic, social, and other requirements of our Nation;

A review of the impact of public and private programs and activities on shortages;

Recommendations on methods to improve existing programs and activities to deal with shortages.

Second, it would require the President to submit an annual food policy report, including:

A list of agricultural products known or expected to be in short supply;

The estimated supply and demand of such products, both domestic and international;

An estimate of domestic and world food reserves;

A review of the impact of public and private programs on shortages of food and on the long-term ability of our Nation to produce food;

An estimate of what consumers might reasonably be expected to pay for scarce food products;

Recommendations on methods to improve existing programs and activities related to shortages.

Third, my amendment would create a National Shortages Board to serve as a central office for the collection, evaluation, and dissemination of information about shortages.

The Board would be composed of the principal Cabinet officers who now have planning responsibilities, including the Secretaries of Agriculture, Commerce, Health, Education, and Welfare, Housing and Urban Development, Interior, Labor, State, Transportation, and Treasury. But, in place of the present piecemeal planning efforts, the Board would have its own director and staff capable of coordinated analysis and planning.

The Board would advise the President in the preparation of the annual shortages and food policy reports, would make projections regarding present and future supply and demand of scarce goods and services, and would review and evaluate the activities of public and private programs designed to deal with shortages.

On the day-to-day basis the Board would also cooperate with and assist existing agencies in attempting to anticipate, prevent and/or minimize the effects of shortages.

The Board would have specific responsibilities in seeking to help eliminate obstacles to the orderly production, processing, and marketing of food, including shortages of fuel, fertilizer, feed, equipment, transportation, and credit.

The pending bill recognizes the need to react quickly and effectively when shortages threaten our domestic economy. Export controls are one means to curb demand for scarce materials; and in the face of rapid inflation and worker layoffs, they may be essential to our domestic economy.

However, the United States is dependent upon other countries for a large and growing list of vital raw materials.

If we were to cut off exports of oil, coal, or other energy sources, would the Canadians, one of our biggest petroleum suppliers, be encouraged to cut off their exports to us?

When we impose export controls, we must be sure that they do not end up reducing our vital imports, aggravating shortages, pushing consumer prices higher, and causing even greater job losses to workers.

Therefore, in weighing Government actions designed to alleviate shortages, the Board would also be responsible for analyzing the impacts of export controls on: domestic supplies and prices of scarce commodities, on anticipated imports of products needed by the United States, on our Nation's trade goals, and on our relationships with our trading partners.

Shortages creates far greater problems for our economy than just inconvenience. Many of the shortages that have occurred in 1973 have not yet been felt at the retail level, but they will be. And as shortages spread through our economy, they carry with them the perils of unemployment coupled with inflation—the greatest threat to our standard of living in 40 years.

Bottlenecks in manufacturing are spreading, and wholesale prices are rising rapidly. In November the wholesale price index stood at 17.5 percent above a year ago. Prices for basic materials in October were 23 percent higher than in 1972. As shortages filter down to the consumer level in 1974, higher prices will continue to erode the incomes of working families.

Thousands of auto workers and airline employees have already been thrown out of work. A cutback of 15 percent in the petrochemical industry alone could mean a loss of as many as 1.6 million jobs.

The brutal impact of plant closings, worker layoffs, and skyrocketing prices is usually measured in economic terms. But the human costs to the elderly living on fixed incomes and to unemployed parents with children to support are even greater. And at a time when trust in Government is at an historic low, our political system cannot stand further loss of public confidence because of continued economic mismanagement.

Mr. President, this is a painful time in our country's history. My amendment is by no means a cure-all for the problem of shortages. There are no easy answers to the short term crisis over energy production, and there are no easy answers to long term questions of resource availability and use. My amendment promises no easy answers. But it would assure that the administration, the Congress, and the American people will have the kind of information we need to make the difficult choices with our eyes wide open. It would end decisionmaking in panic and ignorance. I believe it is an urgently needed step in the right direction, and I am hopeful that the Senate will adopt this proposal.

In the words of the distinguished economist, Walter Heller:

Once again, in today's energy crisis, the U.S. is learning the costly lesson that we can't manage economic policy as if there were no tomorrow.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 920

At the request of Mr. MUSKIE, the Senator from Illinois (Mr. STEVENSON) and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of amendment No. 920, intended to be proposed 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.

NOTICE OF HEARINGS ON THE ECONOMIC STABILIZATION ACT

Mr. JOHNSTON. Mr. President, the Subcommittee on Production and Stabilization of the Banking Housing and Urban Affairs plan to hold hearings

January 30, 31, and February 1, 1974. These hearings will be in regard to the Economic Stabilization Act which expires April 30, 1974.

Anyone that wishes to testify, please contact Jack Weiss, 225–5824, room 432, Old Senate Office Building or Gerald Allen, 225–7391, Banking Committee, New Senate Office Building.

ANNOUNCEMENT OF REGIONAL FIELD HEARINGS ON S. 2008, NATIONAL WORKERS' COMPENSATION STANDARDS ACT

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will begin a series of regional field hearings on legislation designed to provide Federal standards for workers' compensation.

The first hearings will be on Thursday, January 24, 1974, in Portland, Oreg., in the auditorium of the Bonnesville Public Power Administration Building beginning at 9 a.m. The second hearing will take place the following day, Friday January 25, 1974, in the Federal Courthouse in Sacramento, Calif., also beginning at 9 a.m.

The subcommittee expects to hear witnesses at the Portland hearing who represent interested persons or groups on the subject of workers' compensation from Oregon, Washington, Idaho, Montana, and Wyoming and in Sacramento from California, and Nevada. Those persons or groups wishing to present testimony at these field hearings should contact the staff of the Labor Subcommittee, room G–237, Dirksen Senate Office Building or telephone (202) 225–3674.

ADDITIONAL STATEMENTS

STATEMENT OF SENATOR SAM J. ERVIN, JR. CONCERNING 1974

Mr. ERVIN. Mr. President, my current term as a U.S. Senator from North Carolina will expire at noon on January 3, 1975. I will not seek reelection to the office in 1974.

My decision to this effect has been made with much reluctance after much deliberation.

September 27, 1973, was my 77th birthday anniversary. Despite this fact, I still do as much work in the Senate as any Senator of any age, and still find the official tasks devolving upon me challenging and satisfying.

Experience is the most efficient teacher of all things, including legislating. I have been privileged to serve North Carolina in the U.S. Senate longer than any other North Carolinians except Matt W. Ransom, Furnifold M. Simmons, and Lee S. Overman.

A case can be made for the proposition that my long service in the Senate, my familiarity with national issues, my friendship with my senatorial colleagues, my chairmanship of the Senate Committee on Government Operations, my seniority on the Senate Committee on the Judiciary, and my chairmanship of its Subcommittees on Constitutional Rights, Revision and Codification of the Laws, and Separation of Powers, and my seniority on the Senate Committee on the Armed Services would enable me to serve North Carolina and the Nation with more effectiveness in the immediate future than at any time in the past.

Moreover, North Carolinians past numbering assure me of their approval of my course in the Senate, and urge me to seek reelection in 1974. To them, I am deeply grateful.

Notwithstanding these considerations, intellectual honesty compels me to confront this inescapable reality: If I should seek reelection in 1974, I would be asking North Carolinians to return me to the Senate for a term which would extend beyond the 84th anniversary of my birth.

Since time takes a constantly accelerating toll of those of us who live many years, it is simply not reasonable for me to assure that my eye will remain undimmed and my natural force stay unabated for so long a time.

As a consequence, I have reached the deliberate conclusion that it would not be fair to the people of North Carolina, who have honored me so much in times past, for me to ask them to reelect me to a new 6-year term in the Senate, which would not expire until January 3, 1981.

It seems not amiss for me to give the people of North Carolina at this time something in the nature of an accounting of my stewardship.

As their Senator, I have endeavored to practice on all occasions the concept that a public office is a public trust.

During my service in the Senate, I have sought to make life more abundant for the farm families of North Carolina, who produce the food, fiber, and agricultural crops essential to our existence and comfort; to support the free enterprise system, and promote the economic interests of those who invest and labor in North Carolina's industries; to promote the development of worthwhile projects in North Carolina's river basins and harbors; to preserve constitutional government and the blessings of liberty for all Americans; to secure to those who labor freedom to join or to refrain from joining unions in conformity with their own desires; to compel the Federal Government to balance its budget, stop deficit financing, and terminate its wasteful foreign aid programs; to maintain Armed Forces sufficient to insure our national survival in a precarious world; to further education, medical research, and the public health; to conserve our natural resources, reduce pollution in our atmosphere and waters, and make our highways, parkways, and parks toll-free to all our people; to secure reasonable benefits to disabled veterans and their dependents and to the aging and handicapped; to obtain the enactment of laws to protect Federal employees against tyrannical treatment by their Government, and to obtain the enactment of laws establishing procedures for constitutional conventions called on the petition of two-thirds of the States.

At the same time I have fought, as sinful and tyrannical, proposals that Americans be taxed to support religious institutions in violation of the first amendment; as incompatible with freedom, proposals that State right-to-work laws be repealed and that compulsory unionism be forced upon those who do not wish to join unions; as inimical to justice, proposals to enact "no knock" and preventive detention laws; as inconsistent with our system of government, the use of the military to spy on civilians exercising their first amendment rights of free speech, assembly, and petition; as intolerable, governmental efforts to intimidate individuals, newsmen, and broadcasters for exercising their rights of free speech and a free press in a manner displeasing to government; as rank tyranny, unnecessary governmental invasions of the privacy of our people, and governmental collection and computerization of data concerning their political and religious thoughts, beliefs, and activities; and as unwise, welfare proposals calculated to convert able-bodied Americans into mendicants.

During my years as a Senator, I have authored or sponsored many legislative proposals which have been enacted into law. Among them were the act protecting the constitutional rights of mentally ill persons in the District of Columbia, the act securing constitutional rights to American Indians residing on reservations, the Criminal Justice Act of 1964, the Law Enforcement Assistance Act of 1965, the Bail Reform Act of 1966, the Narcotic Addict Rehabilitation Act of 1966, the Military Justice Act of 1968, and the Omnibus Crime Control and Safe Streets Act of 1968.

During my time in the Senate, I accepted opportunities to appear in five cases before the Supreme Court because of the substantial constitutional issues involved in them.

These cases were: *Textile Workers* v. *Darlington*, 380 U.S. 263, where the Court unanimously upheld my argument that under the National Labor Relations Act a private business can cease operating entirely for any reason satisfactory to itself and repudiated a National Labor Relations Board decision to the contrary; *Flast* v. *Cohen*, 392 U.S. 83, where the Court upheld my argument that a Federal taxpayer can maintain an action in a Federal court challenging on first amendment grounds grants or loans of Federal tax money to religious institutions; *United States* v. *Gravel*, 408 U.S. 606, where the Court upheld the argument made by Senator SAXBE and me in behalf of the Senate that the protection of the speech and debate clause of the Constitution extends to a Senator's aide while he is assisting the Senator in the performance of his official duties; *Laird* v. *Tatum*, 408 U.S. 1, where the Court in a 5-to-4 decision rejected my argument that the complaint which was drafted by others was sufficient to state a cause of action against Defense officials for using the Army to spy on civilians in violation of their first amendment rights; and *Swann* v. *Board of Education*, 402 U.S. 1, the Charlottee-Mecklenburg School busing case, where I filed an amicus curae brief for the Charlotte-Mecklenburg Classroom Teachers Association urging a reversal of the busing decree.

I add additional observations concerning the Darlington case, where I appeared for the limited purpose of arguing before the Supreme Court that the National Labor Relations Act did not deny a private business the right to go out of business completely for any reason satisfactory to itself. I believe that the decision of the NLRB to the contrary was repugnant to freedom. The Darlington case involved controversies among private litigants; the United States has no legal or financial interest whatever in the matter; and the Supreme Court unanimously adjudged that my argument was in complete harmony with the intent of Congress as set out in the National Labor Relations Act.

I take this occasion to express my profound gratitude to the thousands of North Carolinians who throughout the years have supported me in my effort to secure good government for the people of our land; to the officers, Members, and employees of the Senate whose kindliness and helpfulness have made my service with them a happy experience; to the members of my personal staff as a Senator who have served me and North Carolina with great ability and complete devotion; to the members of the staffs of the Senate Committees on the Armed Services, Government Operations, and the Judiciary, who have assisted me greatly in the performance of the duties devolving upon me as a member of these committees;

To the members of the staff of the Senate Subcommittee on Revision and Codification of the Laws, who have been diligent in their efforts to revise and codify the laws with accuracy and to aid me in countless other ways; to the members of the staffs of the Senate Subcommittees on Constitutional Rights and Separation of Powers who have joined me with untiring dedication in many fights to protect the constitutional rights of all our citizens and to preserve constitutional government for all our people; to the members of the staff of the Senate Select Committee on Presidential Campaign Activities who have sought with intelligence, courage, and fairness to discover the truth in respect to the tragedies known collectively as the Watergate affair and to plan proposed legislation to forestall the recurrence of such tragedies; and to my wife, Margaret Bell Ervin, whose understanding heart has made her companionship an unceasing inspiration and joy.

My wife and I expect to return to our home in Morganton, the county seat of Burke County, N.C., upon the expiration of my present term in the Senate. Here we hope to dwell for a time among the people who have known us best and loved us most, and to watch the sun set in indescribable glory behind Table Rock and Hawk's Bill Mountain.

UNITED STATES NOW FIGHTING FOR SECOND-RATE STATUS

Mr. THURMOND. Mr. President, every American should read the article by Paul Harvey entitled "United States Now Fighting for Second-Rate Status."

This editorial appeared in the Thursday, December 6, 1973, issue of the Aiken Standard newspaper in Aiken, S.C.

In it Mr. Harvey points out that the good life which most Americans enjoy has brought with it some characteristics which do not befit a great nation.

While this article speaks mainly to our Nation's working force, it could as easily be applied to many other segments of our economy including those who work for various levels of government.

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

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

[From the Aiken (S.C.) Standard, Dec. 6, 1973]

UNITED STATES NOW FIGHTING FOR SECOND-RATE STATUS

(By Paul Harvey)

The United States is in a downhill race for second place.

Its people are letting it down.

The United States used to make 76 per cent of all the world's automobiles; now we make 33 per cent.

Once we produced 47 per cent of all the world's steel; now 19 per cent.

In the fifties we built most of the merchant ships in the world; in the seventies we're building only 2 per cent of them.

And where we were first as a builder of machine tools, now we are third.

The sewing machine was "all-American" for generations. Today, only one company makes them in our country.

Some 40 per cent of all Americans wear shoes made outside America.

Why?

Why are other nations now outdistancing ours in the manufacture of almost everything? Because their workers will work longer for less.

No, we can't blame Washington for this. Labor leader George Meany can't blame President Nixon for this.

Our nation is a lesser competitor in the world marketplace because American workers have been running scared from work.

We demand ever-increasing wages, but we're content to turn out shoddy merchandise. Made-in-America stuff costs exorbitant prices and falls apart. So disgusted customers shop elsewhere.

And the "customer service" that Americans used to be so good at—falters.

Today the second most frequent complaint received by the Better Business Bureau is about "unsatisfactory service"; frequently it's plain old-fashioned rudeness.

Detroit's carmakers have had to establish special telephone lines to deal with the avalanche of customer complaints.

Carmakers struck less last year than any year in nine, but any given day at Chrysler one-in-ten workers just "doesn't bother to show up."

And while American labor leaders justify their own jobs with increasing demands for higher wages, shorter workweeks, earlier retirement, more fringe benefits, the harder workers in Japan are about to buy us out—with our own worth-less dollars.

Jim Windle, professor of industrial supervision at Purdue, says our economy is being snafued by goldbrickers, "by a 24-karat I-don't-give-a-damn syndrome sweeping the nation.

"New products fall apart like cheap junk; waiters act like they're doing you a favor by waiting on you; you wait hours in a physician's office while he plays golf; airlines misdirect your luggage; dry cleaners send your things back still stained—or lose them. . ."

Do you realize that the only hope on the horizon for America's economic survival is that the Japanese and Germans, hurrying, as we did, will get rich, as we did, and get lazy—as we did?

AID FOR LEGAL SERVICES

Mr. BIDEN. Mr. President, I am happy to support Senate bill 2686 which will establish a National Legal Services Corporation Act to allow for the continued operation of Legal Services programs currently sponsored by the Office of Economic Opportunity.

S. 2686 is a compromise. It does place some restrictions on local legal aid programs and their staffs. But the need to provide skilled attorneys for the poor and disadvantaged, the need to allow the poor and disadvantaged equal access to our institutions of justice, without regard to wealth, the need to work toward making equal justice under the law a reality, compels me to strongly endorse this compromise.

The Delaware State Bar Association has strongly endorsed the concept of an independent and adequately funded legal services program. A copy of that resolution will be made available for the RECORD. It was certainly not accidental that the bar saw fit to unanimously endorse the need for legal assistance at a time last spring when the program was under an unparalleled attack by an Acting Director of OEO subsequently found to be holding office unlawfully, an Acting Director whose very action was not only contrary to the principles so aptly summed up in the words, equal justice under the law, but was even contrary to the expressed support for legal aid often given by the President. Fortunately, with the confirmation of Al Arnett as Director of OEO the legal services program has been able to continue to provide quality legal assistance, promptly and effectively, while awaiting a new home. It is time we acted.

In Delaware legal assistance to the poor is provided by the Community Legal Aid Society. It is the result of a merger between the Legal Aid Society of Delaware, established by the Delaware State Bar Association in 1946—and, I might note, one of its incorporators was my predecessor, the Honorable J. Caleb Boggs—and the Community Law Services, first funded by OEO in 1966. Our program is now statewide, serves some 4,000 clients per year, at a cost of less than $70 per client, and has received the strong support of all elements of the organized bar, of county government in each county in the State, and the State itself. In expressing his opinion about the program, Governor Sherman W. Tribbitt said:

The proposed project addresses itself to an urgent need to the poor throughout Delaware. The organizations direct record has proven to a vital element of the services to the poor.

Thus, in my State of Delaware it is clear that all elements in public life firmly support the concept of an independent Legal Services program, a program able to provide the full range of legal assistance usually available from an attorney. I urge that S. 2686 be enacted without further delay.

Mr. President, I ask unanimous consent that the resolution of the Delaware State Bar Association be printed in the RECORD.

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

RESOLUTION OF THE DELAWARE STATE BAR ASSOCIATION

(Adopted unanimously, April 1973)

Whereas, the legal services programs sponsored by the Office of Economic Opportunity provide a necessary and vital service in support of the concept of equal justice under the law, and

Whereas, the Delaware State Bar Association for many years prior to the creation of the Office of Economic Opportunity Legal Services Program sponsored the Legal Aid Society of Delaware, and

Whereas, in 1971 the Legal Aid Society of Delaware and the O.E.O. sponsored Community Law Service merged to become the Community Legal Aid Society, Inc., and

Whereas, the Delaware State Bar Association recognizes that only an independent legal aid organization can effectively begin to make equal justice under the law a reality, now therefore

Be it resolved that:

1. The Delaware State Bar Association urges the creation of a National Legal Services Corporation that will insure the continued independence, integrity, and effectiveness of the program free from political interference.

2. The Delaware State Bar Association supports the need for adequate funding that will allow the program to better meet the needs of the poor people of Delaware.

3. This resolution shall be sent to the Honorable Richard M. Nixon, to Mr. Howard Phillips, Acting Director, Office of Economic Opportunity, to Mr. J. Lawrence McCarty, Acting Director, Office of Legal Services, to the Honorable William V. Roth, Jr., to the Honorable Joseph Biden, and to the Honorable Pierre S. duPont, IV.

VICE PRESIDENT FORD

Mr. HUGH SCOTT. Mr. President, the Harrisburg Patriot, in a thoughtfully worded editorial, describes our new Vice President, GERALD R. FORD, as "a decent human being who operates in a tradition of civility and respect for both institutions and persons." In addition, the Patriot offers a wish to Vice President FORD which I echo: "In these extraordinary times the Nation wishes you well." I ask unanimous consent that this editorial be printed in the RECORD.

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

NEW VEEP: FORD STILL HAS COMMON TOUCH

GRAND RAPIDS, MICH.—Is a prideful Midwestern city where they make a lot of furniture and grow the likes of Gerald R. Ford. On Thursday, with his family and scores of hometown folk in the audience, the Grand Rapids lawyer who went to Washington 25 years ago was sworn in as the 40th Vice President of the United States and the first ever to be chosen for that office under terms of the 25th Amendment to the Constitution.

As seen on television by millions of Americans, it was a simple and unostentatious ceremony, yet one dripping with historical significance. The 25th Amendment was proposed in Congress on July 6, 1965, and declared effective on Feb. 23, 1967, after ratification by the legislatures of 39 states. It affirms procedures for the replacement of either the President or Vice President of the United States when such becomes necessary, and by its nature would not be invoked in ordinary times.

Gerald R. Ford, on the other hand, is a very ordinary man, a decent human being who operates in a tradition of civility and respect for both institutions and persons. When he faced the Senate Rules Committee to be examined for fitness by a group dominated by political opponents, he was able to say with disarming candor: "I feel that I am among friends."

And so he was. Democrats as well as Republicans voted in overwhelming numbers to confirm him for high office. Many could decry his Midwestern conservatism but none could deny that he was a gentleman, an upright and forthright public servant, a true representative of that host of Americans who had given Republican-enunciated principles a resounding affirmation at the polls 13 months earlier.

On learning of his confirmation, one of his close friends in Congress told him that his only regret was that he could no longer call him Jerry. "From now on it will have to be Mr. Vice President."

So it will. And yet, behind the formalities of protocol we believe there will always be a Jerry Ford, a sincere and humble man from Grand Rapids who, in the strange meanderings of time and the tides, has been swept into the second highest office in the land.

Mr. Vice President, your constitutionally defined duties are few but your real task is large indeed. In these extraordinary times the nation wishes you well.

THE AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. YOUNG. Mr. President, farm leaders in and out of Congress, and most farm publications, have rightfully claimed, I believe, that the Agriculture and Consumer Protection Act of 1973 passed earlier this year, is the best farm price support bill ever enacted by Congress.

Like most legislation, it represented a compromise between the bills passed by the House and Senate. Even with the compromises, it is still a good farm program. Its major feature is the target price concept, which I originated.

The bill passed by the Senate set target prices for wheat at $2.28 a bushel and for corn at $1.53 a bushel. The House bill established the target price for wheat at $2.05 a bushel and for corn at $1.38 a bushel. In order to get a bill at all, the Senate conferees had to reluctantly accept some less favorable provisions of the House bill. The conferees fixed the target price for wheat for the first 2 years at $2.05 a bushel, corn at $1.38 a bushel and barley at $1.13 a bushel.

The Senate bill tied the target price to parity which meant that the target price would increase considerably for each of the next 4 years, if costs of farm operations continue to rise. The compromise with the House deleted the parity or escalator provision for the first 2 years, but a new escalator provision will be in effect for the last 2 years of the act—1976 and 1977. This will mean increases in target price levels the last 2 years as the cost of farm operations increase.

The price support for wheat in the Senate bill was $1.25 a bushel and $1.49 in the House bill. The conferees agreed to $1.37 price support for wheat, $1.10 for corn, and 90 cents for barley.

The House-Senate conferees retained disaster payments to farmers who lose their crop due to hail, drought, or any other reason. As an example, if a farmer has a total crop failure, he would be paid 68 cents a bushel for the normal wheat production established for his farm. Similar provisions apply to barley and corn.

Mr. President, one of the better analyses of the new farm bill and how it will affect farmers was carried in the December 6 issue of the Benson County Farmers Press published at Minnewaukan, N. Dak. I ask unanimous consent that it be printed in the RECORD as a part of my remarks.

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

FARMERS PROTECTED BY FLOOR PRICE UNDER NEW FARM BILL

Historically, American farmers have produced more than American consumers were willing to buy, so farm prices were kept very low. Even demand from foreigners was not sufficient to maintain U.S. farm prices at acceptable levels. To help keep the farmer in business over the last 40 years, the federal government has used a series of programs to both restrict supplies of farm commodities and support farm prices in plentiful years.

But all this has changed. According to an article published by the Federal Reserve Bank of Minneapolis, American farmers could not produce enough in 1973 to meet demands and despite record farm output, commodity prices climbed to unprecedented levels. The index of prices received by farmers reached 191 by September, starting from only 129 a year ago (1967 equaled 100).

To deal with this radically different situation, the government has had to change its farm policy. The 1973 Agriculture and Consumer Protection Act, signed into law in August, encourages all-out production and, at the same time, cushions farmers against price declines by pegging minimum rates of return on certain commodities.

The Act specifies, for example, that in the 1974 and 1975 crop years producers are guaranteed $2.05 per bushel for wheat, $1.38 for corn and $1.13 for barley grown on allotted acreage. These "target prices" are substantially below September's market prices of $4.62 for wheat, $2.15 for corn and $3.87 for barley. When market prices exceed target prices, no government payments will be made, but when market prices fall short of target prices, farmers will receive the difference as a direct subsidy. An "escalator clause" has been written into the Act to adjust target prices upward to cover rising production costs in the 1976 and 1977 crop years.

The new farm program also provides for farmland to be set aside for conservation or nonproductive uses if the Secretary of Agriculture determines that farm output is likely to be excessive. There will be no set-aside requirements in 1974.

Total payments under the new program are limited to $20,000 per person, a change from the previous limit of $55,000 per crop, but few farmers in the Ninth District will be affected by this.

The Federal Reserve Bank calculates that if district farmers get at least the target price in 1974, total cash marketings from crops should exceed $3 billion. The annual average from 1970 to 1972 was only $1.83 billion, over half a billion of this came from direct federal payments. Anticipated high market prices will probably eliminate the need for federal payments in 1974.

THE NEW AMERICAN REVOLUTION—A DEDICATION TO FIRST PRINCIPLES

Mr. PROXMIRE. Mr. President, on Sunday, December 16, the Governor of Wisconsin, Pat Lucey made a stirring address at the ninth winter commencement of the University of Wisconsin. I want particularly to bring this speech to the attention of my colleagues in the Senate because it shows what we can gain from the energy crisis if we take the proper attitude toward the sacrifices it surely will entail.

Governor Lucey in that speech referred to a new revolutionary spirit exemplified by the word "enough"—enough pollution, gas-guzzling cars, shabby development of our land. He talked about being independent from Arab oil, independent from an economy built on pollution and profligacy. This is the sort of independence that we must set as our goal if we are to win this new American revolution.

So that my colleagues will have a chance to read this inspiring address I ask unanimous consent to have it printed in the RECORD.

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

COMMENCEMENT ADDRESS BY GOV. PATRICK J. LUCEY

It is an honor for me to participate in this, the ninth winter commencement in the long and distinguished history of the University of Wisconsin-Madison.

This is a memorable occasion for all of us. But for each graduate, this day—December 16, 1973—will long have special significance. In a very real sense, today is the first day of the rest of your lives.

Exactly 200 years ago, a band of colonial Americans took unto themselves the burden of an action that was to signify the first day of the rest of our life as a free society. That action was the Boston Tea Party.

A group of educated men, merchants and tradesmen, their faces blackened with coal, methodically dumped 340 chests, or over 90,000 pounds, of dutied tea into the Boston harbor. "Enough" was their cry, and the crowd of colonists who quietly witnessed this act of civil disobedience from the shoreline, assented with their silence.

We do not celebrate December 16th as "liberation day"—but that is what it signifies. The War of Independence was three years away, but the revolution had begun—a revolution not in the deed, but in the attitude that allowed the deed to take place.

John Adams wrote in his diary the next day that this was "the most magnificent Movement of all . . . and it must have so important Consequences and so lasting, that I cannot but consider it as an Epoch in History."

Two centuries is a long time. There are some who argue that the American epoch has now run its course.

Looking around, it is easy to be pessimistic. The first revolutionary nation in modern history has grown complacent in its middle age. To life, liberty, and pursuit of happiness, have been added the right to pollute, clutter, waste and despoil.

For two hundred years we have been a people of plenty. Now we are confronting unprecedented resource shortages, and we are unprepared.

What tea was to colonial America, oil is to the contemporary United States. Were King George III and the East India Tea Company any less accountable to the people then than the giant oil companies are to us today?

Pollsters report that Americans are more cynical about their institutions—both public and private—than at any other point in modern history. Has the American epoch, inaugurated by that brave band of colonial marauders two centuries ago, really run its course?

I don't think so. There is no word that is more over-used in our time than "revolution". But it is no exaggeration to say that in your values and attitudes, and those of your peers, lie the seeds of a new American Revolution.

This is a revolution that will not be touched off by a tea party (or a pot party, for that matter). It will be fought on bicycles and buses, and in compact cars. It will be won not by force, but by skill and commitment, and by countless individuals saying "enough".

Enough with the pollution of our streams and lakes and air.

Enough with the shoddy development of our land, and devastation of our precious farm resources.

Enough with gas guzzling, fume-spitting cars.

Enough with work that is without satisfaction or meaning.

Enough with institutions that respond to the special interests but not the needs of the people.

Since the first Earth Day three years ago, we have, with your help, taken important steps towards making the ecological ethic Wisconsin's ethic.

We passed the landmark Wisconsin Environmental Policy Act, to insure that no state decision can come at the expense of the preservation of our natural heritage.

We blocked the establishment of Project Sanguine, and the continued discharge of mercury into Wisconsin waters.

We obtained Wild River status for the St. Croix, and fought off the developers who wanted to exploit the natural beauty of that river's shoreline.

We established the first program of state support for local mass transit systems in Wisconsin history.

We laid the groundwork for a model solid waste recycling program for the State of Wisconsin.

But these battles are only the beginning. With the onset of the energy crisis, we have been forcefully reminded how far we as a people have departed from the independence for which our forefathers fought. We are dependent not just on Arab oil, but on an economy which has been built on pollution and profligacy.

For years, environmentalists have been warning us that our resources are finite, and that we must begin to practice an ethic of recycling and conservation.

Now that the shortages are here, we are being asked to emulate the ancient Greeks, who killed the messengers who brought them bad news. The first place looked to for energy cut-backs by industry and the federal government is our effort to control pollution. This must not be allowed to happen.

If it is necessary this winter to make one or two strategic retreats, we must never abandon the principle: one step backward, two steps forward. The war against pollution and environmental degradation is not a war we can afford to lose.

A few weeks ago, I received a letter from a man who I like to think of as one of your contemporaries. He wrote:

"I am older than you and have seen the changes that have taken place since 1910. I have worked on railroads and traveled all over our land by car. We human beings have made an awful mess of the transportation system and have sat by and let it happen.

". . . We need someone who will take a good look at the situation and make changes. I was a boy in St. Paul, Minnesota, and used to fish in the Mississippi right next to where the raw sewage came into the river. That was bad then and it still is. The people just sat and let it happen. I guess we must be hit over the head to wake us up. Now we are stuck in the swamp over the energy crisis and wandering around blind. That did not come over-night but has been here for years. Where are the brains of the country?"

The American Revolution at 200 years, can, like this man, be thought of as either young or old. It is you who will determine whether on December 16, 1973 the revolution begins anew, whether the best brains of this country are equal to the challenge, whether today marks the first day of the rest of our life as a free and good society.

Congratulations and God speed.

THE VALUE OF THE INDIVIDUAL IN INDUSTRY

Mr. TAFT. Mr. President, I had the pleasure last month to participate in a conference discussion in Canton, Ohio, regarding the value of the individual in industry. This subject area, which has been generally referred to as worker alienation, is an extremely interesting one and one that deserves the consideration of the Congress. I am not certain if this is an area where legislation per se can be extremely helpful. I do believe, however, the Congress should examine methods by which solutions might be found to enhance an individual's relationship to his job. Certainly economic considerations are included as the correlation between production quality and job satisfaction can be quite high. These factors can in turn lead to greater industrial labor stability and improvement and growth in our economy. Such considerations are obviously becoming increasingly important as international competition becomes more of a factor in the continued strength of our Nation. Beyond these economic considerations, however, I believe it is important to consider this subject because of the basic individual humanistic considerations involved—a man or a woman not content with their job often presents tremendous social problems to society in the form of drug addiction, alcoholism, and crime.

Senator KENNEDY has proposed legislation, the "Worker Alienation Research and Technical Assistance Act of 1973," S. 736, which is before the Labor and Public Welfare Committee, Subcommittee on Employment, Poverty and Migratory Labor. As ranking minority member of the subcommittee, I believe Senator KENNEDY's legislation should be examinined again this Congress and I will make such a request to the chairman of the subcommmittee, Senator NELSON, at the beginning of the next session of this Congress. My staff and I are also exploring a number of options in this area and hopefully will be prepared to offer them in connection with S. 736. Senator SCHWEIKER of Pennsylvania, has I know, been very much involved in study of this entire problem.

I wish to thank the participants in the Canton conference: Mr. Wayne Alderson, vice president, Pittron Steel Foundry; Mr. Tom Mueller, assistant to the president, the Canton Malleable Iron Co.; Mr. Earl Flemming, suggestion and training coordinator, Armco Steel Corp.; Rev. Christian F. Kenneweg, New Concord, Ohio, and Mr. James Ragazino, representative of the Steelworkers Union Local, Timken Roller Bearing Plant, Canton, Ohio.

Special thanks also should go to the Rev. Dan E. Bastin, director of the Urban-Industrial Ministry in Aliquippa, Pa., for arranging the conference and Mr. Don L. Mains, president of Canton Malleable Iron Co., for providing the facilities to hold the conference.

I ask unanimous consent that my remarks at the conference be printed in the RECORD.

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

REMARKS OF SENATOR ROBERT TAFT, JR.

Albert Camus wrote that "without work, all life goes rotten. But when work is soulless, life stifles and dies." Camus, I think, was absolutely correct as individuals need to supplement their existence with some type of work or work related activity. Society has been slow, however, through the years, to learn that such work activity cannot be provided to an individual based solely on economic considerations.

The theme of this conference—"What is the value of the person in industry"—certainly relates to concerns that many of my colleagues and I in the Congress have and is especially relevant in considering such areas as: productivity commission legislation, strike prevention legislation, manpower training proposals, trade legislation, and of course, Senator Kennedy's "Worker Alienation Research and Technical Assistance Act of 1973" which, at the risk of sounding a bit partisan, I believe might be more properly titled "The Worker Motivation Research and Technical Assistance Act".

As many of you know, the employment, Poverty, and Migratory Labor Subcommittee, of the Senate Labor and Public Welfare Committee, held two days of hearings last year on the Kennedy legislation, identical to the proposal he has again introduced this year. I am privileged to serve as ranking minority member of the subcommittee and for that reason have a special interest in potential federal involvement in this area. To be able to assess, however, what the role the Federal Government might have in this field, I believe we must focus on three questions:

1. What do such terms as "job enrichment" and "worker alienation" really mean—is this a subject area that can be isolated and examined with any degree of accuracy;

2. Assuming we answer the first question in the affirmative, what proposed solutions for this problem area merit implementation; and

3. What role should private industry, Federal, State and local governments and organizations such as the Urban-Industrial Ministry headed by Reverend Bastin play in bringing about such solutions.

Answers to the first question were considered very preliminarily by the hearings chaired by Senator Kennedy last year, and by a number of studies supported by the Federal Government including the study, "Work in America", conducted by the Department of HEW under Elliot Richardson—perhaps the most comprehensive research work to date on this subject. Organized labor, private industry and various universities also have conducted extensive research in this area and are to be commended for taking such constructive action. The question seems to remain an open one, however, as to what extent there really is a problem area with regard to job enrichment and satisfaction.

Elliott Richardson presents the case for greater research in this area as follows in the preamble of "work in America":

"While negotiations over wages and fringe benefits seem to have received the lion's share of attention in the past few decades, considerable interest has been displayed over the past year in our magazines, newspapers, and other media in the *quality* of working life. This is not, of course, an entirely new issue. One need only recall the novels of Dickens and the horrible lot he portrayed of children at work, Steinbeck's migrants and Caldwell's farmers, the sweatshops in our industrial cities, and more recently, the efforts to improve the working conditions of coalminers—to realize how profoundly and broadly people care about the quality of work.

"Yet, after following the searching exposition of this report, one cannot help but feel that however deeply we have cared in the past, we never really understood the importance, the meaning, and the reach of work."

Numerous studies and startling statistics can be cited to support Richardson, including reports of plant sabotage, figures of worker absenteeism—*industry week* recently reported that at least five percent of 1.4 million of the nation's 27.8 blue collar workers will not be on the job on any given day. Perhaps an even more convincing argument to the American consumer is the abundance of poor and inferior quality products on the market.

The seriousness of this problem, however, has been questioned. Professor J. L. Windle of Purdue University, Department of Industrial Supervision, believes it is a waste of time and money for the employer to make changes in the structure of the job in order to motivate the employee. Essentially, he feels that the employee's motivational problem does not arise out of the nature of the work: instead, the motivational problem is more likely to be a personal one—the employee brought it into the plant the day he was hired.

Professor Windle states: "My contention is that if it's a personal thing, a matter of individual motivation, the employer can't do much about it. The kinds of things employers can do include better selection and placement of people. If we're talking about routine, repetitive jobs, let's select people who enjoy doing a routine. We have studies that show such people exist."

A recent study by the University of Michigan supports Professor Windle's argument and numerous union officials also have questioned whether job enrichment really is a legitimate problem, or rather just a problem of society generally. For instance, the effect of pay levels and fringe benefits on the quality of the workers' life could overshadow the work experience (i.e., legal services trust fund).

William Winisinger, vice president of the International Association of Machinists recently stated job enrichment is just "a stop watch in sheep's clothing" in referring to labor's traditional disdain for managements time and motion studies. Numerous other union officials, including Leonard Woodcock also have raised questions about the validity of the problem.

I do not have the definitive answer to this question, but I do not believe we can afford to ignore the possibility of a problem of great magnitude in this area. Our balance of trade payments situation, our country's economic health and potential for growth through increased productivity and industrial peace would seem to almost mandate an exploration of this subject. Beyond these collective national interests, however, I believe it is imperative to at least examine this area because of individual humanistic considerations potentially involved.

The one specific proposal that the Congress has focused upon is the legislation I earlier referred to introduced by Senator Kennedy. His approach would establish a federal commitment of $20 million over the next two years for research into the problem of worker alienation in all occupations. Specifically, the bill would provide technical assistance to groups of workers, unions, private industry and state and local governments for practical experimentation and pilot projects to alleviate worker dissatisfaction and fund development of curriculums for the training of professionals in work humanization methods. Other provisions of his proposal would authorize the Secretary of HEW to insure that federal agencies seek to maximize job satisfaction and permit the Secretary of Labor to seek assurances that job satisfaction is considered by Federal contractors. Both the Secretaries of Labor and HEW would be directed periodically to report back to the Congress and make recommendations as to whether additional legislation is necessary.

Discussions have been held at the staff level for conducting further hearings on the Kennedy proposal and other topics within this subject area. I am hopeful that the Senate employment subcommittee could place priority on this matter during the first part of next year and proceed with comprehensive hearings.

Areas and proposed solutions which I believe the committee should consider include:

Plans to permit groups of workers to join together in teams in performing tasks.

Plans to permit workers to perform more than just one part of a mechanized job.

Programs to permit employee participation in the design of new plants.

Experimentation with supervisor-employee discussion groups including meetings of top management and the rank and file.

Participation by top management in assembly line work to see the job from the workers viewpoint.

Humanization of work facilities and the work environment.

White collar workers and job satisfaction.

Investigation into the relationship between alcohol and drug abuse and worker dissatisfaction.

Experimentation with flexible hour plans to permit workers to begin at different hours.

Experimentation with partial retirement and part-time worker programs.

Implementation of employee quality effectiveness programs permitting employees greater opportunities to test and evaluate the products that they are producing.

Experimentation of variations of profit sharing plans.

With regard to what role private industry, labor organizations, private groups and government can play in helping implement solutions. I believe the answer must be one of maximum co-operation and co-ordination. A start at the congressional level might be enactment of a proposal similar to that advanced by Senator Kennedy. I am not certain. One thing I believe is certain, however, is that this subject must receive continuing national attention and Congress must not fail to at least consider suggestions from organizations such as those represented here.

GENOCIDE MISUNDERSTOOD

Mr. PROXMIRE. Mr. President, some people oppose American ratification of

the Genocide Convention because they believe that the convention's definition of the word "genocide" dangerously distorts the true meaning of the term. They maintain that article II of the treaty would require each signatory to prosecute any person demonstrating the intent to destroy or harm a single member of a specified ethnic, racial, or religious group. This mandate they consider too broad.

However, this concern is unwarranted. First, article II of the treaty rather explicitly states that only the intent to destroy the "whole" or part of such groups would require government action. In 1950 Deputy Under Secretary of State Dean Rusk drew the distinction between crimes of genocide and homicide by noting that the former designated the intent for large-scale violence against members of a specific group while actions against one or two members of a racial or ethnic group would fall in the latter category.

Furthermore, ratification of the Genocide Convention would not increase the number of prosecutions for violence against individuals because the U.S. legal system already considers such violent actions to be criminal offenses. Violence and persecution in any form has long been abhorrent to those upholding the principles of freedom and democracy for all men. Ratification of this document would merely reaffirm our commitment to those principles. After more than 20 years of debate such a reaffirmation is more important than ever.

Finally, the convention allows for each nation in agreement to devise implementing legislation consistent with the constitutions of those nations.

This provision would allow the United States to make a stand of moral opposition to genocide while maintaining criminal statutes against homicide and discrimination.

Mr. President, I ask the Senate to ratify the Genocide Convention as quickly as possible, and make clear America's position against mass violence.

RECENT MURDERS COMMITTED BY PALESTINIAN TERRORISTS

Mr. TAFT. Mr. President, I am certain that I express the unanimous view of this Chamber when I say that I have been shocked and horrified by the recent murder of over 30 innocent people by Palestinian terrorists. The wanton and brutal slaughter at Rome and Athens will live for a long time in the memories of civilized men, denoting a new level in the barbarism that increasingly marks our era.

The perpetraters of this terrible crime bear a heavy responsibility in the eyes of the world, and I hope that they will bear equally heavy responsibility before a court of justice. But they are not isolated criminals. Some Arab States condone their actions, in fact if not in official communique, and these states must also be held responsible for their criminal outrage.

There are two recent international agreements designed to deter acts such as those at Rome and Athens. The first, the Hague Convention, is directed at deterring hijacking; and a companion agreement, the Montreal Convention, is aimed specifically at airport incidents such as the recent tragedies. Both agreements provide for the prosecution or extradition of air pirates.

The United States is a party to both conventions as, I would point out, is Israel. So are some Arab States, including our friend and ally, Jordan; and Lebanon, noted for years as perhaps the most sensible and moderate state in the Middle East, has signed the Montreal Convention, and Iraq has adhered to the Hague agreement. Neither Syria nor Kuwait have agreed to either convention.

But what of the other Arab States? Algeria has done nothing, Libya has done nothing, Syria has done nothing. These states are almost as guilty for their lack of action, as were the murderers of the innocent at Rome and Athens. By not agreeing to prosecute pirates and terrorists, these states—I single out Syria in particular, which allowed the pirates to land at Damacus and at Kuwait, presumably under some accommodation—give aid and encouragement to such criminals. I submit that they are thus criminal themselves.

Neither this Nation nor the responsible nations of the Middle East should tolerate any longer their support of criminals and mass murderers. Let those who died in Rome and Athens be the necessary impetus to bring all nations to put an end to air piracy.

The responsible nations of the Middle East—I include especially Egypt, which is now pursuing a reasonable and moderate policy in the pursuit of peace—should be the first to realize that the terrorists do great harm to the Arab cause. Some have. They degrade the world's image of the Arab to that of a cowardly assassin of women and children. They make it all but impossible for non-Arabs to view this situation in the Middle East from an unprejudiced standpoint.

I firmly believe that, despite their pro forma denials, the Palestinian guerrilla organizations have full foreknowledge of incidents such as the recent ones. And I equally believe that the Arab governments have it in their power to control these organizations, and to force them to halt the terrorism.

The Arab States, particularly Egypt, are now indicating a desire for better relations with the United States. We share that hope. They ask us to adopt an impartial attitude toward the situation in the Middle East, and to give Arab claims a fair hearing. I favor these positions. I think it is a matter of justice and of good policy that we should work for good relations with all the nations of this part of the world. And we should be unprejudiced in our examination of the claims of all parties.

But as a precondition to this attitude on our part, I think we should demand of the Arab governments that they condemn and act to end the terrorism, particularly the air piracy perpetrated by the Palestinians. As I said, I firmly believe that these governments have it in their power to do this. We should formally demand that all Arab States adhere to the Hague and Montreal Conventions, and carry out the terms of those conventions by prosecuting or extraditing pirates, and ask for UN support in that position. This would be a strong coercive measure, but with more than 30 coffins containing innocent victims of terrorism now awaiting burial, can we do less? I do not think so.

As I mentioned, some of the Arab States, particularly Lebanon and Jordan, have been leaders in the worldwide fight against air terrorism. Others, such as Egypt, have been moving in the right directon. Let Algeria, Lybia, Syria, Kuwait, and the others who have not adhered to the piracy conventions follow the lead of their neighbors. And let all the nations of the Middle East act effectively against those within their borders who practice, support, espouse, or have foreknowledge of these horrible, murderous activities. Then the Arabs will have put the rest of the world on notice that they are responsible people, deserving of serious and respectful attention. And the innocent victims at Rome and Athens will not have died in vain.

Mr. President, I ask that an editorial from the New York Times of December 18 on this subject be printed in the RECORD.

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

THE ARAB TERRORISTS

The fanaticism that has perverted the Palestinian Arab cause for so long has once again taken a bloody, mindless toll in innocent human life. No civilized person or government can stand aloof from the tragedies perpetrated in Rome and Athens yesterday; no political cause can justify the murderous acts.

Yesterday's terrorism follows an all-too-familiar pattern: whenever responsible Arab leaders show some sign of readiness to try for a political settlement with Israel, the Palestinian extremists commit one of their outrages. Their obvious motive is so to arouse passions that no political compromise can be carried through. Neither Arabs nor Israelis must allow themselves to be diverted from the path of accommodation by the action of these gunmen.

But the Arab governments cannot escape all responsibility for the spirit of terrorism, however much they may deplore individual outbursts or claim that individual terrorists are beyond the control of government authority. It is the Arab governments that cynically used the Palestinian grievance to further their own political ends over the years; it is the Arab leaders who have shortsightedly nurtured the Palestinian guerrilla organizations into a political and military force which is now acting against Arab interests as well as against Israel.

Even at this moment the Government of Syria is carrying through an official policy of treating human beings as pawns, in its refusal to exchange prisoners of war with Israel. This inhumane cynicism is just as reprehensible—and breeds just as much suspicion and hostility—as the overt violence of the terrorists.

The terrorists now stalking the airlanes represent no one but themselves. But the Arab world as a whole and a number of other countries are now on test: Will Japan and the European governments, whose obvious need for oil has led them to "tilt" toward the Arabs, muffle their outrage for fear of risking further economic sanctions? Will the oil-rich Arab states dare to invoke their oil weapon against countries which condemn

terrorism? Most important, will Syria and the other Arab states on Israel's frontiers recognize their obligations now to make specific gestures of peaceful intent toward Israel, in light of the barbaric acts of yesterday?

Arab leaders protest their readiness for coexistence and settlement. These noble sentiments require confirmation in deeds as well as words.

SOUTHEAST ASIA

Mr. PELL. Mr. President, in a year that has seen little good news, and a surfeit of tragedy, scandal, economic problems, and shortages, there is at least one development for which all Americans are grateful: American men are no longer engaged in combat or bombing in Southeast Asia.

The termination of direct U.S. military involvement in Vietnam has brought to a close a turbulent and agonizing era in our national life. Never before in our history had the American people been so deeply, and indeed bitterly, divided over our participation in a war.

For the United States that war is now over, but much remains to be done to repair the damage it caused to our country, and to individual Americans.

For that reason, the distinguished junior Senator from Ohio (Mr. TAFT) and I are today introducing legislation that would end the war for thousands of Americans who are in hiding in this country, or are living outside of their homeland because their consciences would not permit them to serve in the military forces in Vietnam.

Many Americans faced difficult personal choices as a result of the war in Vietnam. No choice was more difficult than the choice that confronted thousands of young Americans who were called to serve in the Armed Forces in a war whose wisdom, morality, and legality was being questioned and challenged. For those young men who believed the war was right, there was no internal conflict between conscience and duty to country. They served bravely, and they have the respect and admiration they so richly deserve.

Other young men served, but with troubled consciences, or nagging doubts.

And other young men believed so strongly that the war in Vietnam was morally wrong that they decided service to their country in a wrong cause would be a disservice both to their country and to themselves. Some of these young men went to jail. Others left their homes, their parents, their jobs, and their country. There are those who charge that those who refused to serve were motivated by cowardice. There may be some such cases, but I believe, in the agonizing national atmosphere generated by the war, that their actions were not the result of a lack of courage, but of the dictates of conscience.

Mr. President, the legislation Senator TAFT and I have introduced today would not grant a blanket pardon to all those young Americans accused of refusing military service during the war. The bill would, however, provide a way for them to come out of hiding, and to return to their country, if they agree to serve their country in a manner in keeping with their conscientious convictions.

Under this bill, persons accused of violation of the Selective Service Act would be granted immunity from prosecution if they agreed to serve 2 years in the armed services of the United States or in alternate, comparable public service.

The act would not apply to deserters from military service. They are, I believe, in a different category, having willingly accepted an obligation to serve in the armed services and sworn an oath to do so.

Mr. President, our country has nothing to gain in continuing the anguish of young Americans alienated from their country by the tragic war in Vietnam. We gain nothing by forcing them, with the threat of jail, to remain in hiding or overseas, separated from their families and friends. On the other hand, our country has nothing to lose in permitting these young Americans to return to our national life, with a requirement that they dedicate 2 years of their lives to serving their country.

The American people are a generous and forgiving people. We do not bear grudges, and we do not seek retribution or vengeance. We do, however, seek equal justice under the law.

Only a few months ago, a Vice President of the United States admitted that he had cheated on his income taxes, at a time when those tax dollars were needed to support the war in Vietnam. There was no contention that that act of tax evasion was an act of conscience, but the former Vice President remains today a free man.

Are we to apply a different standard to young men who, from conscience, refused to commit their bodies and minds to a war, while permitting a form of amnesty to men who evaded a commitment of their tax dollars? I would hope not.

Mr. President, this is a humane bill. It does not seek to open the wounds inflicted on our Nation by the long and divisive war in Vietnam. It seeks rather to heal those wounds, with tempered justice.

I hope therefore that the bill will be given early and earnest consideration. In some way, at some time, we must resolve the question of our policy toward these young Americans, alienated from their country. The interests of the country, and of these young men are best served by acting now.

RHODESIAN CHROME

Mr. BUCKLEY. Mr. President, 2 years ago, it was my privilege to cast the deciding vote in favor of the Byrd amendment that enacted into law the simple, commonsense proposition that the President may not prohibit or regulate the importation of any strategic or critical material from a non-Communist nation so long as the importation of such materials from Communist nations is not prohibited. When that amendment was enacted into law, the United States was freed of its 5-year dependency on the Soviet Union for its supplies of metallurgical-grade chrome ore, as only Rhodesia and the Soviet Union are significant exporters of this critical metal.

Those who supported the Byrd amendment in 1971 did so on two principal grounds: First of all, the embargo on Rhodesian chrome provided the Russians with a monopoly that they would not be timid about exploiting for commercial profit. In fact during the 5-year period of the embargo—1966–71—Soviet ore selling on the international market rose from $25 per ton to $72 per ton. Secondly, the proponents of the amendment argued that we could not prudently be dependent on a potential adversary for so critically important a strategic material.

What astonishes me is that a majority of this body has repudiated the eminently sensible and responsible action taken just 2 years ago.

I say astonishing because in the last 2 months we have been forced to face the consequences of a monopolistic control of essential resources in the hands of foreign governments, and the dangers of reliance on foreign resources that can be withheld for political reasons. Since the Arab oil embargo was announced 2 months ago, the price of international shipments of crude oil have more than trebled, and we are being forced to make dramatic adjustments in every aspect of our life to accommodate a 15-percent cutback in our total supplies of oil and petroleum products.

Two years ago it was possible to argue that we had adequate stockpiled chrome ore to tide us over any temporary embargoes by the Soviet Union. Today, with the benefit of hindsight, we have a far clearer understanding of the need for continuing importations of chrome in order to expand our production of basic and specialty steels. The fact is that we now have on hand in our stockpile less than a 1-year supply of chrome ore.

Two years ago, critics of the Byrd amendment warned us that America would lose caste in the chanceries of the world if we broke rank with a U.N. resolution. Again with the benefit of hindsight, it is clear that the adoption of the Byrd amendment has had no adverse impact on U.S. foreign relations save for the beneficial one of persuading the Soviets that the United States would not allow itself to be made vulnerable to Soviet economic warfare by a U.N. resolution.

Mr. President, I just hope that our colleagues in the House of Representatives will have the time over the Christmas recess to reflect on current world realities, to reflect on the role of the Soviet Union in encouraging the Arab oil embargo, and then come to the conclusion that the only responsible action the House can take is to allow the bill the Senate has just adopted to gather dust in a congressional pigeonhole.

WHO OWNS TWO-THIRDS OF EARTH?

Mr. METCALF. Mr. President, in the issue of Monday, December 17, the Wall Street Journal's lead editorial reviewed

progress, or lack of it, toward international agreement on the question: Who owns two-thirds of earth?

I ask unanimous consent to have printed in the RECORD the editorial from the Wall Street Journal.

There being no objection, it was ordered to be printed as follows:

[From the Wall Street Journal, Dec. 17, 1973]

LAW OF THE SEA: ENOUGH'S ENOUGH

The UN's Law of the Sea Conference ended Friday with delegates from 148 nations only really able to agree on one thing. They'll all get together for 10 weeks in Caracas next summer. After all, if they couldn't do that much the individual delegates would all be out of jobs. And since that seems to be the only common ground, there's always Vienna in 1975.

It's just as well. The U.S. presented its draft treaty three years ago, and we would have been alarmed if at any point the developing nations had rushed to sign it. U.S. policy on Law of the Sea doesn't really serve U.S. interests, and it has always been a comfort to suspect that these negotiations have been doomed to failure from the start.

The conference grew out of a couple of concerns. One, that if more and more coastal nations extended their territorial limits 200 miles into the sea the freedom of the seas would be threatened. Second, that unless there is some kind of global accord to deal with the exploitation of the ocean resources, nations would be going to war over who gets what. There may be more than 100 billion barrels of oil below the outer continental margins of the world's coastal areas and there is almost an unlimited supply of manganese nodules, rich in nickel and copper as well, heaped on the deep ocean bed.

The draft treaty President Nixon put forward in 1970 in no way attempted to maximize U.S. interests. Rather, it evolved out of struggles within the government, with the loudest, best-positioned voices at the Defense and State Departments winning out. Defense is really only concerned with securing the right of the Navy to go anywhere it now can go. State's chief interest, as usual, is in securing that illusive perfect treaty, a document that will bring happiness and peace to mankind. No one worried about U.S. access to resources.

As a result, the U.S. position emphasizes freedom of passage and a global sharing of ocean resources. From a depth of 200 meters out to the end of the continental margin, the coastal state would have supervisory control over the ocean's resources, but would share the revenues derived with the rest of the world. The deep ocean bed and all those nodules would be controlled by an international regime that would decide who is allowed to mine and where they can mine, dividing the wealth through an international revenue-sharing mechanism.

The State Department may have believed this would look like a bonanza to the developing nations, who through sheer numbers have dominated the Law of the Sea parleys. But these countries naturally looked at the U.S. draft treaty as an opening gambit of the world's chief "economic imperialist." As might be expected, their counterproposals would make it economically impossible to exploit the ocean resources, which is what many of them have in mind.

It is an empty exercise. The U.S. Senate would never ratify the U.S. draft treaty, let alone the bizarre schemes kicking around the Law of the Sea Conference. So far as we can tell, the governments of Western Europe, Japan and the Soviet Union have been going along with these negotiations simply to humor the United States and the passionately serious developing nations.

The only nation that is paying any serious penalty for dragging out the conference is the United States. Its companies have the capital and technology to exploit the resources, but hesitate to do so when in a few years some unknown international authority could theoretically wipe them out with taxes and regulations. The Interior Department won't issue oil and gas leases beyond 200 meters, for example, without making them conditional on terms of some future agreement. Nor will most U.S. companies go after those nodules with the political risk, though Howard Hughes is doing so on the sound assumption that the Law of the Sea Conference will either break down or go on forever, from spa to shining spa.

Enough is enough. For the sake of form, the United States may as well send its negotiators to Venezuela and Vienna. though there is much to recommend a clean break. But the important thing is that the U.S. government should free the petroleum and mining industries of any caveats linked to some future treaty, and let them go to work adding to the world's store of available resources.

Will this mean the U.S. Navy will be boxed in? No. Any coastal state that desires to maintain commerce with the rest of the world will have to maintain reasonable rules of passage. Will it mean countries will go to war over who gets those nodules, oil or fish? No more than they do now, or less than they would if some world authority came into being. When was the last time the United Nations settled such a scrap?

Mr. METCALF. Mr. President, I have read into the CONGRESSIONAL RECORD an editorial from the Wall Street Journal.

Headlined: "Law of the Sea: Enough's Enough," the editorial said that, while the United States may as well send our negotiators to the forthcoming Law of the Sea Conference our Government should also "free the petroleum and mining industries of any caveats linked to some future treaty and let them go to work adding to the world's store of available resources."

The editorial prompted a response from Ambassador John R. Stevenson, special representative of the President for the Law of the Sea Conference.

I ask unanimous consent that Ambassador Stevenson's reply appear in the RECORD following my remarks—which include my statement that I am with him when he says:

U.S. policy is predicated on completion of the conference's work on schedule—preferably next summer but in any event by 1975 at the latest.

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

LETTERS: AMBASSADOR ON SEA-LAW TALKS

Editor, The Wall Street Journal:

Your editorial "Law of the Sea: Enough's Enough" (Dec. 17) on the first session of the Law of the Sea Conference reveals a fundamental misconception of present U.S. policy, and misjudges the prospects for an international agreement serving U.S. interests. It also, in my opinion, is premised on a serious miscalculation of what the oceans would be like if an agreement is not reached.

You assert that no one in the U.S. government has worried about U.S. access to ocean resources. Yet the fact is that such access is a fundamental objective of U.S. policy.

That policy, as articulated in draft treaty articles tabled last summer would give coastal states such as the United States full resource jurisdiction over the petroleum and natural gas of the continental margin. With respect to the precise outer limit of coastal state jurisdiction, there was broad support among the countries participating in the preparatory work for 200 miles, or 200 miles on the outer edge of the continental margin, whichever is further seaward.

During the interim period until agreement has been reached, it will not be the policy of the Department of Interior to condition leasing on the outer continental shelf on the terms of a future agreement. In November the Federal Register published the department's opinion that no changes in current lease forms would be required to insure compliance by the United States with any treaty resulting from the present negotiations.

U.S. proposals also provide for coastal state control and preferential fishing rights for species of fish inhabiting coastal waters or spawning in coastal rivers. (Foreign fishermen would be given access on reasonable terms to the extent the coastal state does not have the capacity to catch up to what conservation limits permit.) Fishing for highly migratory ocean species such as tuna would be governed by agreed international agreement.

With regard to nickel and copper from deep-ocean manganese nodules, U.S. proposals provide for licensing that will be nondiscretionary, or a first-come, first served, exclusive-right basis; among qualified ocean miners certified as technically and financially competent by a sponsoring country, and with appropriate measures to prevent staking out vast areas without working them. This is a far cry from an international organization that would have discretionary authority to decide who is allowed to mine and where they can mine. Moreover, U.S. representatives have consistently and strongly opposed giving an international authority the effective power to restrict access through imposing price or production controls.

These are hardly the policies or proposals of a government unconcerned with protecting its resource interests in the oceans. However, it is U.S. policy to achieve its resource objectives, not by unilateral action, but rather by a generally accepted international agreement. Such an agreement would protest other important United States interests that might be sacrificed by a unilateral approach. Thus, for example, it would also provide for free transit through international straits and, in the area of coastal state resource jurisdiction, for freedom of navigation, protection of the ocean environment and the right to conduct scientific research.

Nor is the avoidance of conflict through building more effective international law and institutions merely an international lawyer's idealism. Nations have gone to war over transit through international straits. Fisheries disputes have poisoned normally friendly relations with our neighbors to the South, and the recent "cod war" between Iceland and the United Kingdom has been a matter of serious concern not only to those countries but also to their friends and allies.

In attempting to achieve all of these objectives, the U.S. has sought a treaty giving coastal states broad resource management jurisdiction in a broad area beyond the territorial sea, but which would also provide express protection for other uses of the area and the marine environment. Disputes would be settled through agreed compulsory procedures. Revenue sharing with the international community in respect of non-renewable resources has also been supported by the United States, not alone for reasons of equitable sharing with geographically disadvantaged areas, but also as a practical means of achieving general agreement.

In the deep seabed, similarly, the U.S. has proposed treaty articles providing for re-

source development while protecting other uses and the marine environment, with disputes settled by compulsory process. While on the one hand providing for sharing of benefits with the international community, these articles would also give deep-sea miners the security of tenure and protection from interference that they could not achieve in reliance on the freedom of the seas right to exploit.

Finally, a word as to your skepticism regarding the prospects of securing a treaty that "will bring happiness and peace to mankind" or settle a "scrap" over navigational rights or resources. No one who has been personally involved in negotiating with some 150 sovereign nations to achieve a comprehensive multilateral treaty affecting hard political, economic, military and other national interests could minimize the inherent difficulties. However, by the same token we should not minimize the threat that failure to reach agreement poses not only for our nonresource interests but for certain resource interests, such as the ocean transportation of petroleum and hard minerals.

The choice is not between U.S. freedom to exploit on the one hand and a give-away on the other, but between an agreed international solution protecting our interests and the partition of a large part of the oceans by coastal states with no agreed rules for the area beyond. There is at the very least a common general interest in minimum rules of order which can, as the International Civil Aviation Organization has done in the skies, provide ground rules under which competition can be carried on without disastrous conflict from which no one will emerge the winner.

To be sure, a successful negotiation must be a two-way street. As you quite properly point out, the developing countries are by their sheer weight of numbers in a position to dominate the conference. But the object of the negotiation is not the adoption by the conference of a treaty text by the developing countries over the opposition of the maritime and developed countries, but rather a generally acceptable treaty that can be ratified by most states, including the principal maritime and developed countries.

Fortunately, the responsible developing country leaders of the conference—including the highly qualified representatives of Sri Lanka, the Cameroons and Venezuela, elected by the just-ended organizational session as chairman of the conference and chairman of two main committees—are well aware of this fundamental limitation on majority rule. If they will work for reasonable accommodation of developed and maritime country interests and avoid a self-defeating tyranny of the majority, our hard interests no less than "a decent respect for the opinions of mankind" require that we, for our part, make a maximum effort to achieve a generally acceptable negotiated solution.

As to the risk of protracted delay in the negotiations, U.S. representatives have made it abundantly clear that U.S. policy is predicated on completion of the conference's work on schedule—preferably next summer but in any event by 1975 at the latest.

AMBASSADOR JOHN R. STEVENSON,
Special Representative of the President for the Law of the Sea Conference.

TRANSIT PLANTING

Mr. BAKER. Mr. President, it is my privilege to serve as a member of the board of directors of the American Horticultural Society, the national organization founded in 1922 to promote and expand interest in the horticultural sciences.

The society, through the expertise of its national membership of 25,000 horticulturists, gardeners, gardening groups and plant societies, and its unique computerized plant records center, is making a dedicated and outstanding effort to improve the urban environment.

Recently, under the guidance of President David Leach, the society completed and published a 64-page manual illustrating how urban transportation facilities can be improved—functionally and esthetically—using plant materials. The manual, "Transit Planting," was prepared under a grant from the Urban Mass Transportation Administration and represents over a year of preparation by horticultural experts in every area of the country who selected plants that are most tolerant of the difficult growing conditions found in American cities.

Although the publication is aimed primarily at transit officials, urban designers, and transportation planners, it will also serve as a highly useful tool for interested gardeners nationwide who will be able to use the listings of plant materials to select those that will grow best in their immediate area.

Transit Planting suggests that "greening up" transit facilities would improve the quality of life for all city dwellers. Since not all plants can survive the tough conditions found in most cities, however, the American Horticultural Society experts have carefully selected only trees, shrubs and ground covers with proven durability in urban settings and low-cost maintenance qualities. The booklet lists 200 plant choices and provides information on the size, coloring, growth and maintenance characteristics of each. In addition, the publication advises which of this broad selection is best suited to each of 10 hardiness or temperature zones in the United States and Canada. The manual also features three prototype planting diagrams and plans for a bus-stop site, a suburban terminal and a downtown station.

Transit Planting, which is available from the American Horticultural Society at Mount Vernon, Va., will also be helpful to urban citizen groups aiming to promote the horticultural development of their public areas. Working with transit planners, these groups can use the manual to set up trial plantings to determine the viability of the plant materials under assorted urban conditions.

I highly recommend this useful and informative booklet to urban specialists, transportation planners, citizens groups and gardeners throughout the country, and I am convinced that this "one of a kind" publication will have a lasting impact on the urban environment to the benefit of millions of city-dwellers in the United States.

OWING YOUR SOUL TO THE COMPANY STORE

Mr. METCALF. Mr. President, so much attention has understandably been focused recently on how corporations influence national politics, but very little attention has ever been paid to how corporations affect those local communities in which they reside. To many a corporation is just an abstraction without real impact on their lives, other than perhaps the products that they buy in the marketplace. But giant corporations can shape and dominate the habits of locales, as Ralph Nader and Mark Green have pointed out in an enlightening article in the November 29 issue of the New York Review of Books. I ask unanimous consent to have the article printed in the RECORD, and hope that economists, lawyers, and political scientists follow up their analysis with close and scholarly examinations of the ways that we are "in the corporate pocket."

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

OWING YOUR SOUL TO THE COMPANY STORE

(By Ralph Nader and Mark Green)

Economists, preoccupied with theories of the corporation and the national economy, rarely ask what happens when a corporation monopolizes not only a product but the local work force, when a town is obliged to "consume" a company's pollution, when one business controls a city by political intimidation. While such questions are largely ignored, local families and local owners increasingly become appendages of the absentee-owners, usually of national and multinational conglomerates. "He who was a leader in the village becomes dependent on outsiders for his action and policy," Justice William O. Douglas said of this condition. "Clerks responsible to a superior in a distant place take the place of resident proprietors beholden to no one." [1]

Large local corporations utterly dominate many towns simply by using their economic and political power, as Anaconda and Montana Power control the state of Montana, as seven paper companies own more than a third of Maine, and as hundreds of smaller corporations continue to control the company towns created by the expansion of new industries at the turn of the century. In mining, lumber, and textile regions, we still find many unhealthy, hazardous, grim and grimy company towns where citizens depend on one firm for their work, their homes, and often their daily shopping. "Saint Peter don't you call me 'cause I can't go, I owe my soul to the company store."

POLITICAL DOMINATION

Pullman, Illinois, was built in the 1880s as a model town by George M. Pullman of the Pullman Palace Car Company. He invested $8 million in apartment buildings, parks, playgrounds, churches, theaters, arcades, casinos; the town won awards for its designs at international expositions. But Pullman in fact was tense with fear and suspicion, as company spies probed for tips on "union infiltration" or "dangerous" and "disloyal" employees. When the 1893 depression came, the company laid off workers, cut wages 25 percent, but did not reduce rents. After investigating Pullman in the 1930s, the economist Richard T. Ely concluded that "the idea of Pullman is un-American. It is a benevolent, well-wishing feudalism, which desires the happiness of the people but in such a way as shall please the authorities."

Economists today apparently assume that towns like Pullman have largely disappeared. In fact some five million Americans now live in company towns—paper pulp towns in Maine, mining towns in the West, textile and papermill towns in the South. We frequently hear how one crop economies in poor countries can lead to political authoritarianism and economic instability, but American analysts often fail to comprehend that similar things can happen in parts of their own country.

Footnotes at end of article.

Consider the town of Saint Marys, Georgia, nearly all of whose 1,800 wage earners are employed by the Gilman Paper Company and its business allies. Gilman interests control the city council, the town's only real estate company, bank, and insurance firm, as well as all its lawyers. A populist insurgent, Dr. Carl Drury, recently challenged and defeated a Gilman-backed candidate in a countywide election for state representative, An assistant personnel manager at the Gilman mill reported that his boss "told me to go down to the bag plant, spend all the time and money I needed, and fine out who was going to vote for Drury. All of the Drury supporters would be terminated." The personnel manager refused, and was told, "Either you get that damned list or that's it." He quit. "It would have been suicide to stay after that," he said. Another mill worker, however, wouldn't anger his employer. "I have a wife, three children, and a mortgage. I am not going to jeopardize them just to give the mill a kick in the ass. The mill knows it and I know it." After the election some people were fired or suffered business losses because they supported Drury.

Corporate domination, moreover, can occur in entire states as well. Everyone knows that DuPont is powerful in Delaware but few realize how powerful. The firm employs 11 percent of the state work force and manufactures 20 percent of the state's gross product.[3] The DuPont family controls the DuPont company through the DuPonts on the board of directors and through the family's holding company, the Christiana Securities corporation, which also owns the company that publishes the state's two biggest newspapers, the *Morning News* and the *Evening Journal*.

In Wilmington you find DuPont everywhere, not just in the DuPont Building, the company's huge office complex. The Playhouse, Wilmington's only legitimate theater, is owned by DuPont, and the Wilmington Trust Company, Delaware's largest bank, is controlled by it. The recent county executive was a former DuPont lawyer, the father of Wilmington's past mayor was a prominent DuPont executive. The state's one congressman is Pierre S. du Pont IV; its attorney general is married to a DuPont and is the son of a DuPont executive; the recent governor, Russell Peterson, was a former DuPont research director. People connected with the firm or the family comprise a fourth of the state legislature, a third of its committee heads, the president pro tempore of the Senate, and the majority leader of the Delaware House.

One result is that the state legislature has failed to reform the tax system, which favors the DuPont firm and family by virtue of its extremely low property tax assessments and the lack of any tax on personal property owned either by individuals or business. In fact, a 1970 state law abolished one of the few progressive features of the Delaware tax system—the treatment of capital gains as ordinary taxable income. When Wilmington Medical Center, controlled by the DuPonts, recently wanted to move, the family made sure that a new center was built in the rich suburbs, not in Wilmington proper where poor people badly needed additional medical services. Five of the seven members of the county council, who helped make the site available, were either DuPont employees or members of the family.

CIVIC WELFARE

As a result of the wave of conglomerate mergers in the late 1960s, many local enterprises have become branch offices of financial centers in places like New York City and Chicago. The acquiring corporation has national if not international interests, producing or selling goods in Birmingham, Alabama, or Providence, Rhode Island, but not wanting to become enmeshed in such places.[3] For most of the branch managers who run the plants, the town is a temporary station on the way to success in New York or Los Angeles. "IBM is famous for never allowing anyone to take up roots . . . they're constantly moving people around the country," says New York Congressman Hamilton Fish, who has IBM facilities in his district.

The sociologist Robert Schulze, in a study of the managers of a big corporation, found that "their community roots were the most shallow if indeed it could be said that they had any community roots at all. The data led us to suspect that perhaps Cibola . . . was of no great importance to their lives."[4] Or as one corporate official told his local manager in Worcester, Massachusetts, "We couldn't care less what happens in Worcester." This indifference can have an effect on the life of the town, which often looks to the larger local firms to aid in local development. Their lack of interest can amount to a veto of new schools, housing, libraries, parks, hospitals.

When absentee-run firms do take part in civic affairs, they often mount rearguard actions to protect their own economic interests, threatening to leave the town or city, exercising a veto over proposals they dislike. Or they support local puppets who act in their behalf to keep down taxes—a kind of local imperialism which both paralyzes the civic will and engenders a hostility not unlike that which Chile must have felt toward ITT.

An early study documenting this pattern was conducted for a congressional committee in 1946 by Professor C. Wright Mills.[5] Noting that by 1944 2 percent of all manufacturing concerns had employed 60 percent of our industrial workers, Mills asked, "How does this concentration of economic power affect the general welfare of our cities and their inhabitants?" To find the answer he studied three pairs of cities. In each pair was a "big-business city," where a few big absentee-owned firms provided most of the industrial employment, and a "small-business city," where many smaller, locally-owned firms comprised the community's economic life. Here are some of his conclusions:

"Big-business cities" witnessed sudden and explosive jumps in population, leading to real estate booms, speculation and unplanned suburban sprawl radiating around center city slums; the operating cost of municipal services was quite high. Growth in the "small-business cities" was more evolutionary and planned. Homes were better built, the city was better laid out, and municipal costs were lower.

A quarter of those employed in the "small-business city" were proprietors or officials of corporations; only 3 percent were self-employed in the "big-business city." Plant shutdowns in bad times were obviously more catastrophic in a big-business city, since the local economy was so much more dependent on a few major firms.

Income was more equitably distributed in "small-business cities," as an average of more than twice as many people earned over $10,000. Thus, while the "independent middle class thrives" in the small-business cities, it does not in the big.

From this evidence, as well as his study of such factors as death rates, the number of libraries, museums, recreational facilities and parks, per capita expenditures for schools and teachers, and frequency of home-ownership, Mills concluded that "big business tends to depress while small business tends to raise the level of civic welfare." Since Mills' research there has been no comparable study of the relation between big business and urban life, while absentee ownership and the amount of aggregate economic concentration have increased along with the decay of American cities. In view of this, as well as the vast sums spent on the study of "urban affairs" in the universities, it is dismaying that Mills' work on the local effects of corporate power has not been continued.

INDUSTRIAL POLLUTION

There is little incentive to stop polluting when you control the local authorities who supposedly monitor you. Savannah, Georgia, and its mighty Savannah River, for example, have become garbage dumps for local industry. American Cyanamid, which produces among other materials the pigment to write the m's on M&M's, pours six million gallons of waste water into the Savannah every day, including over 600,000 pounds of sulphuric acid. The Union Camp Corporation, producing paper bags, dumps 37 million gallons of waste water daily. Union Camp has so fouled the air with its kraft pulp emulsions, according to two scientists at a local pollution conference, that the long-range community effects include:

1. the town is a much less desirable place to live in;
2. it offers less attraction to other new industries and commercial enterprises;
3. property values and rentals in summertime areas have declined;
4. reduced visibility causes hazards and inconvenience to travelers.

Union Camp's response to such criticism shows the arrogance of a corporation that knows that it is in political control. The firm refused to divulge the extent of air pollution it emits per day. The state's Air Quality Control Board is responsible for obtaining just this type of information, but is discouraged from doing so by Union Camp. In fact, Georgia's air pollution law itself was drafted by Glen Kimble, the firm's director of air and water pollution, who proposed it on "behalf of all Georgia industry."

When John Lientz, Union Camp manager, was asked about the likelihood that heavy industrial pumping might dry up the Savannah area's underground water supplies, he answered, "I don't know. I won't be here." A study of Savannah, directed by James Fallows and sponsored by the Center for Study of Responsive Law,[6] asked a Union Camp executive vice president whether there were *any* limitations on their use of ground water. "I had my lawyers in Virginia research that," he said, "and they told us that we could suck the state of Virginia out through a hole in the ground, and there was nothing anyone could do about it."

Essentially, the city is hostage to the corporation. Union Camp came to Savannah during the depression in 1935, for which the firm has obtained *quid pro quos* ever since (e.g., Savannah agreed in 1935 to pay part of Union Camp's legal expenses for pollution cases). The city is being slowly poisoned by its corporate benefactor, while new industry hesitates to enter Union Camp's satrapy since the environment is already polluted, the water supply dwindling, and the local labor market pre-empted. Yet Savannah is still intimidated by threats that Union Camp will move to another city if local restrictions become too severe. But Savannah, of course, cannot run away from Union Camp.

Another example of the corporate "donor" poisoning its municipal donee is the Johns-Manville plant in Manville, New Jersey. The plant employs 40 percent of Manville's employees; its payroll accounts for 60 percent of the town's total income. It pays more than half the taxes and has made gifts to hospitals, schools, and recreational facilities. But as Philip Greer wrote in the *Washington Post*, "People are dying in Manville of diseases virtually unknown elsewhere" and at rates several times the national norms. They are dying, medical experts agree, because they

Footnotes at end of article.

work in the biggest asbestos processing plant in the world. Johns-Manville claims it is doing all it can to reduce the dust levels which lead to disease. Any more costly improvements, the firm warns critics, could lead to plant shutdowns instead.

There are less obvious cases of such Faustian situations, where a town depends on a firm to revive its economy only to find that unexpected side effects are ruining it. Orlando, Florida, was delighted a few years back when Walt Disney World announced it would build a vast amusement complex there. But today Orlando is glutted with people and cars; it has too few rooms for too many tourists, inflated real estate, high rises mushrooming everywhere, schools that are overcrowded, and garbage and sewage services that are inadequate. The new World Trade Center in New York not only invigorates Wall Street, but also intereferes with the television reception of thousands of New Yorkers, creates traffic jams, and pours tons of raw sewage into the Hudson. High rise construction in San Francisco is ruining the city's architectural standards and costing eleven dollars in services for every ten dollars the high rises contribute in taxes. Butte, Montana, created by Anaconda Company, is now literally being consumed by it since Anaconda is shoveling away more and more of the city in order to get at rich ore deposits.

LOCAL TAXES

Throughout the country powerful local corporations evade their fair share of local taxes. Before they settle in a town they demand, and often get, a subsidy in the form of preferential tax rates. As a previous article showed,[7] higher taxes for small businessmen and home-owners are the result. The extent of such privilege has recently been documented by Senator Muskie and his committee on intergovernmental relations. Some of the unsavory methods used to secure these privileges, including corruption and bribery, have been exposed by George Crile, a reporter who investigated the tax situation in Indiana.[8]

For example, corporate property taxes are often underassessed or they contrive to be classified in special low tax "zones," thereby imposing higher tax burdens on private citizens. In 1950, Union Camp slipped a law through the state legislature creating special "industrial zones"—i.e., permanent tax shelters which could never be annexed to the city of Savannah. As a result, Union Camp underpays Chatham County $3–4 million yearly, or a third of the county's $11 million budget. The firm's huge plant is assessed at some $90 million for local property tax purposes, while local experts estimate it should be assessed at $300–500 million. It now pays $1.4 million in property taxes; assessed at $300 million it would pay taxes of $5.1 million.

Similarly, in Chicago, US Steel has illegally escaped payment of millions of dollars of property taxes every year. A study by a respected citizens group there, Citizens Against Pollution (CAP), estimated that US Steel avoided $16.4 million in taxes in 1970; the combined undertaxation of three other steel companies amounted to $11 million more. Chicago's share of lost taxes alone could triple the city's budget for environmental control. Largely because of CAP's campaigns, US Steel's assessment of $45.7 million in 1970 rose to $84.5 million in 1971, still well below the estimated value of $195.2 million.

CORPORATE PHILANTHROPY

When criticized, corporations insist that they are charitable, and of course they are. In 1968–1969 they gave $255 million to higher education, or 15 percent voluntary support to schools. Total corporate gifts in 1968 totaled $912 million, or some 6 percent of all philanthropy in the country. These gifts, however, amount to only about 1 percent of pretax profits, well below both the Internal Revenue Code's permissible charitable deduction of 5 percent and the average individual taxpayer's contribution of 2.5 percent of adjusted gross income. Still, as the basic text on corporation law points out, "The concentration of a large proportion of the wealth of [the] community in the hands of business corporations has made corporate gifts essential if charities are to be privately financed."[9]

For example, in Delaware the DuPont family's thirty-six foundations have assets of more than $400 million and give away over $12 million a year. This is almost as much as the city of Wilmington and the county of New Castle each spent for local government functions. Clearly, there are benefits to the donors as well as to the towns from such contributions: gifts can reduce federal, state, and local estate taxes, thereby limiting public revenue; the donor may retain control over the spreading of their funds; the firm reaps invaluable publicity and can use its gifts to promote corporate policies.[10]

In fact corporate giving usually is done at a price, and the more dominant the firm, the more dependent the community. "Dependency on DuPont foundations takes two major forms," assert James Phelan and Robert Pozen, authors of *The Company State*.

Some private groups change their programs to suit the needs of a DuPont family member and some governmental bodies come to rely on foundations to perform public functions.

Private groups become supplicants, trying to get someone from the DuPonts on their board of directors, currying favor with foundations executives, fearing that programs will be axed if they become "controversial." Donations are made by small privileged groups subject to no standards or checks. Such philanthropic monopoly can discourage citizens from taking initiatives and limit the diversion of projects that might have otherwise existed.

At the same time communities can suffer when corporate donations they have come to rely on suddenly dry up, as is often the case when a local operation is acquired by an outsider. "Every time a company changes hands, we worry," says Robert F. Cahill, campaign director of the Golden Rule Fund of Worcester, Massachusetts. "Experience has taught us that it wouldn't be surprising if we were to suffer a sharp cut in the company's corporate gift, even if employee giving is not affected." A study of Rochester, New York, showed a drop in corporate contributions after mergers took place: "It was clear that these absentee-owned firms lagged behind the locally-owned firms in response to rising community needs."[11] Civic fund raisers throughout the country have by and large learned to expect less from chain supermarkets than from local supermarkets.

LOCAL INVESTMENT

Control of local banks by powerful corporate cliques can also frustrate community development. The small inventor, the maverick entrepreneur, the politically unpopular investor would all benefit from a greater diversity of sources for financing. But with centralized power comes fiscal conservatism, for dominant banks would rather take care of their big corporate clients than back risky ventures. Wilmington Trust, a DuPont-dominated bank, invests heavily in corporate and government bonds rather than in local loans. The value of these securities amounted to 60 percent of the loans outstanding for Wilmington Trust in 1969. By contrast the corresponding figure was 42 percent for the US Trust Company of New York, 23 percent for the Philadelphia National Bank, and 26 percent for the Girard Trust Company of Philadelphia.

Absentee-controlled firms have equally dismal effects on local investment. The Rochester study of mergers concluded that merged companies no longer banked as much locally; big city banks prospered at their expense. The Gulf & Western conglomerate insists that all the local firms it acquires transfer their banking business from local banks to the Chase Manhattan Bank in New York City. When Teledyne acquired the Monarch Rubber Company of Hartsville, Ohio, it insisted that the company's local deposits be shifted to the National City Bank of New York. "Banking practices," as David Leinsdorf wrote in *Citibank*, "operate like a regressive tax funneling the money of communities with declining economies to those with brighter economic prospects."

So communities can be harmed either when absentee-owned corporations ignore community interests *or* when local corporations dominate community affairs. Corporate domination of a community is bad whether it is exercised or not. If you sleep with an elephant, every thrash, grunt, or snore can be a disaster.

To say that giant corporations should not have such economic and social power is more a plea than a proposal. So long as corporations have this power, they must be forced to realize they also have special obligations and must not abuse it in order to exploit and to discourage self-rule. Even within the market system, it should not be impossible to have accountable corporate citizens; the issue is ultimately one of recognizing moral obligation.[12]

But towns need not continue to act as corporate supplicants. First, if victimized, they can sue. This is just what El Paso, Texas, did in 1972 when it joined with the Texas Air Quality Board to sue the American Smelting and Refining Company for its failure to meet air quality standards and its consequent lead poisoning of some El Paso residents. In May, 1972, ASARCO agreed to pay fines of $80,500 for eighty-eight specific pollution violations, to post $30,000 with the court for any future violations, to install $750,000 worth of additional emission control equipment, and—a remedy tailored to fit the offense—it also agreed to pay all the medical expenses for at least thirty months for 134 children being treated for lead poisoning.

Second, if antitrust enforcement were more vigorous against conglomerate mergers the extent of absentee-control over communities would decline. The Nixon Administration settled its anticonglomerate cases before the Supreme Court could set precedents on these mergers. Rather than wait for some future administration to take the plunge, new legislation should forbid any firm with over $250 million in assets from acquiring any other firm unless it spins off an equal amount of assets. This would arrest the trend toward increasing absentee-ownership, while permitting mergers for reasons of efficiency rather than for stock market manipulation or managerial empire-building.

Finally, if corporations are to act more responsibly, the community should be made more a part of the corporation, either by law or (less likely) by voluntary measures. But how? Citizen committees could be organized that would have a part in making policy in the local plants of the dominant firm. This, after all, is where many decisions are made affecting the local labor market, zoning laws, pollution levels, political structure, etc. Going further, a mechanism could be created to elect public directors for the firm's board of directors from among the local citizens' groups that have gained some power in the various plants of a nationwide conglomerate. But national public directors so elected will be impotent unless they have their own staff.

Or a two-tier system of shareholders could be created. Economic stock would be held from voting and investment purposes, looking toward the traditional rewards of stock appreciation of dividends; political stock would confer only voting rights and would be based on status, not wealth—the status

of employees, community residents, and consumers who are clearly and immediately affected by a corporation but who lack any say over its action. How might this stock be apportioned among citizens and among communities? One formula would be a law requiring that whenever a firm accounts for x percent of a community's tax base, it must allow y percent of all its stock to be political stock, up to some ceiling of stock, say 10 percent.

These suggestions are merely starting points. To carry them out would require a degree of concern and local organization—a desire to claim power and an ability to get new laws enacted—that is far from evident today. But as such possibilities become real, they could suggest answers to one of the great questions facing the U.S. today: how can corporate power be checked without a parallel growth in bureaucratic government?

Solutions for community problems should best be sought in the community. For years corporate leaders have been saying that their firms serve many diverse constituencies—shareholders, consumers, workers, dealers, and citizens generally. In 1969, for example, Henry Ford II told a Harvard Business School audience that—

"The terms of the contract between industry and society are changing. . . . Now we are being asked to serve a wider range of human values and to accept an obligation to members of the public with whom we have no commercial transactions."

For this sentiment to be more than mere rhetoric, the political process must convert this "contract" into workable laws, so that companies will be obliged to attend to their victims before they reward their investors.

FOOTNOTES

[1] *Standard Oil Company of California et. al* v. *United States*, 337 US 293, 319 (1948).

[2] For an elaboration of DuPont's control in Delaware, see P. Phelan and R. Pozen, *The Company State* (Grossman, 1973).

[3] Absentee-ownership flourishes in areas with weak unions, low-paying jobs, and lax environmental standards. For some states, this condition is becoming chronic. In Vermont nineteen of the twenty-two largest plants (by employees) are owned by outsiders; in New Hampshire, outsiders own sixteen of twenty. Fifty-five of the top ninety-nine firms in Maine are absentee-owned; and in seven southern West Virginia counties, twenty-eight big landowners own about one half of the land, with nineteen of the twenty-eight being out-of-state corporations. Nor is absentee ownership limited to domestic firms. American Association, Ltd. is a British multinational firm which owns 65,000 acres of land in eastern Tennessee. Insulated by distance and indifferent to adverse national publicity, it is even less accountable to the region it exploits.

[4] Schulze, "The Bifurcation of Power in a Satellite City," in M. Janowitz, ed., *Community Political Systems* (Free Press, 1961). One study asked community leaders in three cities whether they thought branch managers were more or less interested in the community than were local businessmen; 95 percent, 79 percent, and 57 percent, respectively, said "less." Cited in K. David and R. L. Blomstrom, *Business, Society and Environment: Social Power and Social Response* (McGraw-Hill, 1971).

[5] *Small Business and Civic Welfare*, Report of the Smaller War Plants Corporation to the Special Committee to Study Problems of American Small Business US Senate, 79th Congress, 2nd Session, Doc. No. 135 (1946). See also a study that same year finding similar correlations between large scale corporate farming and farming communities, *Small Business and the Community—a Study in Central Valley of California on Effects of Scale of Farm Operations*, Report of the Special Committee to Study Problems of American Small Business, US Senate, 79th Congress, 2nd Session, Comm. Print No. 13 (1946).

[6] For a moving account of Union Camp in Savannah, see J. Fallows, *The Water Lords* (Bantam, 1971).

[7] Ralph Nader, "A Citizen's Guide to the Economy," *New York Review*, September 2, 1971.

[8] *On the Impact and Administration of the Property Tax*, hearings before the Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations, 92nd Congress, 2nd Session (May 4, 9, June 26, August 22, 1972). George Crile, "A Tax Assessor Has Many Friends," *Harpar's*, November 1972.

[9] R. Baker and W. Cary, *Cases and Materials on Corporations* (3rd. ed., 1959).

[10] In 1967 the Michigan Bell Telephone Company announced that it would "adopt" a local high school, "enriching" it by its investment of equipment and instructors. Why this contribution? William M. Day, the firm's president, said it would "help prepare the [potential] shareholders for the business world. We think we can make a real difference in pupil attitudes." *Caveat receptor.*

[11] "Report of a Committee of the Rochester Chamber of Commerce on the Out of Town Acquisition of Rochester Companies," 1959, cited in E. Kefauver and I. Till, *In a Few Hands: Monopoly in America* (1965). Corporate contributions are not all that is lost due to a merger. A study of 1963–1967 acquisitions of local Wisconsin firms by outside interests found that the premerger growth rate of the acquired firms was 6.02 percent while the postmerger growth rate was 0.48 percent; employee payrolls premerger had increased 15.6 percent but only 2.1 percent in a comparable period postmerger. And many of the acquired firms shifted away from local lawyers and accountants and toward the services of the parent firm. J. G. Udell, *Social and Economic Consequences of the Merger Movement in Wisconsin* (University of Wisconsin, 1969).

[12] Even some judicial decisions are coming to recognize that certain corporations have obligations beyond maximizing profits. In *Herald Co.* v. *The Denver Post*, handed down by the Tenth Circuit Court of Appeals on December 29, 1972, the court permitted what was in effect a subsidy to the Denver *Post's* employees stock ownership plan because the firm had an obligation to its employees as well as to its shareholders. Rowen, "Court Case Says Corporate Duties Go Beyond Profit," *Washington Post*, April 8, 1973.

MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS ACT

Mr. BROCK. Mr. President, I wish to commend the chairman, Mr. SPARKMAN, and the members of the Committee on Banking, Housing and Urban Affairs for taking favorable action last week on the National Mobile Home Construction and Safety Standards Act of 1973.

The need for national safety standards for mobile homes was again brought home to me last month when tornados struck northern Mississippi and west Tennessee. Reports I have received from the Tennessee Department of Civil Defense indicate that when a tornado struck Fayette County, Tenn., although it remained approximately 50 to 75 feet above ground level, it took with it mobile homes that were not secured with proper tiedowns. During the same period a tornado struck two heavily populated mobile home parks in north Mississippi. The National Weather Service office in Memphis reported that mobile homes which were properly secured with over-the-top tiedowns were not damaged or suffered light damage, while those mobile homes not properly secured were heavily damaged or destroyed.

Although over-the-top tiedowns will not eliminate completely the danger of mobile homes being destroyed during a tornado, they will certainly minimize the damage incurred by straight winds and fringe winds that exist during a tornado or a severe thunderstorm.

The conclusion reached by the west Tennessee Civil Defense coordinator is that unless mandatory legislation is passed and enforced to assure adequate over-the-top tiedowns of mobile homes used as permanent dwellings throughout the country, we are setting the stage for a major catastrophe. Should a tornado strike a densely populated mobile home park in the middle of the night when the majority of residents are at home, the chances of survival would be slim. The passage and implementation of the National Mobile Home Construction and Safety Standards Act could avert such future tragedies.

The Senate's consideration of mobile home safety legislation started in the 92d Congress on May 15, 1972, when I introduced S. 3604, the National Mobile Home Safety Standard Act of 1972. The Honorable LOUIS FREY, JR., Representative in Congress from the State of Florida, had earlier introduced legislation on the House side. Both bills followed the same pattern that would give us uniform Federal standards with State enforcement. Joining me in the reintroduction of mobile home safety legislation (S. 1348) in the 93d Congress were my distinguished colleagues on the Committee on Banking, Housing and Urban Development, Senators BENNETT, HATHAWAY, SPARKMAN, TAFT, and TOWER.

The distinguished chairman of the Subcommittee on Housing and Urban Affairs, Mr. SPARKMAN, promptly held hearings on the bill, S. 1348, at which time both industry and consumer groups testified as to the need for national mobile safety regulations. After the hearings, the Senator from Ohio (Mr. TAFT), a sponsor of the bill, introduced a major amendment which would give the purchaser of a mobile home additional protection by requiring the manufacturer and dealer to give a warranty that the mobile home meets all safety standards. The Senator from Wisconsin (Mr. PROXMIRE) on October 4, 1973, introduced S. 2538 which would extend the mobile homes legislation to include construction standards. In addition, S. 2538 contained additional consumer protection provisions called for by consumer groups. Representatives of industry, consumers, and State code officials met with the professional staff of the committee to work out details of the legislation. Those issues which were not resolved in this cooperative effort were determined by the full Committee on Banking, Housing and Urban Affairs. The final legislation which was approved by the committee is a reasonable and balanced approach to national standards for mobile home safety and consumer protection.

The legislation would require the Secretary of Housing and Urban Development to establish Federal mobile home construction and safety standards. These standards shall meet the need for mobile home safety, durability, and quality, and shall meet the highest standards of protection, taking into account existing State and local laws.

Enforcement of the standards would be delegated to the States which develop State enforcement programs that assure adequate enforcement to protect the public.

A National Mobile Home Advisory Council would be established composed of consumer groups, together with representatives of industry and Government.

A public information section would require public hearings and disclosure of information utilized in promulgating the Federal standards.

The Secretary would be authorized to conduct research and testing for the purpose of assuring mobile home safety.

Every manufacturer would be required to furnish the mobile home owner a notification of defects and make any corrections that are necessary.

Every manufacturer and dealer would be required to furnish the purchaser a 1-year warrantly that each new mobile home meets all applicable standards.

Appropriate civil and criminal penalties are provided for the enforcement of legislation.

Therefore, it is imperative that the Congress act quickly on this measure, before injuries, deaths, and damage that can be prevented, occur.

CRISIS AVOIDANCE

Mr. CLARK. Mr. President, the energy emergency that confronts this country today is only the latest example of what can happen when no one takes the time to plan ahead. All the signs of a fuel shortage were there—10 or 20 years ago—had anyone wanted to heed them. But we did not, and the result has been government by reaction, crisis response instead of crisis avoidance.

It does not have to be that way. While we never will be able to predict the future or totally prepare for it, we can and should improve our present performance, because it is possible to develop a clearer sense of national purpose and an agenda that will help us meet those goals.

My Representative in the House, Congressman JOHN CULVER, has given a great deal of time and thought to the need for national planning, the need for "crisis avoidance," as he puts it. He was the first to propose a Futures Conference for Iowa, and he has constantly spoken out on the need to give government at every level a direction that will enable us to deal with future problems before they become future catastrophes.

In a recent speech to the Women's National Democratic Club, Congressman CULVER spoke on the theme of "crisis avoidance." I ask unanimous consent that his speech be printed in the RECORD.

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

CRISIS AVOIDANCE

We Americans would not change our free democratic system, with all its imperfections, for any other brand of government on the market.

Yet when we get together to blow off steam—in the family kitchen, a businessmen's group or a fence row colloquy with the neighbors, the first object of our wrath is generally our government.

Part of this is a normal, healthy reaction of independent people to any kind of authority or regimentation.

But part of it is a justified, gut resentment on the part of people that government today is so incredibly accident prone. It simply seems incapable of operating in any other way except to lurch from crisis to crisis.

And the American people are justifiably tired of being subjected to crises that could plainly have been avoided by a modicum of advance planning and foresight. What we have today in Washington is "crisis mismanagement" in place of proper government leadership.

We had a Russian grain deal that was hastily put through and hailed as the greatest thing since the invention of the wheel for its benefit to detente and world trade.

No one in national leadership seemed to foresee what its other effects would be—ruinous inflation; a chaotic transportation glut; a shortage of vital commodities here at home; the breaking of solemn export contracts to traditional friendly foreign customers; an almost immediate increase in the price of bread on supermarket shelves.

Now we are face to face with an alarming nationwide energy shortage—another crisis that might have been avoided if there had been adequate national planning over the past few years.

The poet said: "Of all sad words of tongue or pen, the saddest are these: 'it might have been.'"

Perhaps the saddest thing that can be said about chronic crisis in government is that "it might have been . . . avoided." I believe it is fair to say that this Administration could not see a crisis coming if it was wearing a "cowbell."

Today, I should like to say a few words about *crisis avoidance*, a subject very much on the minds of all of us even if we do not always articulate it as such. I have been struck by the way that many people in Washington appear to enjoy dealing with crises. It sharpens the political climate in which they operate, and gives them a bracing air of self-importance.

Certainly we have enough crisis headlines to keep all of them fully occupied: an urban crisis, a rural crisis, a dollar crisis, an energy crisis, an environmental crisis, and a food and fertilizer crisis all in the bargain.

But I can report that our voters do not find these crises stimulating. They are genuinely upset by the many disruptions to their way of life, and puzzled by the bureaucracy of controls that has sprung up to deal with them. Indeed I believe this distress has contributed importantly to citizen disaffection with the whole political process, which we in public life must recognize and deal with.

For generations our people have been accustomed to an economy of abundance, in which America's fertile resources produced all the goods we could use at inexpensive prices. Now all of a sudden, and without any apparent warning, we have shortages at every hand with accompanying high prices and a maze of bewildering controls. People naturally wonder what has happened to the secure and comfortable world they know and who is responsible for its abrupt transformation.

There are no quick or obvious answers at hand. The economic problems we face are complex and closely inter-related. They are not readily reducible, in that fine and self-confident American phrase, to "manageable size." This makes for pessimism about the future, which itself endangers our ability to devise solutions.

I believe our answers must begin with honest recognition of the genuine and quite novel nature of some of the problems presented by a rapidly changing world. And we must acknowledge the past failures of responsible leadership to perceive these changes and to set the choices they present before the American people honestly and courageously. Once we do that, we will be a long way towards correcting our past mistakes and avoiding future crises.

The American people are puzzled but not defeated. In many respects they are as usual way ahead of the politicians. They remain as always, resourceful and energetic. Told the full truth about our larger problems, they will know how to deal with them. As Thomas Jefferson said: "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day." I believe that is as true now as when it was stated.

So we must begin by recognizing that we have entered into a new economic era, which will be characterized by periods of relative scarcity. Food and fuel are no longer in excess supply, and it is unlikely they will ever return to excess supply. Our resources are finite and not infinite. The ever-increasing consumption curves we have seen in the past, based on cheap and apparently inexhaustible resources, will have to be moderated in the future. Our own productive capacities, as we should always have known, are not limitless. And the growing wealth of other nations, which we ourselves have fostered, has allowed them to begin competing for available world supplies including even those within the United States.

These trends have been visible for some time, as I have said. But our policy planning has not kept pace with them. We have allowed ourselves quite literally to be overwhelmed by change. The resulting turbulence is compounded by the accelerating rate of change we are experiencing today, the interconnection of so many issues, the unprecedented interdependence of the world, and the absence of the "cushion" of time or space that allowed us to adjust to change as well as error in earlier and simpler times.

What this implies first of all is that we must accustom ourselves to allocation of priorities. Our nation hasn't had to do that in the past. When not enough of the economic pie was going to any particular sector, we simply expanded the pie. And we must look forward to uncomfortable issues we now see on the horizon, such as the insufficiency of our water resources to urban concentrations and the ground rules for increased foreign investment in the U.S. in the years ahead.

These are not comfortable or familiar problems. Change is unsettling, and accelerating change is even more so. The American people for historic reasons do not like government planning. We prefer to bump along and hope for the best, trusting in our collective energies to see us through. And we equate the word planning, when applied to government, as socialism or worse.

But today we do not really have that choice. The economy of scarcity is with us and will stay with us. If the people and the government do not become more responsibly involved in devising solutions and planning intelligently for the future, we are going to continue having crises and we are going to continue coping with them unsuccessfully through a distant and technocratic elite. This is exactly what people object to now.

There is of course a difference between planning and management, just as there is a difference between incentives and controls. Government management and controls are

imposed when a crisis erupts upon us and we have no time for anything else. Planning and incentives are ways of avoiding crises before they occur, and of avoiding the growth in bureaucracy and government spending that such crises bring with them.

Crisis avoidance must begin with a lifting of our sights. We must get ourselves into the habit of looking 20 or 30 years ahead at the likely impact of our policies, not just 3 to 5 years ahead as at present.

We in Congress are now hopefully making an effort to organize ourselves in a way to better permit such perspectives. Through the Select Committee on Committees, on which I serve, we are examining how to revise the committee structure so as to deal in an integrated fashion with the major clusters of problems anticipated in the last quarter of the 20th century. It is my view that we will need standing committees dealing with such subjects as population movements, the environment, economic conversion, energy resources and other major problem areas with a rational comprehensive focus. No such committees exist at the present time. We may want to propose incorporation of a "future impact statement" in committee reports on legislation, or the creation of a broad-ranging, forward-looking committee on national goals, or both. Whatever we do, I believe it is essential for Congress to take its full share of responsibility for anticipating and avoiding crises. Just as we must strengthen the Congressional capacity to look back and review and monitor through Congressional oversight the programs of the past, we must equally develop the practice of looking ahead to better anticipate and address the problems of the future.

In structuring ourselves for crisis avoidance, we must keep centrally in mind the nature of man as it is expressed in our founding documents. It is vital that we strive to keep at a maximum the opportunities for free choice. To do that requires presenting hard choices early, while they still exist. For there is no such thing as "no choice." If the people are not given an opportunity to decide in advance, then the government will have to impose restrictions more or less by fiat. And the result will be to estrange government ever more from the consent of the governed.

In Iowa we have made an important start. The Iowa Future Conference which I originally proposed begins in January. This conference can help us get ahead of the onrush of change and shape the future to our own objectives, and not just have the worst future because we do nothing to influence and determine its design.

I believe it would be useful to attempt to have a national Congress' and People's Conference, perhaps as part of our bi-centennial program, on our country's goals, priorities and national purpose.

Considering the primacy of the issue of our priorities—what do the people really want for our country in the years ahead, and what are they willing to support for our national goals, and what must we do now to achieve them tomorrow? I think it is high time that we should devote a major national effort to determining such an agenda and action program.

At this time of national introspection and soul-searching which is resulting from the political scandals that have stunned the nation, I believe it is especially important to get a serious national dialogue going on this basic subject. What is our vision for America's future?

In a free society, no small group within that society, however benignly-intentioned, should be permitted to select and implement our national goals.

This, beyond any doubt, is the people's prerogative. Otherwise we have forfeited perhaps our most basic right as a people—the right to choose the kind of country we want America to be.

CHOOSING A VICE PRESIDENT

Mr. BROCK. Mr. President, we have just seen the swearing in of a new Vice President of the United States, the first to be sworn in under the 25th amendment to the Constitution. The line of succession is again complete. When tragedy struck in Texas in 1963, the Congress acted wisely, and quickly within bounds of necessary debate and question, and approved the constitutional amendment, which, of course, was later approved by the necessary two-thirds of the States. Now, we must turn our thoughts to the lessons we have learned from the events of the past 15 months in regard to the actual selection of Vice Presidential candidates at our conventions. These should be sobering decisions, ones which must be made with care and much thought, but at the same time, they must be made quickly to protect all of the people of this Nation. Marquis Childs, writing in the Washington Post, made some very interesting observations about history, and the lesson that it has taught us. I ask unanimous consent that Mr. Childs' article be printed in the RECORD.

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

NATION NEEDS A BETTER WAY TO CHOOSE VICE PRESIDENTS

(By Marquis Childs)

One good thing that can come out of all this grisly business is some hard thinking about how we choose our Vice Presidents. This has been a form of political Russian roulette with luck more often than not against the first party pulling the trigger.

"Now if you were to become President. . ." That is the preamble to many of the questions asked of Rep. Gerald R. Ford (R-Mich.) during his confirmation hearing before the Senate Rules Committee.

You can't help wondering if that type of question was put to Spiro Agnew when, to the surprise of practically everyone, Richard Nixon pulled his name out of his hat. The investigation into Agnew's background, to say nothing of his qualifications, must surely have been perfunctory to have missed so much that was developed during the criminal investigation that ended with his departure.

Last year was a bad vintage year for vice presidential candidates. Sen. George McGovern began by picking Sen. Thomas F. Eagleton of Missouri to run with him on the Democratic ticket. The choice seems to have been cinched in a telephone call with Eagleton answering in the negative when asked whether he had any skeletons in his closet. After first declaring he was for him 1000 percent when rumors circulated of Eagleton's mental illness, McGovern dropped him from the ticket. The second choice was Sargent Shriver, a loyal Democrat who happened to be the last man out of the hall.

The selection of Harry Truman to run with Franklin Roosevelt on the fourth term ticket in 1944 could not have been more casual or more politically dictated. Roosevelt had made himself into Mr.-Win-The-War and he didn't bother to come to the Democratic convention in Chicago, although he was in touch with his political lieutenant, Robert E. Hannegan of St. Louis, the Democratic chairman, by telephone. Hannegan was the master manipulator on the spot. Supposedly the President had given the chairman a list of three or four potential Vice Presidents. Included was the name of Supreme Court Justice William O. Douglas. But no one ever saw the list and under Hannegan's management the convention stampeded for Truman, overwhelming the third-term Vice President, Henry A. Wallace, whose followers had put on a massive demonstration.

Nine months later Roosevelt was dead and Truman was President of the United States. Derided as an accidental President and the Kansas Ctiy haberdasher who couldn't even run a clothing store, Truman's approval rating sank to an all time low of 23. But doggedly he stuck to the job, trusting foreign policy to his Secretary of State, Dean Acheson, and he began to come back with the realization that he was a better President than we were entitled to, given the grab bag of his selection. Against the smug prophecies of all of us, he won re-election in 1948, defeating Thomas E. Dewey of New York.

The hope must be that if Representative Ford should become President he will be another Truman. That certainly will be the buildup—the strong, modest man from Grand Rapids ready to measure up to the terrible responsibility of the most demanding office in the world.

It should be noted, however, that there are significant differences. Truman had served during World War II as the strong chairman of the Senate war investigating committee. That committee, by pounding on government bureaucrats and war contractors, saved hundreds of millions of dollars. If only because the Congresses he has served in have, with one exception, been controlled by the Democrats, Ford has no such achievement in his record.

Eight times in our history Vice Presidents have inherited the office of President. In two instances, with the assassination of Abraham Lincoln as the Civil War was ending and with the death of Roosevelt when the massive problems growing out of World War II called for experience and wisdom, this came at moments of grave crisis.

Surely never again can a weary political convention allow the presidential candidate to pick an unknown, or a comparative unknown, out of the hat. The chilling thought that at any point during the past four-and-a-half years Spiro Agnew with his corruption-stained history might have been the ninth Vice President to inherit the presidency must never be forgotten.

PALO ALTO SEEKS ACCESSIBILITY

Mr. PERCY. Mr. President, it has recently been brought to my attention that the city of Palo Alto, Calif., is taking action to allow greater mobility for handicapped people in their community. The city's plans include removing existing architectural barriers from streets and buildings and encouraging local builders and architects to produce new facilities that are initially free of such barriers.

I understand that S. 1105, a bill that I sponsored, that is cosponsored by my distinguished colleague from Kansas (Mr. DOLE) who has demonstrated his concern on many occasions, to provide tax incentives for the removal of architectural and transportational barriers to the handicapped and elderly, has helped stimulate the city of Palo Alto to undertake its current endeavors for accessibility. I am pleased to know that even though S. 1105 has not yet received congressional action, it has already helped make people aware of the many environmental barriers that daily prevent our handicapped

and elderly citizens from enjoying the freedom of movement they deserve.

I wish to commend the citizens and city government of Palo Alto, Calif., for their enlightened attitude. I hope other communities in every State will embark on similar programs to allow the handicapped and elderly their rightful access to the mainstream of our society.

I ask unanimous consent that a recent article in the Palo Alto Times describing the city's new efforts to become accessible be printed in the RECORD.

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

WHEELCHAIR TOUR SHOWS PALO ALTO OFFICIALS NEED FOR MODIFYING BUILDINGS TO HELP HANDICAPPED

(By Dave Fuller)

Alec Andrus, a robust city staffer in his 20s, inched his wheelchair up to a four-inch curb in front of the Community Cultural Center in Palo Alto and strained to his physical limit to move the chair up the curb.

A few seconds after, Andrus and his wheelchair were lying in a heap in the street.

The mishap was minor for Andrus because he was only experimenting with the use of the wheelchair as one of 20 key city officials who are involved in eliminating architectural barriers which make public buildings inaccessible to the handicapped.

But for someone who is confined to a wheelchair, as Andrus is not, the accident at the Cultural Center could have been serious, indeed.

Andrus was able to pick himself up, dust off his clothes and easily sit back down in the wheelchair. A permanently or even temporarily disabled person would have had to wait for others to help him.

Andrus believes his accident dramatically dramatizes the plight of many handicapped persons who often are forgotten by architects, builders and city officials who are now charged by law with ensuring accessibility by the handicapped to public buildings.

"That curb was like a wall to me. I couldn't get past it and all my efforts to move forward only ended up in a repulsion backward," Andrus said.

But, like the other officials taking part in Saturday's wheelchair tour of public buildings, Andrus is determined to move ahead with a four-phase plan for allowing handicapped persons greater mobility in Palo Alto.

The first phase has been several months of study by a city-appointed group including members of the city staff and representatives of organizations for the handicapped.

The study culminated Saturday in a tour by wheelchair of the Community Cultural Center on Newell Road and City Hall in downtown Palo Alto.

One of those taking part was Mayor Kirke Comstock. "You never realize until you're in the wheelchair what planning and physical exertion it takes to make even the simplest trip," Comstock commented.

"It takes muscle-power, timing and coordination to use most buildings," he said.

Comstock thinks that architectural barriers have come about because "a lot of people are indifferent to the problem. It's mostly because of a lack of information, not maliciousness," he said.

"Once people become aware of these barriers, the normal human sensitivities take over and there is no resistance to getting rid of the problems," he said.

Specifically, some of the most serious problems are:

Curbs in the pathways of wheelchairs.

Doors too narrow for wheelchairs or too heavy for someone using crutches.

Steep steps on long flights of steps.

Buildings where escalators, instead of elevators, are the main means of linking stories.

Bathrooms where toilet stalls are too narrow to maneuver a wheelchair or where fixtures are too high to reach from the chair.

Parking spaces too narrow for a paraplegic driver to unfold his wheelchair.

Telephone booths which have not been built with the handicapped in mind.

The second phase of the city's architectural barrier program is to begin in two or three weeks when approximately $11,000 in contracts will be let for giving at least minimal accessibility to the Cultural Center, City Hall, libraries and other city buildings.

Ramps will be built to entrances. Telephones will be lowered. Bathrooms will be modified. Where accessibility to the handicapped has been provided, a sign with a logo representing a man in a wheelchair will be placed.

The third phase of the program will be hundreds of curb cuts at crosswalks which will make it possible for persons in wheelchairs to get around the downtown area and elsewhere more easily.

The fourth phase is to be an "outreach" in which city officials will contact building trades people, shopping center managers, restaurant owners and others to enlist their cooperation in modifying their buildings.

"For considerably less than 1% of construction cost, architectural barriers can be erased on the drafting board," according to a National League of Cities study quoted in the city's new brochure "designing for the physically disabled."

The brochure will be distributed to architects and others. It outlines state laws on accessibility and offers suggestions for eliminating barriers.

Palo Alto planners believe nearly all builders will cooperate, but if they don't, the city is prepared to put its full efforts into a building inspection program aimed at forcing compliance.

Many of the officials in the Saturday wheelchair tour were the building inspectors who will be enforcing the barrier elimination laws.

One of them, Glen Sund, said the day had been "a real eye opener. I never realized that a little bump could make such a big difference. But one thing's for sure—I'll do a lot more observing to see that these things are taken care of from now on."

THE ARABIAN FANTASY

Mr. ABOUREZK. Mr. President, in an article entitled "The Arabian Fantasy," which appears in the January issue of Harpers magazine, Christopher Rand presents an incisive and scholarly analysis of the dealings of the major oil companies in the Middle East.

Mr. Rand points out that there is no international shortage of crude oil, and that while the October war in the Middle East—

Has created a few problems with the logistics of oil supply . . . these have aggravated the American public more than they have inconvenienced the American oil companies.

The article answers many questions about the real nature of the present fuel shortage, and leaves no doubt that the major oil companies are not sharing the burden of the "energy crisis" to any substantial degree.

I ask unanimous consent that "The Arabian Fantasy" by Christopher Rand be printed in the RECORD.

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

THE ARABIAN FANTASY: A DISSENTING VIEW OF THE OIL CRISIS

(By Christopher T. Rand)

Christopher T. Rand is a Middle East specialist who has worked for Standard Oil of California and Occidental Petroleum. He has translated Arabic and Persian materials for the U.S. Department of Commerce, and is now writing a book entitled Oil and the Moslem East.

The present calamity of the oil or energy crisis has become widely accepted as an article of the popular faith. Everybody talks about the crisis as if it were the implacable nemesis from which no man can escape, and if everybody says so (not only the major oil companies, but also the environmentalists, the U.S. government, and the citizen unable to heat his house), then it must be true. What other misfortune could possibly explain the higher prices for gasoline and the sudden shortage of winter fuel? Does not the United States possess vast natural resources and an incomparable genius for capital formation and technological invention? If so, how else could it have been ensnared in the present crisis unless through the machinations of sly and resentful Arabs?

For the past few years, the major oil companies have spent considerable sums of money advertising a vision of the apocalypse. The October war between some Arabs and all Israelis seemed to testify to the truth of this vision. The embargoes placed on Arab oil shipments to the United States and the Netherlands, together with unilateral price raises and threats of reduced production, provoked a further outpouring of oil industry bulletins announcing the approach of an energy crisis akin to the millennial scourge of Huns from the Asiatic steppes. The bulletins have been confirmed by the proper authorities in Washington, and they have been amplified in the hollow echo chamber of the national press.

The official broadcasts resolve into variations of what might be called the Arabian fantasy. The editorial writers—unchallenged but not encouraged by company spokesmen—explain that the Arab states (principally Saudi Arabia, Kuwait, Libya, Iraq, and Iran)[1], control the bulk of the world's proven oil reserves, and that they have become rich beyond all reason or understanding. The demagogues among them entertain radical and dangerous political ideas about the sanctity of Western economic interests, and they refuse to recover their oil in ways convenient to the major international oil companies. In their more ominous moments they threaten to shut down the flow of oil unless the Western nations accede to their demands against Israel. The Western nations must prepare for the worst, and the worst undoubtedly will be expensive. Thus, the need for rationing and higher costs to the consumer.

WHAT ENERGY CRISIS?

Although sufficient to its melodramatic purpose, the prevailing rhetoric fails to answer a number of awkward questions, especially now that the October war has come and gone. Few people point out that in the past year the major oil companies have reported enormous profits, or that they have enjoyed a policy of generous forbearance on the part of the Nixon Administration,[2] or that they appear to get along quite successfully with even the most radical of Arab governments. Worse, virtually nobody explains that the energy crisis is a crisis taking place in time future rather than time present.

Even October's war was not the vengeful uprising against the West that the American

Footnotes at end of article.

information media represented it to be. When the war broke out, the Arabs stopped virtually all criticism of American action or policy. Arab officials did not claim that American troops or pilots participated in the war; Beirut newspapers, even while publishing photographs of bombed-out buildings in Damascus, quoted the Lebanese premier to the effect that America had informed him that it would make the necessary efforts to ensure Lebanese security against Israel. King Faisal of Saudi Arabia had already upped Aramco's production by a million barrels a day during the hot months of July and August, thus allowing him to reduce production when the war began and still retain normal supply levels for the year. The war has created a few problems with the logistics of oil supply, but these have aggravated the American public more than they have inconvenienced American oil companies. For the time being, the world's supply of oil far exceeds the world's demand, and so the crisis must be discerned in a network of theoretical lines converging at imaginary points in time future. The oil companies therefore project a rate of increasing demand for oil, and then they project a rate of declining supply.[3] When these two lines intersect, presumably in the early 1980s, the actual crisis (as opposed to the abstract or hypothetical crisis) will be unloosed upon an innocent and law-abiding world.

This is what the oil companies tell the public, not what they themselves know to be the case. In the Middle East they play the part of middlemen rather than principals, and in their various dealings, both with the Arabs and with each other, they display the devious cunning that characterizes the dealings of middlemen in any trade. The instability of Arab politics once frightened them (so much money invested in such unsafe places, etc.), but after the Arab-Israeli war of 1967 and the closing of the Suez Canal they began to understand this instability as a chronic condition much less harmful than it seemed. They found that they could bear the cost of shipping oil around Africa instead of through the Suez Canal; and the construction of supertankers, as well as the hurried discovery of new reserves in the North Sea and Prudhoe Bay, Alaska, obliged them to become more independent of the Arabs. As a result of their efforts, the inventory of the world's available fuel has been increasing rather than diminishing, even when measured against the annual rise in the rate of the world's consumption. The inventory has become so extensive that it has become a luxury, or at best a waste of time, for most people to worry about it.[4]

The oil companies obviously worry about it, but their worries have to do not so much with the supply of oil as with the cost at which they can trade it. It is the disparity between these two concerns that gives rise to the convenient misperception of the oil crisis. Anybody who hopes to make sense of the present confusion must bear in mind three primary facts:

(1) There is a tremendous volume of oil in the world. (The oil companies publish deceptively conservative figures on this subject; as an example, British Petroleum in 1971 estimated the proven world reserves at about 641 billion barrels; figuring on an annual consumption rate of 18 billion barrels, this leaves enough for at least thirty years.)

(2) There is a tremendous difference between the cost of producing oil and the price at which it sells.

(3) The inhibitions against vengeful political acts on the part of the suppliers depend not so much on fear of military reprisals as they do on the implications of facts 1 and 2.

The fact of volume is the easiest to establish. The largest reservoirs of oil in the world are those in Saudi Arabia (at least 160 billion barrels) and those in Iran (at least 100 billion barrels). Between them these two nations possess the bulk of the oil in the Middle East, and dominate the entire subject of Middle Eastern oil. They lie opposite one another across about half the length of the Persian Gulf, but they have little in common except a mutual distrust. The majority of people in Iran speak Persian or Turkish; they know Arabic only as a sacred language, and they have virtually no relations of any kind with the Arab world. The oil reserves in both countries have been developed and exploited by two combinations of Western oil companies, the combination in Iran being known as "the Consortium," and the one in Saudi Arabia as "Aramco." The seven major oil companies (British Petroleum, Royal Dutch Shell, Texaco, Mobil, Exxon, Standard Oil of California, and Gulf) take part in both combinations, and it's because of these partnerships that they dominate the international oil trade.[5]

Although both Saudi Arabia and Iran contribute a huge volume of oil to the market, the oil companies choose to give much more publicity to the reserves in Saudi Arabia. They imply that if only they could be assured of access to the Saudi Arabian fields, then they would feel far more secure about the reserves elsewhere in the world. As a measure of the quantity of Saudi Arabian oil, consider, for example, the Ghawar field; roughly 155 miles long and in some places 22 miles wide, this field still contains as much oil as has ever been consumed in the United States.

The Iranian fields contain comparable amounts of oil, but the oil companies prefer to underestimate their volume. The various spokesmen usually explain that Iranian production has been declining, that it has passed its maturity, that it never will exceed 8 million barrels a day. This may be true of the smaller fields that have been onstream since the 1930s, but there are other fields yet to achieve full production and a number of enormous fields, discovered in the past decade or so, that have yet to be tapped. The largest mature fields are those of Agha Jari and Gach Saran, which, although immense, have no more than about forty-five wells, spaced much farther apart than wells in American fields; many of these wells have the capacity to produce 100,000 barrels a day. Other enormous fields recently have been brought onstream at Marun, Ahvaz, Binak, Karanj, and Bibi Hakimeh—each one of them as large as any field in the United States. Equally large fields remain "on hold" at Mansuri, Kilur Karim, Golkhari, Ab Teymur, and Susangerd.

The waters of the Persian Gulf also conceal at least one immense accumulation of oil, in what is known as the Fereydoon-Marjan field. The Iranians and the Saudis share the field, but potential production in only the Iranian half of it, at Fereydoon, has been estimated at 1 million barrels a day.[6] A number of people in the oil business assess the reserves of the entire field at about 30 billion barrels.

The oil companies do not like talk about increasing production in Iran because it is more expensive than increasing production in Saudi Arabia. Before the Tehran and Tripoli price agreements in late 1970 and early 1971, the companies figured the per barrel profit on Saudi Arabian oil at between 50 and 53 cents a barrel; in Iran the comparable figure was between 43 and 45 cents a barrel for crude oil of the same specific gravity. The oil pumped out of the ground in Saudi Arabia is the cheapest in the world for its volume. It costs 4.6 cents a barrel, or one-tenth of a cent a gallon, to load into a tanker. Although Iranian wells individually produce twice as much oil a day, it costs roughly 12 cents a barrel to load into a tanker. The Iranian wells are more distant from water than those in Saudi Arabia; the pipelines cross mountain ranges rather than flat sand, and the "drive" provided by the water latent under the oil reservoirs is generally not as great in Iran as it is in Saudi Arabia.

Which probably explains why the oil companies prefer to turn the conversation to the wonders of Saudi Arabia. They say that only in Saudi Arabia can production be raised to 20 million barrels a day, and then they go on to develop the terrible fantasy about King Faisal suddenly deciding to quit the business if he doesn't find his customers congenial.

But Faisal continues to raise production whenever he can do so, and the fantasy omits a simple calculation in arithmetic. If, for instance, the oil companies hold their offtake in Iran to 8 million barrels a day and at the same time increase their offtake in Saudi Arabia to 20 million barrels a day, they will save about 8 cents a barrel on every barrel produced in Saudi Arabia instead of in Iran. Divided by two for tax purposes, and multiplied by 12 million barrels a day by 365 days in the year, the oil companies achieve an annual saving of $165 million. This is precisely what they are in business to do.

A QUESTION OF PROFITS

It is this kind of calculation that illuminates the difference between the oil-company definition of a crisis and the connotations ordinarily attributed to the same word by people who buy gas or heating fuel. The companies define crisis not in terms of available resources but, rather, in terms of when those resources can be delivered, in what quantities, and at what cost. The illusion of crisis helps them to exact further concessions from alarmed politicians in Washington. If the crisis can be presented as a national emergency, then how can the patriotic Senator refuse to grant hurried permits for drilling off the Atlantic coast, for alleviating pollution controls, for whatever might hasten the delivery of energy to a suffering electorate?

By the early 1950s, the oil companies and the oil-producing nations had established a protected market that has now begun to collapse. Twenty-five years ago the oil companies clearly understood that their dealings with the volatile rulers of the Middle East (or, indeed, with the rulers of any oil-producing state, such as Mexico or Venezuela) could easily deteriorate into bitter disputes. They accepted the Middle East's traditional aversion to the West, and they assumed with whom to bargain; they further assumed that Arabs could be extremely difficult people with whom to bargain; they further assumed that this unpleasantness sooner or later was bound to make itself manifest, no matter what the pretext. The companies, therefore, hoped to limit all negotiations to matters having nothing to do with politics. They chose to wall themselves off from the communities in which they operated, and they kept themselves aloof from the social or political concerns that threatened to provoke unseemly incidents. With this strategy in mind, the oil companies confined their discussions to relatively small fiscal points within a narrowly legalistic context. Oil negotiation in the Middle East over the past twenty years thus became a continuous debate over such points as royalty expensing, acceleration of tax payments, gravity allowances, rates of depreciation, port and customs duties, marketing allowances, and allowances for the devaluation of foreign currencies. An entire chapter of the recent history could be written on the question as to whether forty-degree Zakum oil should be taxed at the same rate as thirty-seven-degree Umm Shaif oil. These questions often involved millions of dollars, but they rarely touched on social or political events taking place beyond the compounds of the oil installations.

Footnotes at end of article.

In return for this convenience, the Middle Eastern governments received munificent royalties, also known as "economic rents," computed on the basis of the difference between the cost of producing oil and the price at which it could be sold. The companies could afford to pay these rents because, by paying large sums of money to Middle Eastern governments, they could run their operations in Europe and the United States at a low rate of profit, or even at an apparent loss. They could also avoid paying taxes to the United States government. The companies insisted on only one condition: that the Middle Eastern countries refer to these payments as "taxes" rather than as "royalties." Before World War II, and in most places until about 1950 or 1951, the Middle Eastern governments earned a royalty of from 12 to 18 cents a barrel. The rulers were content with this arrangement until they discovered that their oil sold for at least six times that price on the world market. By the middle 1950s, various political figures in the Arab world began to understand that oil-company executives were easily frightened, and so they began talking, or, preferably, screaming about the shabby terms of their concessions. They raised public and impassioned complaints whenever possible, and by so doing they threatened to wreck the industry policy of nonengagement. Their harangues gradually induced the companies to pay higher rates of royalty, and they became the beneficiaries of one of the weirdest practices in the annals of international commerce.

This practice accounts for the inflated and fictitious price at which Middle Eastern oil sells on the world market. The fictitious price has been in effect since before World War II, when the center of gravity in the petroleum export trade was to be found in the Gulf of Mexico rather than in the Persian Gulf. The trade shifted eastward in the late 1940s with the first development of prolific fields in Kuwait, Saudi Arabia, and southern Iraq. In those days, the major exporting companies controlled even more of the trade than they do now, and they sold almost exclusively to themselves and to each other, in both Europe and the United States. They could set the price largely as they pleased, but for reasons of convenience they agreed to set it on the basis of the old rates that had prevailed in the Gulf of Mexico. This was done even though the new and abundant oil in the Persian Gulf cost far less than the fixed price at which the companies agreed to trade it to each other. The barrel of oil shipped from Saudi Arabia might cost 4.6 cents to load into a tanker at Ras Tanura, but it would be priced in Europe as if it were the most expensive barrel of the same kind of oil delivered from Texas. Other "costs" (depletion, depreciation, and amortization) would be added to the company's actual expenses of 4.6 cents to provide further tax deductions.

The posted price was considered extravagant in 1950, but by 1960 it had become so remote from market conditions that the companies with interests in the Persian Gulf tried to lower it. This decision proved calamitous. By trying to bring the price of oil into line with what it would bring from a customer willing to buy it (an American fuel-oil dealer, for instance, or the government of Ceylon, or an Italian petrochemical firm), the oil companies set off the enraged outcries of their necessary partners in the Middle East. The Arabs and the Iranians had been receiving revenue calculated on the basis of the posted price, and they refused to let it drop. In their rage and anxiety they formed the Organization of Petroleum Exporting Countries, and this combination has since become the bane of the oil companies. The first agreements within OPEC stopped the downward trend in prices and thereby introduced a principle that has yet to be publicly questioned by any of the major oil companies: the tax-reference price on Persian Gulf oil (or on any other oil produced by the members of OPEC) can never drop. The corollary to that principle states that revenues paid to the governments in the Middle East can only rise.

It was the weakness of the oil companies that brought about the organization of OPEC. First the companies tried to lower the old price; then they couldn't agree on a line of bargaining with the Arabs. And yet it is precisely these people who attribute an almost godlike omnipotence to OPEC. The oil companies at least share similar political interests, and they have far more in common with one another than do the several factions within OPEC. The assignment of magical force to OPEC also presents a major contradiction within the structure of the Arabian fantasy so widely proclaimed in the American press. The emotional aspect of that fantasy portrays the Arabs as childish, petulant, and treacherous, but the analytical aspect of the fantasy shows them as idealistic, fearless, and beyond corruption. The historical evidence suggests that OPEC will collapse for the same reason that the oil-company front collapsed.

The system of fictitious prices worked so well for twenty years that it gave the Middle Eastern governments great, and constantly increasing, sums of money. Contrary to popular misconception, much of this money found its way into the local economy, and wherever it has been present (most notably in Saudi Arabia and Iran) it has strengthened the society. The exorbitant sums of money presented few difficulties as long as the system remained intact, as long as there remained an oligopoly of oil supply.

It was not just an oligopoly of companies but also of system. The companies had no more freedom within the system than did the oil-producing states. They did not dare allow a drop in the posted price (or, to use the preferred euphemism, the tax rate) because they knew that if they did so the Arab states would promptly seize their holdings. The supposedly dreadful consequences of such a doom terrified a generation of oil executives. But now this doom has come to pass, and, lo and behold, it isn't as dreadful as everybody had foretold. The companies have given up larger and larger shares of their concessions, but these proved to be nothing more than pieces of paper assigning them the right to produce the oil that they now can buy from the same producing states under nearly the same conditions as before. The Middle Eastern states have realized the old dream of controlling their own production. In Iran this is called "nationalization"; other countries refer to it as "participation," but, even though the politicians have been satisfied, the oil still must be sold to somebody. The oil companies themselves don't much care where the oil comes from, or who owns it, or at what point along the stream it changes nationality.[7]

The apostles of crisis predict that the Arabs will ignore the laws of free enterprise and choose to sell their oil to nobody. Presumably they will do so because they already have all the money they require, and in the desert countries (Libya, Kuwait, Saudi Arabia) the small population makes no loud demands for social improvements. Thus the rulers can afford to leave the oil in the ground, waiting for a desperate industrialized world to comply with their political demands or to bid the price of oil to the bankrupting levels of $8 a barrel. The rulers then will take advantage of the inflated prices, and in a few years they will destroy the international monetary system and bring about the devaluation of everybody else's currency.

The trouble with this argument, as with most theoretical arguments dependent on imaginary lines converging in abstraction, is that it takes little account of the moderate behavior shown by the Arabs in the aftermath of war. It assumes that the West will do nothing to protect its own interests, that everybody will stand around placidly watching the projections become political realities. Which is, of course, nonsense. Either the oil companies will arrive at a profitable détente with the Middle East (less profitable than in the old days, perhaps, but still satisfactory), or they will suddenly discover that alternate sources of oil and energy were far more accessible than heretofore had been imagined.

The October war reinforces this observation. It does not seem as though the war violated legitimate American aims in the Middle East at all; in fact, it has probably contributed to a détente. An American official sympathetic to the Arab cause but aware of the political power of the Zionist cause in the U.S. might shrewdly have confided as follows to a friendly Arab diplomat: if the Arabs threaten Europe with an oil embargo—and thus threaten NATO and American strategic interests—the American government would have no choice but to go before its public and demand a more evenhanded American policy toward the Arabs. American strategic interest would of course be even more jeopardized by Soviet adventurism in the Middle East. The threat of embargo would, at the very least, force the American government to aid in the restitution of Arab lands occupied by the Israelis in 1967. Americans might also feel constrained to do something about the Palestinian diaspora. All in exchange for an Arab-Israeli peace treaty, to be sure. The Zionists would not like it, but they would have little choice but to accept it. After all, they seem to have as few friends left as Taiwan, and the Arabs are getting stronger. The Arab leaders would not like to make peace with Israel, but they could afford to do so if they could show that they had forced America to shift its policy somewhat in their favor; no Arab who might oppose them could say that they had done more than these moderate leaders had done to restore lost Arab honor. And the conservative oil states would brandish the oil weapon just a bit to gain immunity from radical anti-Western Arab opinion.

NEW MYTHS FOR OLD

The careful wielding of the oil weapon—specifically, the process of "nationalization"—has gradually shifted the politics of oil negotiation in the Middle East. If the producing nations no longer possess the great threat of expropriation (do what we say, or we will seize your holdings), then they will have lost their most effective advantage. As they become wholesale dealers instead of privileged concessionaires, they will find themselves forced to compete in what will begin to resemble a free market. The oil companies still will own 75 percent of the refineries in the non-Communist markets, as well as most of the port facilities, and so they will continue, albeit less directly, to determine price and regulate production in the international oil trade.

The Middle Eastern countries will also find themselves more concerned about the stability of Western economies. Earlier this year, for instance, Saudi Arabia agreed to buy 25 percent of Aramco for a price of about $1 billion. By so doing, it becomes a major partner in the combination of Western oil companies, and to some extent it will come to share similar interests. As the Middle Eastern governments acquire larger percentages in Western companies, they probably will invest their assets in Western banks and multinational corporations—not because they want to do so, but because they will lack sensible options.

All this will take time to come to pass, but as it does the specter of an oil crisis will gradually diminish and fade. The specter will then be replaced by that of the refinery crisis. Suddenly no one will be talking about the lack of crude oil or the vindictive politics of the Arabs; instead, everybody will be saying that oil is plentiful but means nothing

unless it can be refined into useful products, and that the environmental demands placed on these products (low sulphur content, etc.) require a new generation of refineries that will be extremely expensive to construct. This, in turn, will lead to the elaboration of another myth.

The major American oil companies have neglected to build refineries over the past few years because there hasn't as yet been enough profit in the enterprise. In order to justify the expense of building a refinery, the oil companies require the long-term assurance of crude oil supplied at low prices. Refinery construction is expensive: a fair-size plant might cost about $100 million. The big companies have this kind of money. The Standard Oil of California, for instance, added $120 million to its cash reserves in 1972, but it allocated none of this money to constructing new refineries in the United States. Until the Nixon Administration relaxed the quotas last spring, the long-term importing of crude oil was restricted, and so the companies had little crude as collateral with which to secure new refinery construction financing. At this moment, it costs well over $2 a barrel to bring Saudi oil into an American port (as opposed to a net production cost of 75 cents for a barrel of American oil), and so the energy crisis continues to be thought of as low crude-oil supplies rather than high oil cost.

When the tax-paid cost of Middle Eastern crude drops, the rush to build refineries in America will be on. As soon as that occurs, the last vestiges of popular illusions about the energy crisis will have disappeared. All the participants in the drama will remain as they were, but in a clearer light.

The independent oil man, the marginal, will be even more threatened and insecure than he has always been and may vanish altogether. The consumer will continue to pay more and more for the services it has always been very much worth the companies' while to provide him with anyway. The consumer had better get busy learning about prices and wondering why the oil companies sell gasoline wholesale at 21 cents a gallon when it costs them only 4 cents a gallon on the average to provide it. He had better start investigating pipeline and production costs, too, and had better find out what it costs the companies to get oil into the top end of the trans-Alaska pipeline and how much they will sell it for at the bottom end when it is finally built. The latest gasoline price hikes are an ominous harbinger of things to come.

The American government will continue to make the same mistake as the consumer: our Congressmen and Senators will continue to worry about supply and ignore cost. And the companies? They are not deeply concerned about Saudi Arabia, Iran, or the Middle East. They know the limitations of the Arab oil weapon, and are profoundly concerned about protecting their immense assets and safeguarding the accessibility of these assets. If money in the Middle East no longer comes easily to the oil companies, they will be happy to keep looking for it elsewhere. They recognize that it is good enough to have ridden the Arab carousel for more than a generation.

FOOTNOTES

[1] Although Iran is not properly an Arab country, on the reasonable ground that Iranians don't understand Arabic and show little interest in anything Arabian, the producers of the Arabian fantasy find it convenient to refer to the Middle East as a geographical and political unity.

[2] The Nixon Administration in 1973 had eased the restrictions on the importation of foreign oil, consented to increases in domestic prices of gasoline and heating fuels, encouraged the clearing away of legal obstacles to the building of the Alaska pipeline, and argued for the deregulation of natural gas traded in interstate commerce.

[3] The two most often quoted authorities on either side of the prophecy are Professor M. A. Adelman of MIT and Walter J. Levy, an economist often employed by the major oil companies. Professor Adelman foresees a vast surplus, and Mr. Levy foresees an equally vast emptiness.

[4] The discoveries of new reserves had been exceeding the rate of consumption even before the Nixon Administration's generous grants to the oil and gas industry last spring. Aside from the discoveries in Alaska and the North Sea, the oil companies also have found satisfying quantities of oil off the shores of Indonesia, in Ecuador and Australia, in Nigeria, Brunei, Cabinda, and Gabon. Production has been expanding offshore Louisiana and offshore California; onshore California, the 5 billion barrels at Elk Hills remain virtually intact.

[5] Each of the five American companies owned a 7 percent share in Iran's Consortium. Although Iran "nationalized" its oil production in 1973, the same companies draw the same volume of oil from the same fields. With the exception of Gulf, the same companies also own the major shares of Aramco, currently producing about 7.5 million barrels of oil a day. As a consolation of sorts, Gulf owns three-eighths of the Kuwait Oil Company.

[6] The concession to Fereydoon does not belong to the Consortium. It is shared by the Iranian government and an "independent," Standard Oil Company of Indiana. To wonder why Standard of Indiana and Aramco, on the other side of the gulf, have chosen not to draw oil from the field is to raise the possibility of a deal. It is conceivable that the Aramco partners could be supplying Standard of Indiana with crude oil at cut-rate prices in return for Standard's willingness to forestall operations in Iran.

[7] This is an important aspect of the oil trade, and it explains the reluctance of Standard of Indiana to develop the field at Fereydoon. The lack of owned crude oil may not be a serious liability for a major oil company. Mobil, for instance, has been buying maybe 150,000 barrels a day from Standard of California, one of its partners in Aramco, at what is called "eight-way price," i.e., a price one-eighth of the way between the tax-paid cost of the oil and its posted price. This represents a markup of perhaps 8 or 9 cents a barrel. Why should Standard of Indiana go to the trouble and expense of developing a field like Fereydoon if it can arrange a comparable deal with a partner in Aramco or the Consortium?

THE SIGNIFICANCE OF DECEMBER 3, 1773

Mr. THURMOND. Mr. President, during the first weekend of December of this year, the State of South Carolina officially began its celebration of our Nation's 200th birthday. As part of the official ceremonies, a Governor's banquet was held in Charleston, S.C., on Sunday, December 2. The keynote speaker at this banquet was a noted South Carolina historian, Dr. George C. Rogers, Jr., of the Department of History at the University of South Carolina.

Dr. Rogers' address, entitled "The Significance of December 3, 1773," was a very interesting and enlightening account of South Carolina's role in the birth of our great Nation. I believe this account should be shared with all interested Americans as our country begins its bicentennial celebration.

Accordingly, Mr. President, on behalf of myself and the junior Senator from South Carolina (Mr. HOLLINGS), I ask unanimous consent that Dr. Rogers' speech be printed in the RECORD at the conclusion of my remarks, and I commend it to the attention of all my colleagues in the Congress.

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

THE SIGNIFICANCE OF DECEMBER 3, 1773

(By George C. Rogers, Jr.)

Growth and revolution have been the chief characteristics of South Carolina society during the past decade. We have had to adjust our political institutions so that the voices of the new generation coming off the campuses and out of the streets can be heard. Thus the struggles over reapportionment.

Growth and revolution were also the dominant characteristics of South Carolina society in the decade before the American Revolution. Amidst a turbulent people a search was begun for institutions that would be "an accurate mirror of the people, sensitively reflecting their desires and feelings." Consent was discovered to be "a continuous, everyday process." Discarded was the idea, as John Locke would have had it, that consent was given only once, at some climactic moment when government was overthrown by the people and then frozen in written documents forever. The new view was "that the only reason why a free and independent man was bound by human laws was this—that he bound himself." The search to discover the voice of the people and the channels through which it might be continuously heard reached an important milestone—perhaps even a starting point—on December 3, 1773.

Between 1748 and 1775 a man could get rich more quickly in South Carolina than at any other time in her history. Indigo, which had been granted a Parliamentary bounty in 1748, was a crop worth £250,000 sterling by 1775. When Parliament removed the English import duty on rice in 1767, the price of that staple almost doubled by the summer of 1772. These were also the years of greatest importation of slaves from Africa, an obvious sign that planters were prospering. During the 1760's the backcountry was filling up with men who grew provisions for the slave-run plantations of the lowcountry. When Henry Laurens, a great merchant who became an equally successful planter, withdrew to England in 1771 to educate his sons, he had an income of £2,500 sterling per annum, an income surpassed only by the incomes of the great lords of England.

Outward and visible signs of this Carolina wealth were the completion in 1756 of the first State House which was erected on the northwest corner of Broad and Meeting Streets and the opening of St. Michael's Church in 1761 on the southeast corner.

On September 3, 1768, Peter Timothy, the printer of the *South-Carolina Gazette*, wrote to Benjamin Franklin: "I do not suppose there is a Colony on this Continent in so flourishing and promising a Situation as So. Carolina at present. Private and public Works are every where carrying on with Spirit." Broad Street was being transformed into the most elegant thoroughfare in the Empire. At the eastern end, the Exchange was already under way; it would be completed by the fall of 1771. It was the formal entrance for those arriving by sea, who upon passing through the open arcade under the Great Hall would emerge upon a perspective as compelling as any designed by Palladio. A new Watch House was being built on the southwest corner of Broad and Meeting. On the northeast corner already stood the Beef Market.

At the crossroads the statue of William Pitt, executed by Joseph Wilton, was placed in 1770, a civic ornament dedicated to the

man most responsible for the repeal of the hated Stamp Act.

To complete the prospect from the Exchange, a canal was ordered to be cut in 1768 from the upper end of Broad Street through the marsh to the Ashley River. Among the commissioners named to carry out this improvement were Henry and Arthur Middleton, William Henry Drayton, Edward Fenwick, and Rawlins Lowndes, who thus made this the planters' entrance to the city from their Ashley and Stono River plantations.

The first suburbs—Ansonborough, Harleston Village, and White Point—were linked to the town. In 1767 a stone bridge was built over the creek at the north end of Bay Street near Craven's Bastion, while Meeting Street was continued northward to George Street. The northern limit of Ansonborough was fixed in 1769 by the laying out of Boundary Street.

In 1770 Harleston Village was surveyed on Coming's Point with the north-south streets named after the patriots Gadsden, Lynch, and Rutledge, and the east-west streets named for royal officials—Bull, Montagu, Wentworth, and Beaufain.

The private improvements were no less noteworthy than the public. Peter Timothy described Christopher Gadsden's wharf as the most "stupendous work" of all. On May 23, 1774, Gadsden explained to Samuel Adams, the Boston patriot, that he had undertaken to build "a large Wharf, or rather, quay, the largest in America" in order "to relieve my Mind for the almost insupportable Loss of my eldest Son. . . ." "I have been above seven Years at hard Labour and the utmost Risk of my Constitution about one of the most extensive Quays in America during which Time no negroe in any of our swamps has been more exposed, at which thirty of the largest Ships that can come over our Bar can be Loading at the Same time and all afloat at low water with their whole loads in. . . ."

This building where we meet tonight rests on land which Gadsden developed as the suburb of Middlesex just behind his great wharf which stretched along Cooper River. The streets of this development he named in honor of John Wilkes, the defender of English liberties, and of Pasquale Paoli, the defender of Corsican liberties.

Gadsden has usually been labeled a merchant, but he expressly stated in 1769 that he was no longer a merchant, but a factor—generally known as a Country Factor. The distinction is important for understanding Gadsden's role in the Revolution. A merchant was a man with English connections, who drew his capital from London, who wanted therefore to buy the country produce cheap in order to load the vessels consigned to him by his English friends to the best advantage. The Charleston factor was the man who marshalled the produce from the country on his wharf and had the same interest as the planter—to sell at high prices.

Peter Timothy, who observed the urban bustle from his printing office on the Bay near the Exchange, pointed out in 1774 that Gadsden's wharf was not the only new one. John Gaillard had constructed one on the north side of the new Fish Market which stood at the foot of Queen Street; Samuel Prioleau, Jr. a wharf on the south side. More noteworthy were the wharves being built for the first time into the Ashley River westward of White Point. Here the most-extensive construction was that of the factor William Gibbes. Timothy boasted: "All *White-Point*, which for many Years was almost a desolate Spot, is lately almost covered with Houses, many of them very elegant." Among these houses were those of Miles Brewton, William Gibbes, and Thomas Savage, all of which still stand. This incessant building created a new class, the artisans, who were ready to challenge the dominance of the planters and the merchants.

It is only with a knowledge of these public and private improvements that one can understand both Governor Montagu's attempt to move the capital from Charleston to Beaufort in October 1772, and the deep resentment of that move felt by the propertied men of Charleston. Montagu's action was as great an attack upon Charleston property as Lord North's Boston Port Bill would be upon Boston property.

It was the tax on tea, however, that symbolized the most fundamental threat to the property of these aspiring men. The Stamp Act had been repealed. All of the Townshend duties had been repealed, except that on tea. The tax on tea had been retained as proof that Parliament had the right to tax the colonists; the colonists must therefore never consent to pay for it, for to do so would be an admission that the power of taxation rested in Parliament, a body in which they themselves were not represented.

In October 1773 seven ships with tea set sail for America. The ship *London*, Alexander Curling, master, was destined for Charleston with 257 chests of tea on board consigned to the agents of the East India Company in Charleston. The ship *London* arrived off Charleston bar on December 1; she came to anchor in the harbor on December 2.

The names of Carolina vessels had long been a faithful index to her fortunes. As she struggled to get rich, her vessels were called Adventure, Delight, Endeavour, Enterprize, Experiment, Friendship, Good Intent, Hope, Industry, Speedwell, Success. After 1764, however, nine vessels built in Carolina were christened *Liberty*. Others were launched as the *Fair American* and *Heart of Oak*. In 1770 Henry Laurens selected the name of *Magna Charta* for the ship he intended to sail up the Thames. The arrival of the *London*, therefore, in Charleston harbor might seem ominous indeed.

How was the landing of the tea and the collection of the duty to be opposed?

On December 2 handbills were circulated "inviting all the inhabitants, without exception, particularly the landholders, to assemble in the Great Hall over the Exchange at 3 o'clock on Friday afternoon."

On the 3rd the assembled group called Col. George Gabriel Powell to the chair, a place he occupied at each of the General Meetings held during the ensuing seven months.

Powell was selected to preside over these meetings of the people not because he was a strenuous votary to liberty, as Henry Laurens later depicted him, nor because he could propagate his ideas "with zeal," as Lieutenant Governor William Bull once wrote, but because he was one of the most respected leaders in the backcountry. Of Welsh descent, his fiefdom was the Welsh Tract. He had acquired extensive lands along the Pee Dee River. As a justice of the peace and a colonel in the Craven County militia, he had upheld authority during the Regulation yet retained his popularity for he was the overwhelming choice in 1769 of the people of St. David's parish to represent them in the assembly.

Perhaps because he was something of an outsider he could moderate the clashing interests of the planters, merchants, and mechanics. After all, he had been an assistant judge until April 23, 1772, when he was removed to make way for a placeman.

At this meeting the agents of the East India Company—Roger Smith, Peter Leger, and William Greenwood—were called in and by "threats and flatterys" convinced that they should decline to receive the tea.

At the meeting it was resolved: "We the underwritten, do hereby agree, not to import, either directly or indirectly, any teas that will pay the present duty, laid by an act of the British Parliament for the purpose of raising a revenue in America." A committee was appointed to secure signatures to the resolution. Some merchants who were present signed. But others according to Bull "were cool, and . . . differed in the reasonableness and utility thereof."

The committee, although composed of Capt. Christopher Gadsden, Col. Charles Pinckney, Thomas Ferguson, Charles Cotesworth Pinckney, and Daniel Cannon, was not to have an easy job as the following letter written by James Laurens to his brother Henry on December 4 indicates: "Our Liberty folks met Yesterday at the Exchange & came to a Resolution to prevent the Tea sent out by the India Company from being Landed here & Capt. Curling will be obliged to carry every chest of it back to London.

"This day a Select Committee, Mr. Gadsden & co., are going about to demand a Subscription from the Merchants to Import no more of that Article until the Duty shall be taken off. How that will Succeed I don't know but I hear many are offended at some severe reflections that Mr. G. Let drop against that Body in the Wrath of declamation yesterday."

The five men who made up the committee represented the two principal groups attending the meeting—the planters and the mechanics.

Charles Pinckney, his first cousin Charles Cotesworth Pinckney, and Thomas Ferguson were planters who had long been members of the Commons House of Assembly. Charles Pinckney, who was colonel of the Charles Town Regiment of Foot, had sat in every assembly since 1754, first for Christ Church parish, then for St. Michael's, and finally for St. Philip's. Charles Cotesworth Pinckney, the son of the famous Eliza Lucas, had only recently returned from studying abroad when he was elected in 1769 to represent St. John's Colleton.

Thomas Ferguson was described by Henry Laurens in 1768 as "a knowing wealthy Gentleman Planter." He was master of several plantations in Colleton County and owned the rights to Ferguson's Ferry over the Edisto River where he had established several country stores. He sat for St. Paul's Colleton.

These three men were accustomed to govern through the assembly.

Jack Greene, in his book *The Quest for Power*, has described the way in which the local elites in the four southern colonies had gained power through increasing their control over the colonies' finances. In South Carolina, however, because of a dispute over the Wilkes Fund, a gift of £1,500 sterling made by the assembly to John Wilkes in 1769, the assembly had ceased to function, for the crown would approve of no legislation until the commons house made amends for this gift.

This was why they could not act through the assembly and had to join forces with another group which had been working out of doors—the Sons of Liberty. Christopher Gadsden and Daniel Cannon represented this other tradition. Gadsden, although he had been a member of every assembly since 1757, was the darling of the mechanics. His constituency was St. Philip's, which was as close to a democratic one as could be found in colonial South Carolina. It was Gadsden who had read the Association at the Liberty Tree on July 22, 1769, which put into operation the non-importation agreement.

Daniel Cannon had never sat in the assembly. He was a carpenter by trade, but we would have to call him a building contractor, for he amassed a great deal of property, including by 1770 all that extent of land known as Cannonsboro. His great popularity in the community is attested by the fact that in the spring of 1774 he was elected a vestryman of St. Philip's church, a firemaster, president of the St. George's Society,

and senior warden of the South Carolina Society.

Pauline Maier in a very perceptive article entitled "The Charleston Mob and the Evolution of Popular Politics in Revolutionary South Carolina" has found the seeds of self-government in these revolutionary mobs. There was a progression, she says, from the mobs at the time of the Stamp Act crisis to the more self-disciplined meetings of the Sons of Liberty at the Liberty Tree. By the time of the crisis over tea these had become the General Meetings of the Inhabitants—a kind of New England town meeting.

Thus on December 3, 1773, we have a merger of Greene's traditions which had been charted through the duly constituted bodies, with Maier's traditions which had been gathering out of doors. Therein lies the supreme importance of the day we celebrate.

Missing were the Charleston merchants. The mercantile community was the most conservative group in the city and in the light of the events they decided to organize. At "a General Meeting of the Gentlemen in Trade" held on December 9 at Mrs. Swallow's Tavern on Broad Street they organized the Charles Town Chamber of Commerce, in order to "adjust Disputes relative to Trade and Navigation." The first president was John Savage, a Jew from Bermuda who had amassed one of the largest Charleston fortunes while trading jointly with Gabriel Manigault. Miles Brewton, the most successful importer of slaves, was vice president, David Deas, a Lowland Scotsman, treasurer, and John Hopton, a former clerk of Henry Laurens, secretary.

Since the "great Stumbling Block" was that some merchants had not desisted from importing teas privately and might still want to sell what they had on hand, a general meeting was called for the 17th of December. At that General Meeting held from 10 to 3 "under the Exchange" it was resolved that the tea on Captain Curling's vessel should not be landed.

From a letter that Lt. Gov. William Bull wrote on December 24 to the Earl of Dartmouth, the King's Secretary of State for American Affairs, we know what ensued. "Tho' the Merchants of the Town had generally disagreed to this Measure of prohibiting the Landing the Tea, yet some warm bold Spirits took the dangerous method of sending anonymous Letters to Captain Curling and some of his Friends & the Gentleman who owned the wharf where the ship lay," threatening dire consequences unless the vessel was moved into mid-stream.

Bull had thereupon called together the royal council on December 21 to ask their advice. Captain Curling, who appeared before the council, said that he feared no personal violence. Collector of the Customs Robert Haliday stated that he would have to seize the tea if the duties were not paid within 21 days after the arrival of the vessel. That was the law. Since some disturbance was likely, the council agreed with Bull that the sheriff and his officers should provide protection for the collector. On the 22nd the collector seized, landed, and stored the tea in the cellar of the Exchange without, as Bull wrote, "one Person appearing to oppose him." Peter Timothy's comment was that "there never was an Instance here, of so great a Number of Packages, being taken out of any Vessel, and thus disposed of, in so short a Time."

The Earl of Dartmouth replied to Bull on the 5th of February, to give the King's reaction to the Charleston tea party. "What passed at Charles Town in consequence of the arrival of Capt. Curling, Altho' not equal in criminality to the Proceedings in other Colonies, can yet be considered in no other light than that of a most unwarrantable Insult to the authority of this Kingdom. The steps you took . . . are very much approved by the King . . . it is the King's firm resolution upon the unanimous advice of his confidential servants, to pursue such measures as shall be effectual for securing the Dependence of the Colonies upon this Kingdom."

Undoubtedly Charleston had responded in a less criminal manner than Boston where the tea had been destroyed by dumping it into the harbor and New York and Philadelphia where the tea ships were simply turned back.

When the news of these northern tea parties reached Charleston in January, the local firebrands were chagrined that they had been somewhat backward in the united cause. When Peter Timothy's *Gazette,* which Bull described as "the conduit Pipe of Political matters on one side," resumed publication on January 17, Timothy noted that the consignments of East India tea had not been landed any where in America but *"here."* To Timothy that seemed to be to Charleston's shame.

This point was driven home by a letter from the New York Sons of Liberty, printed in Crouch's *Country Journal* on February 1, in which letter the New Yorkers stated that they were disappointed to learn that the Collector had seized and landed the tea in Charleston. "This we are informed, is owing to an unhappy Difference between the Planters and the Trade. It was an Evil Hour for America." South Carolina's receiving the tea would "Delay the Repeal of the Revenue Act." This "Manifests a disunion among the Colonies. . . ."

Goaded by the opposition of the Chamber of Commerce and the criticisms from their friends in the North, the Sons of Liberty redoubled their efforts. A call went out for a General Meeting of "Every Inhabitant of the Town or Country" to be held on March 3 at 9 a.m. at the Liberty Tree. Because of continuing bad weather, this meeting had to be postponed several times until the decision was finally made to meet on March 16 at Pike's Long Room. A clash was expected at that time between the merchants and the mechanics.

Timothy wrote in his *Gazette* on February 28: "The late Institution of a Chamber of Commerce in this town, it is said, has given Rise to an Idea of forming a Chamber (or House) of Counterpoise." A handbill was soon circulating, calling for a meeting of the mechanics on March 15, the day before the General Meeting: "The Mechanicks in Charles-Town, are requested to meet, In the Lodge-Room in Lodge-Alley, at Seven o'Clock this Evening, Upon Matters of Importance: For, upon *their* present Conduct depends, whether they shall in future be taxed by any other than Representatives of their own Choice—and whether this hitherto respectable Province shall preserve its Reputation, or sink into Disgrace and Contempt."

At the General Meeting on the 16th there was established a "standing General Committee"—to act as an interim executive, to sound the alarm at the next crisis.

The next contest was a by-election to be held on April 5 and 6 to select a replacement for Henry Laurens, who had declined his seat in the assembly for St. Michael's parish, as he had not yet returned from England. At this election Thomas Lynch, Jr., was pitted against David Deas. Lynch was the son of Thomas Lynch of Stamp Act fame. Deas was a merchant and a member of the Chamber of Commerce. Deas was also a Scotsman. A writer to the *Gazette* on April 4 warned: "You are soon, my Countrymen, to have a *Scot* Governor: If you have a *Scot* Assembly, with the present hopeful Council, the Lord have Mercy upon you!" But David Deas won by six votes.

That which turned the tide in the radical direction was the news of the passage by Parliament of the Boston Port Bill. Timothy issued an Extra with large black borders and printed the entire bill. The General Committee met on June 13 and sent out a call for "the Inhabitants of this Colony" to meet on Wednesday, July 6, at the Exchange so that they can prove that they are in *union* with the other colonies.

The General Meeting that was held on July 6, 7, 8, 1774, at the Exchange was the most important of all. It was the first time that backcountrymen participated directly in Charleston politics. The letters of Christopher Gadsden to Samuel Adams intimate that the backcountry may have been called in to redress the balance against the Chamber of Commerce.

Gadsden wrote Samuel Adams on May 23: "You must not always judge of the Sentiments of the People of Carolina by their Public Meetings in Town where (I don't know how it is with you, but so it is with us) all the Ministerial men in the Province almost to a man are collect'd and are artful and strenuous in their Opposition. The Country Gentlemen are hearty and spirited but supine and I am sorry to say that few of them will give themselves the Trouble purposely to come down to attend the publick Meetings; however I am in hopes that this affair relating to your government will effectually rouse them."

It did.

At this July meeting there was a contest between two slates of candidates for delegates to the First Continental Congress. Henry Middleton and John Rutledge were on both tickets. But Gadsden, Thomas Lynch, and Edward Rutledge defeated the nominees of the Chamber of Commerce—Charles Pinckney, Rawlins Lowndes, and Miles Brewton. To appease the merchants, there was a compromise on instructions.

This three-day meeting early in July was far more significant than the one we celebrate today. If one pauses to think in terms of political philosophy—here were the people of South Carolina in a state of nature.

Timothy, sensing criticism, parried it by asserting for Lord North's benefit that this was not "the Meeting of a Rabble, and the Election of a Mob," by printing a list of those who were then members of the Commons House of Assembly and showing that all who had attended had approved.

To seal the new-found unity, a Committee of 99 was established to handle executive matters between future meetings of all the Inhabitants. Col. Charles Pinckney, a defeated candidate for delegate to Congress, was made chairman. Chosen as members were 15 merchants, 15 mechanics, and 69 planters.

This Committee in order to place the Revolutionary movement on a broader base called for elections throughout the province for representatives to attend a General Meeting to be held in Charleston in January 1775. When this General Meeting convened on January 11, a true representation was present from the backcountry. The General Meeting immediately transformed itself into the First Provincial Congress. Symbolic of the change was the fact that the General Meeting adjourned from the Long Room in Pike's Tavern to the Assembly's Room in the State House. As the General Meeting became the Provincial Congress, the General Committee gave way to a Council of Safety.

Thus when the lowcountry had to face the might of Britain on June 28, 1776, the province was united behind the new state government, which had been established under South Carolina's first state constitution, drawn up by the Second Provincial Congress and signed on March 26, 1776.

As Henry Laurens listened to the reading of the Declaration of Independence in Charleston on August 5, 1776, he realized that the logic of revolution must include the slaves. Although he had been a very reluctant rebel, he was now willing to stake his

entire fortune on the outcome. But he could only make the commitment to Revolution on the highest level. He was ready to free his slaves. Indeed, he even said that he would give up his own children to save his country. On August 14 he wrote to his son John "I am now by the Will of God brought into a new World & God only knows what sort of a World it will be."

It was Chief Justice John Marshall who carried the idea of one people a step further—from the state to the national sphere—in his thunderous decisions of McCulloch v. Maryland and Cohens v. Virginia.

Ironically it was George McDuffie in July 1821—at that time like Calhoun still a nationalist—who caught the spirit of Marshall's decisions in letters to a Charleston newspaper which he signed "One of the People."

What is the security of our government? "It is the responsibility of the general government, not to the state authorities, but to themselves, THE PEOPLE. This, and this alone, is the great conservative principle, which lies at the foundation of all our political institutions, and sustains the great and glorious fabric of our liberty. This great truth ought to be kept in constant and lively remembrance by every American. It is the very life and soul of republican freedom; and no statesman is worthy to minister at her sacred altar, who does not distinctly perceive, and deeply feel it. The state governments, too, are the absolute creatures of the people. . . ."

In 1861 Abraham Lincoln appealed to the "mystic chords of memory" stretching from the Revolution, to "swell the chorus of the Union."

Woodrow Wilson, in delivering an address on Robert E. Lee, spoke of his own and of Lee's love of a particular plot of ground. "You can love a country if you begin by loving a community, but you cannot love a country if you do not have the true rootages of intimate affection which are the real sources of all that is strongest in human life." Upon a sense of place one could build a better world.

Our bicentennial celebrations should nurture what began at the Exchange on December 3, 1773—a sense of place, the mystic chords of union, the achievement of *one people*.

CARL MARCY—ABLE PUBLIC SERVANT

Mr. SYMINGTON. Mr. President, a number of my colleagues have spoken about the announced retirement on January 1 of Carl Marcy as chief of staff of the Senate Committee on Foreign Relations.

Today I would add my voice to those who have already noted the extraordinary contributions Mr. Marcy has made to the committee, to the Senate as a whole, and to our country.

For some years, I have had the pleasure of being associated with Carl Marcy on the Foreign Relations Committee. At no time have I been unaware that Carl had 17 or more bosses and that I could only ask for a fair share of his staff's time and attention. But somehow he has always made me feel that my concerns and my requests were being treated in unique fashion.

I do not know how Mr. Marcy accomplished this magical feat; but I do know that he accomplished it with remarkable ease, combining into one activity the talents of a diplomat and a scholar. He is a true expert on matters of foreign policy.

In 1963 Carl Marcy was one of the five members of the Federal Government to receive the Rockefeller Public Service Award; in itself a remarkable achievement which tells us a great deal about this worthy recipient. When a man is so honored, it is difficult to embroider on the theme or embellish the truth.

As a friend, I would assure Carl that another service he is doing is not to make abrupt his break with his Senate duties. He is giving us some 6 months to accustom ourselves to the fact that we shall not be able to turn to him for his invariably wise advice and counsel, as well as his unfailing courtesy.

His successor, Pat Holt, has the experience and judgment we have come to expect from the chief of staff of the Foreign Relations Committee; and the Senate owes each of these outstanding public servants a deep debt of gratitude for nearly a quarter of a century of devoted and selfless assistance.

I am sure all of us wish this outstanding public servant and his gracious and lovely wife the best of everything in the years ahead.

PRESENTATION OF WRIGHT BROTHERS MEMORIAL TROPHY TO SENATOR BARRY GOLDWATER

Mr. THURMOND. Mr. President, on Friday evening, December 14, it was my pleasure to attend the annual dinner of the Aero Club of Washington at which time the coveted Wright Brothers Memorial Trophy was presented to our distinguished colleague, Senator BARRY M. GOLDWATER of Arizona.

A large number of aviation and Government leaders were present to join in honoring Senator GOLDWATER as the 1973 recipient of this award. This award is given annually by the National Aeronautic Association to the individual who has contributed most to all elements of aviation, military and civilian. No Member of Congress deserved this recognition more than Senator GOLDWATER. He has distinguished himself in many ways in the world of business, aviation, and politics.

His leadership in the Congress, and especially as a member of the Senate Armed Services Committee, has been instrumental in enabling this Nation to maintain a strong Air Force, as well as a strong defense establishment.

A distinguished pilot, whose experience as an aviator dates back to 1929, he has given of his time unselfishly in maintaining his contacts and knowledge of military, industry, and aerospace developments. A determined and outspoken advocate of all phases of aviation, his contributions will influence this critical area of our national life for many years to come.

In his extemporaneous response, Senator GOLDWATER made remarks which should hearten every American citizen. He pledged again his determination to assure our Nation a national defense second to none. His words are especially meaningful in this period of détente, as we must continue to recognize there are still dictators who will grab land and power whenever given the opportunity.

Mr. President, in recognition of these achievements by Senator GOLDWATER, I ask unanimous consent that, at the conclusion of my remarks, the following items be printed in the RECORD: A copy of the program for the 26th Annual Wright Memorial Dinner; a copy of the presentation remarks delivered by Mr. J. B. Montgomery, president of the National Aeronautic Association; a copy of the remarks given by Vice President GERALD R. FORD; an article entitled "Aviation's Man of the Year, BARRY M. GOLDWATER" which appeared in the December issue of the Airline Pilot's magazine, and an article entitled "GOLDWATER—Winged Maverick" which appeared in the January–March 1974 issue of the National Aeronautics magazine.

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

PROGRAM

Presiding: Mr. J. C. Owen, President, Aero Club of Washington.

Invocation: Chaplain Henry Guikema, United States Air Force.

Presentation of Colors and National Anthem: Color Guards of the United States Army, Navy, Air Force, Marine Corps and Coast Guard; the Langley High School Wind Ensemble, conducted by Mr. George J. Horan.

Musical Presentation: The United States Air Force Singing Sergeants, directed by Captain Robert Kuzminski, USAF.

Master of Ceremonies: The Honorable Secor D. Browne.

REMARKS

Mr. Jerome Fanciulli representing the United States of America.

Count Giovanni Caproni di Taliedo representing Italy.

Mr. Charles Cristofini representing France.

Professor Willy Messerschmitt representing the Federal Republic of Germany.

Sir Archibald Russell representing Great Britain.

Presentation of Wright Brothers Memorial Trophy: Mr. J. B. Montgomery, President, National Aeronautic Association.

Response: The Honorable BARRY GOLDWATER, United States Senate.

Dancing: Fred Perry and his Orchestra and the Dixieland Stompers.

WRIGHT BROTHERS MEMORIAL TROPHY

The Wright Brothers Memorial Trophy, administered by the National Aeronautic Association, is traditionally presented at the annual Wright Memorial Dinner sponsored by the Aero Club of Washington. President Nixon recently described the award as "aviation's most coveted tribute to the courage, ingenuity and determination of Orville and Wilbur Wright."

This handsome silver trophy, a scale model of the original Wright airplane, is awarded for "significant public service of enduring value to aviation in the United States." Although the first presentation occurred December 17, 1948, the trophy's sponsor, Godfrey Lowell Cabot of Boston, a former NAA president, made it possible by a trust fund established in 1936.

PAST RECIPIENTS—WRIGHT BROTHERS MEMORIAL TROPHY

1948 Dr. William F. Durand.
1949 Charles A. Lindbergh.
1950 Grover C. Loening.
1951 Dr. Jerome Hunsaker.
1952 Lt. Gen. James H. Doolittle, USAF (Ret.)
1953 Hon. Carl Hinshaw.

1954 Dr. Theodore Von Karman.
1955 Dr. Hugh L. Dryden.
1956 Dr. Edward P. Warner.
1957 Sen. Stuart Symington.
1958 Dr. John F. Victory.
1959 William P. MacCracken, Jr.
1960 Frederick C. Crawford.
1961 Sen. A. S. Mike Monroney.
1962 John Stack.
1963 Donald W. Douglas, Sr.
1964 Harry F. Guggenheim.
1965 Jerome Lederer.
1966 Juan Terry Trippe.
1967 Dr. Igor I. Sikorsky.
1968 Sen. Warren G. Magnuson.
1969 William M. Allen.
1970 Hon. C. R. Smith.
1971 Sen. Howard W. Cannon.
1972 Hon. John H. Shaffer.

SENATOR BARRY M. GOLDWATER

For his leadership and inspiration to all elements of aviation in the United States, both military and civilian, and for serving as an articulate spokesman for American aviation and space in the Congress and throughout the world, Senator Barry M. Goldwater is the 1973 recipient of aviation's highest award—The Wright Brothers Memorial Trophy.

An active pilot since 1929, Senator Goldwater has logged over 10,000 flying hours in more than 90 different types of civil and military aircraft. During World War II he served as an Army Air Corps gunnery instructor, a ferry pilot who led the first flight of P–47 fighters across the North Atlantic, and a wing commander with the Air Transport Command in the China and India theater.

Following the war Barry Goldwater organized the Arizona Air National Guard, serving as its chief of staff until his election to the United States Senate in 1952. He retired from the Air Force Reserve as a major general in 1967 after 37 years of distinguished service.

Senator Goldwater resigned his Senate seat in 1964 to become the Republican nominee for President. He was again elected to the U.S. Senate in 1968 and assigned to the Armed Services and the Aeronautical and Space Sciences committees. As a member of these two prestigious Senate committees, he has enthusiastically sponsored every research and development effort needed to maintain this country's position of leadership in aerospace.

Long a strong and outspoken advocate of American predominance in all phases of aviation, Barry Goldwater has frequently and eloquently warned the Congress that without new technology, the United States might very well become a second class military and economic power.

Senator Goldwater's lifelong interest and dedication to the advancement of aeronautics and astronautics is known the world over. His tireless support of the U.S. aerospace industry is second to none among the members of Congress. Twice he served as the President's personal representative to the biennial Paris International Air Show.

Born in Phoenix, Barry Goldwater attended the Staunton Military Academy in Virginia and the University of Arizona. His name becomes the 26th inscribed as an honored recipient of aviation's most coveted award, The Wright Brothers Memorial Trophy.

HEAD TABLE GUESTS

Mr. William M. Allen, Wright Brothers Memorial Trophy Recipient 1969.

General Earl E. Anderson, USMC, Assistant Commandant, United States Marine Corps.

The Honorable John W. Barnum, Under Secretary of Transportation.

The Honorable Secor D. Browne, Professor, Massachusetts Institute of Technology.

The Honorable Alexander P. Butterfield, Administrator, Federal Aviation Administration.

The Honorable Howard W. Cannon, Wright Brothers Memorial Trophy Recipient 1971.

Count Giovanni Caproni Di Taliedo, President, Caproni Vizzola-Construzioni Aeronautiche S.p.A.

Mr. Charles Cristofini, Director General, Societe Nationale Industrielle Aerospatiale.

Mr. Andre Dumas, President, Federation Aeronatique Internationale.

General Richard H. Ellis, USAF, Vice Chief of Staff, United States Air Force.

Mr. Jerome Fanciulli, Founding Member, Aero Club of Washington.

The Honorable James C. Fletcher, Administrator, National Aeronautics and Space Administration.

The Honorable Barry Goldwater, United States Senate.

Chaplain Henry Guikema, United States Air Force.

Mr. Jerome F. Lederer, Wright Brothers Memorial Trophy Recipient 1965.

Mr. Grover C. Loening, Wright Brothers Memorial Trophy Recipient 1950.

The Honorable John L. McLucas, Secretary of the Air Force.

Professor Dr. Ing. Willy Messerschmitt, Chairman, Board of Directors, Messerschmitt-Boelbow-Blohm GMBH.

The Honorable A. S. Mike Monroney, Wright Brothers Memorial Trophy Recipient 1961.

Mr. J. B. Montgomery, President, National Aeronautics Association.

The Honorable Frank E. Moss, United States Senate.

Mr. J. C. Owen, President, Aero Club of Washington.

Sir Archibald Russell, C.B.E., F.R.S.

Vice Admiral Thomas R. Sargent, III, U.S.C.G. Vice Commandant, United States Coast Guard.

The Honorable John H. Shaffer, Wright Brothers Memorial Trophy Recipient 1972.

Mr. Joe L. Shosid, President, Air Force Association.

The Honorable C. R. Smith, Wright Brothers Memorial Trophy Recipient, 1970.

The Honorable Herman R. Staudt, Under Secretary of the Army.

The Honorable Stuart Symington, Wright Brothers Memorial Trophy Recipient 1957.

The Honorable Olin E. Teague, United States House of Representatives.

The Honorable Robert D. Timm, Chairman, Civil Aeronautics Board.

Mr. Juan T. Trippe, Wright Brothers Memorial Trophy Recipient 1966.

General Fred C. Weyand, USA, Vice Chief of Staff, United States Army.

Captain Alexander W. Wuerker, USCG (Ret.), President, National Aviation Club.

AERO CLUB OF WASHINGTON

Three score and ten years ago man's age-old dream of flying became a reality. Wilbur and Orville Wright, on December 17, 1903, successfully emulated the birds; they were the first men to fly in a power-driven vehicle heavier than air.

Today the far corners of the world are just hours away. We have reached the moon; a space station circles the earth. And we are poised on the threshold of manned flight to the planets, and eventually the stars.

It is especially fitting that the flags of other nations are so admirably represented here tonight as we commemorate the 70th anniversary of man's first mechanically controlled, sustained flight in an airplane; for the Wrights' great influence on aeronautical development abroad as well as at home is now recorded history.

The dominant theme of tonight's program is international progress. It salutes the dramatic technical accomplishment between two memorable aviation milestones—the success of the fragile *Wright Flyer* of 1903 and the emergence of the marvelously advanced supersonic *Concorde* airliner which will soon enter commercial service.

One of the oldest aviation clubs in America, the Aero Club of Washington has as a fundamental purpose the promotion and recognition of significant aviation achievement. It sponsors numerous wide-ranging programs and forums aimed at preserving and projecting this country's heritage in the air.

Founder Jerome Fanciulli, still an active member, first proposed the club at a meeting attended by Orville Wright and other pioneer airmen on August 22, 1908. It subsequently received its charter in 1909, the year a number of Wright "aeroplanes" were built under license in France, England and Germany. (Wilbur Wright also flew in Italy that year.)

ACW is the Washington chapter of the National Aeronautic Association, successor to the old Aero Club of America which organized in 1905. NAA is the official U.S. representative of the Federation Aeronautique Internationale, the world body governing aviation competitions and records.

Among its interests, ACW supports National Aerospace Education Association activities in more than 120,000 elementary and secondary schools in the United States. It also assists the Smithsonian Institution's National Air and Space Museum and serves as a platform for the free discussion of timely issues affecting all fields of aerospace.

Indeed, the triumphant events at Kitty Hawk transformed our lives and brought a new dimension to man's relentless pursuit of global mobility. And as long as dedicated men of understanding work together toward common goals, the future of the "flying machine" appears unlimited.

AERO CLUB OF WASHINGTON 1973

OFFICERS

President, Mr. J. C. Owen.
First Vice President, Mr. James P. Bass.
Second Vice President, Mr. J. Donald Reilly.
Third Vice President, Col. Jack Reiter, USAF (ret.).
Secretary, Mr. George U. Carneal.
Treasurer, Col. James M. McGarry, Jr., USAF (ret.).
Historian, Mr. E. W. Robischon.

TRUSTEES

Mr. Donald R. Jackson.
Mr. Edward M. Lightfoot.
Mr. Robert C. Smith.
Mr. Brian S. Tennant.
Mr. Harry J. Zink.

COMMITTEE CHAIRMEN

Aviation Education, Mr. Michael J. Nisos.
Awards, Mr. Edward M. Lightfoot.
Membership, Mr. R. Dan Mahaney.
Programs, Mr. John R. Alison.
Publicity, Mr. James R. Greenwood.

WRIGHT BROTHERS MEMORIAL TROPHY COMMITTEE

Mr. J. B. Montgomery, President, National Aeronautic Association.
Dr. James C. Fletcher, Administrator, National Aeronautic and Space Administration.
Mr. Paul R. Ignatius, President, Air Transport Association of America.
Mr. Karl G. Harr, Jr., President, Aerospace Industries Association of America, Inc.
Dr. Holt Ashley, President, American Institute of Aeronautics and Astronautics, Inc.
Mr. J. C. Owen, President, Aero Club of Washington.
Mr. Robert I. Stanfield, President, Aviation/Space Writers Association.

WRIGHT MEMORIAL DINNER COMMITTEE

Mr. Thomas Turner, Chairman.
Mr. Norman J. Snow, Vice Chairman.
Mr. James R. Greenwood.
Mr. Donald R. Jackson.

Mr. Frank W. McAbee, Jr.
Miss Dianne Sherwood.

PROPOSED REMARKS FOR I. B. MONTGOMERY IN PRESENTING THE WRIGHT BROTHERS MEMORIAL TROPHY TO SENATOR BARRY GOLDWATER, DECEMBER 14, 1973

Mr. Chairman, honored guests, ladies and gentlemen, tonight I have the very great privilege in joining with you in honoring an individual whose lifelong dedication and contributions to air progress as a national legislative leader is unsurpassed. No man in government today has been more intimately associated with the growth and development of aviation in both its civilian and military applications than Senator Barry Goldwater.

Tonight we also commemorate that historic first flight of Orville and Wilbur Wright at Kitty Hawk which established without interruption for 70 years the preeminence of the U.S. in the field of aviation, a role which I fervently hope our country will never relinquish. In honoring Barry Goldwater, we continue a 25-year tradition of awarding to an American citizen the Wright Brothers Memorial Trophy for significant public service of enduring value to aviation in the United States. This award is entrusted to the National Aeronautic Association which combines within itself and its many divisions and affiliates practically the entire spectrum of U.S. aviation.

Time does not permit me to detail and do justice to Senator Goldwater's illustrious, unprecedented and colorful career. For this reason we've provided you with a copy of National Aeronautics Magazine which contains an in depth profile of this outstanding archiect of the air age.

An active pilot most of his adult life, logging more than 10,000 hours in 96 different types of civilian and military aircraft, an Air Force Wing Commander in World War II—Organizer of the Arizona National Guard—and as a member of the Senate Armed Services and Aeronautical and Space Science Committees, he has been a strong, eloquent and outspoken supporter of United States predominance in all phases of aviation.

Especially cognizant of the role which aviation has played in the history of America since The First Flight, Barry has been at the forefront of Congressional efforts to construct a National Air and Space Museum to appropriately house The Wright's original Flyer in a setting deserving of its importance to our country's aviation heritage.

Like the Wrights, Barry has fought an uphill battle against public, governmental and press indifference and apathy to aviation and aerospace progress.

When 70 years ago The Wrights unlocked the secret which enabled man to conquer time and space and became the first who ever experienced the thrill of powered flight they immediately realized that what they accomplished on the sand dunes of Kitty Hawk could conceivably change the course of history.

Excitedly Orville sent the following telegram to his Sister Katherine in Dayton, Ohio:

"Success—Four Flights Thursday morning—all against 21 mile wind—started from level with engine power alone—average speed through air 31 miles—longest 57 seconds—inform press—home Christmas."

Katherine raced with the message to the local newspaper and held the telegram out to the editor, offering him the greatest scoop of the century. The story has it the veteran newsman read the telegram and commented pleasantly, "How nice, The boys will be home for Christmas."

Barry can well attest to the similar frustrations he has experienced in his fight to keep America first in air and space.

Aviation has been so much a part of Barry Goldwater's life that I can not think of another man who is more deserving of the recognition he is being accorded tonight.

The Citation accompanying the 1973 Wright Memorial Trophy needs no further amplification.

"For his leadership and inspiration to all elements of aviation in the United States, both military and civilian, and for serving as an articulate spokesman for American aviation and space in the Congress and throughout the world."

It is my very great honor on behalf of the National Aeronautic Association to request the Vice President of the United States to present the 1973 Wright Brothers Memorial Trophy to Senator Barry M. Goldwater.

REMARKS BY VICE PRESIDENT GERALD R. FORD AT THE WRIGHT MEMORIAL DINNER OF THE AERO CLUB OF WASHINGTON, WASHINGTON HILTON HOTEL, WASHINGTON, D.C., FRIDAY EVENING, DECEMBER 14, 1973

President Owen, Chairman Browne, distinguished members and guests of the Aero Club:

It is a pleasure for me to join with so distinguished a company this evening, especially to pay tribute to this year's recipient of the Wright Brothers Memorial Trophy—my old friend Barry Goldwater.

Looking over the list of this evening's speakers and the honor roll of past recipients of this award is somewhat like reading a concise history of aviation. Each name summons up some great accomplishment or memorable moment in the history of flight.

As we think of these accomplishments, we think not only of technological triumphs, but we also think of great triumphs of the human spirit.

All of us here this evening can remember, for example, the great airlift that kept the city of West Berlin alive and free during the darkest days of the Cold War. And similarly, just a few weeks ago, another record-breaking American airlift provided the tiny state of Israel with the means to sustain its independence.

Hardly a week passes that does not see an aerial rescue mission to the victims of some natural disaster—a flood, a drought or a famine. It all adds up to an impressive record of courage, humanity, and resourcefulness on the part of those who build and fly our aircraft in war and in peace, in and out of uniform.

The spirit I have just described is well represented here tonight, among the distinguished speakers from several different countries, each of which has made a distinctive contribution to this legacy of light.

In twenty-five years in the House of Representatives, there were times when I thought of myself as a flyer, too. Sometimes walking back alone to my office after a particularly bad vote, I identified with the famous World War I fighter ace, Snoopy. There were even days when I was convinced I had been shot down behind enemy lines.

But most of the time, it was the flyer's sense of exhilaration and adventure which characterized my experiences in the House. And in addition, there was that strong sense of comradeship, of partnership, that links those who share in great undertakings—aviators and legislators alike.

No one I can think of from my days on the Hill—and I look forward to spending many more of them there executing my duties as President of the Senate—better reflects that spirit of honorable partnership than our guest of honor this evening, Barry Goldwater.

As a legislator, as an individual of courage, character and integrity, and as a darned good pilot in war and peace, Barry Goldwater is truly a unique man.

One of the past recipients of this award, that great American Colonel Charles A. Lindbergh, once remarked that flying started out as an art and ended up as a science. I believe it is both. Like politics, it represents an intricate blend of human feelings and technical principles.

Over a long career, great politicians, like great pilots, are bound to fly some pretty rough missions under tough conditions. But it is those tough conditions that bring out the best in a person, be he a pilot or a politician.

One thing is certain. As long as aviation and politics can produce men like the one we honor here this evening, both fields are in pretty good shape. And difficult as the prevailing weather may be at times, we can count with confidence on a safe, happy landing.

BARRY M. GOLDWATER—AVIATION'S MAN OF THE YEAR

(By Marty Martinez)

An old adage says "curiosity killed the cat." But in the case of Senator Barry M. Goldwater (R-Ariz.), curiosity kicked off the aviation interest that ultimately led to his selection as the 1973 Wright Brothers' Memorial Trophy recipient as aviation's man-of-the-year.

Unlike most pilots, the Arizona senator didn't begin flying because he yearned to "touch the face of God" though reverence of flight would come later. Rather, it was his hobby of amateur radio and a curiosity about the lack of air-to-ground communications that in 1929 introduced him to aviation.

"I wondered why we didn't have air-to-ground radio, so I started going out to the airport," he remembers.

The trainer he flew then not only did not have a radio, "it didn't have an air speed indicator or even brakes; it just had winds, that was it," he says with a smile that reveals more than his words.

But it was enough: It was the beginning of an aviation interest that took on the look of a fulltime aviation career, which it almost became.

He was 19 when his curiosity pushed him onto his first airfield. A year later he earned his first ticket, number 18352, by soloing in a Great Lakes Trainer. Since then he has flown 159 different aircraft and logged more than 10,000 flight hours.

In his fledgling aviator years, Goldwater flew all of the early airplanes, but "never anything with an OX–5. I've never been able to join that outfit (the OX–5 Club)," he says with a tone of regret. He attempted to get into the military aviation program in 1932, but was unable to pass the eye examination. By then, he held a second lieutenant's commission in the U.S. Army Infantry Reserve, and was deeply involved in the family department store business.

About that time he nearly became involved in an airline operation.

"The pilot who gave me my first instruction was interested in starting what later became Arizona Airways or Grand Canyon Airways; he asked me to join him," said the senator. "I remember flying over to look at an old wooden tri-motor Bach. They wanted $3,500 for it and I had about $500. I just couldn't see it, so I passed it up. My friend did go into the airline business and eventually was bought out by Trans World."

In 1941, when it became obvious there was going to be a war, Goldwater volunteered for service as an infantry reserve officer. By then, he also held his commercial pilot license. Although he didn't have an Air Corps pilot rating, he was assigned fighter gunnery training duties at Luke Field, near Phoenix.

Through a bit of conniving, he got his first taste of military flying.

"I made a deal with pilots there," he recalls. "They wanted pictures of themselves with their aircraft and I had the camera; so I said, 'I'll take your pictures and make them

for you, but I want a little time at the stick.' It didn't take me long to get a couple hundred hours in the AT–6."

When the Air Corps originated the Service Pilot rating, Goldwater became one of the first to receive the "S" embellished wings. That began a military aviation association that continued until he retired from the Air Force Reserve in 1967 as a major general, after 37 years' total military service.

Following the war he organized and served as chief of staff of the Arizona Air National Guard, until he was elected to the United States Senate in 1952. At that point he had to relinquish his National Guard affiliation, so he switched to the Air Force Reserve.

In 25 years of piloting military aircraft, the senator has flown everything from the AT–6 to the supersonic SR–71. The supersonic flight reached a speed of Mach 3.1 and an altitude of 83,000 feet.

"While in the Air Force I tried to fly everything they had, that I could get my hands on," says the senator. And he has. Aviation manufacturers know of his avid aviation interst; consequently, he has been invited to fly practically every new airplane built, either at the primary controls or with an instructor pilot.

Goldwater, the aviator, has built up an interest in all aspects of flying. He holds ratings for jet, multiengine (land and water), helicopter and glider operations. He has flown off aircraft carriers and engaged in mock combat.

When it comes to flying, "there is very little I haven't done," he says matter of factly.

During World War Two his duties included services as chief pilot of Air Transport Command's Crescent Airline and Fireball Airline. Crescent Airline's main mission was resupply of B–29 operations. Its C–54s flew across the North Atlantic to India. Fireball Airline used C–47s and flew from Miami, across the South Atlantic, through Karachi and terminated at Chebwa.

He recalls flying the C–54s across the lower Hump to see if it was a practical route, "but it never was," he says. "Above 15,000 feet that airplane just didn't fly too good."

Eventually he returned to the kind of flying he enjoyed best—fighter planes. Lamentingly, he says, "I kept trying to get into combat, but never could do it . . . I was too old, they said. Guess I was a little bit too early; they're flying them past that age now."

Despite all the modern aircraft the senator has flown, he goes back to the war years for his favorite.

"It's a toss up between the P–40 and the P–51. The P–40 because it was the first inline high-powered fighter that I flew, and the P–51 because it was highly maneuverable and exciting to fly: If I'm really pinned down, I'd say the P–51 has the edge."

Why did he pick a fighter over a transport? "I've always liked single-engined planes," he says. "In them you are the boss and you have to do your own work."

That statement marks him as his own man, a fact that is obvious from the position he takes in his political life on many national issues. Long experience and a deep belief in aviation cause him to champion a strong military aerospace force, against stiff political opposition. Similarly, he defends the American aviation industry against those who, in his words, wage "what amounts to a senseless war on science and technology, which is threatening to reduce America to a second-class military power and a second- or third-class economic power."

His vigorous support of the SST was spurred on by his belief that the supersonic transport represented the next step in the development of aviation, and that without the development program, this country stood the chance of losing its pre-eminent position in the field of civil aviation.

The senator hasn't changed his mind, as is evidenced in his report on the 1973 Paris Air Show. He served as President Nixon's representative there, and viewed both the Russian Tu-144 and the British-French Concorde, both supersonic transports.

In his report to the President, he once again expressed his conviction that much must be done if the United States desires to retain its position of superiority in aviation. He wrote: "We in America have to wake up to the fact that the Europeans intend, not only to catch up, but to replace us as the world leader in aeronautics and everything associated with the field."

These examples of his efforts to move aviation ahead just scratch the surface of the many contributions he has made over his lifetime. The selection committee that named him Wright Trophy recipient summed it all up in the citation that accompanies the award. It reads: "For his leadership and inspiration to all elements of aviation in the United States, both military and civilian, and for serving as an articulate spokesman for American aviation and space in the Congress and throughout the world."

Airline pilots are generally aware of Senator Goldwater's support of the American aviation industry. Many, too, know he is an accomplished airman. Few, however, know that he participated in one of military aviation's "moments of history."

Air Line Pilot has obtained a diary penned by then Captain Goldwater who flew on that mission. It reveals that he, too, has been touched by the mysterious, seldom understood relationship that exists between a pilot, his airplane and the environs of space.

Here is his account, condensed for space considerations.

JULY 15, 1943

Capt. "Hap" Croswell, commanding officer of the 27th Ferrying squadron, which makes him my C.O., casually turned to me and informed me that I was one of the first 10 pilots selected to ferry the P–47s across the North Atlantic. I wasn't a whole lot surprised because pursuit ships are what I fly, and those kinds of pilots are sort of scarce around here. Well, if I wasn't surprised, I surely felt highly flattered; for this trip is going to be the first time in history that a single-engine military plane is going to be ferried across anybody's ocean and here I am going along.

The idea behind this flight is to eliminate a long ocean voyage via boat to Europe. Let's step aside and suppose for a moment. Suppose one of those boats would hold 50 airplanes—now suppose a submarine sank one—that's 50 airplanes on the bottom of the drink and they don't fly worth a damn with sea weed flopping behind and a shark for a pilot. Now suppose we start off and fly 50 across—then suppose the law of accidents gets real out of line and we lose say 5, which is 10%, which is far greater than the ATC loss expectancy. That's a hell of a lot better than losing the 50 and those 45 will kill a lot more Germans than the 50 Old Davey Jones has on his field. All that is my idea of why fly a fighter across. Any similarity to the facts is purely accidental.

JULY 16

First airplane and flight assignments are made—I have P–47 8550, #3 in the 1st flight. I am naming her Peggy-G after you know who. She (Peggy) has led me through the best part of my life; so I figured I might as well follow her across the Atlantic.

There are two flights of five P–47s each, and each one will be led by a B–24. In front of the entire project will be a C–87 (cargo version of the B–24) acting as flight leader. It was decided to hold all intercom on 6000 mgs and all transmitters have been set for this frequency. That is on our #2 band and on #1 is the Army 4495. For homing (radio compass) we are using 1200 mgs. This is used only if a 47 gets lost from the main flight. This radio compass is a wonderful thing.

Wing tanks double the gas load of this ship and allow 10 hours cruising at 185 indicated air speed. It also adds 1,800 pounds to the ship, which will then total over 15,000 pounds. All this weight and its distribution presents problems in takeoffs and landings and trim in actual flight.

JULY 17

About everything has been hashed out now and we are getting eager. Captain Turner (Pappy) is the leader. He is very good and extremely careful and I feel secure in his decisions and plans. If there's a man who can do it, he can. Well, Old Peggy is still laid up so I didn't take her up today—Tomorrow tho!!

JULY 18

Well, the Old Gal finally got her instrument fixed. She and I had an all day session in the blue, testing all radio equipment and getting accustomed to the Bendix radio compass. That darned thing is a honey—points right to where you should go and by God the first thing you know you're there.

My parachute weighs 75 pounds. The cockpit seat is a rubber boat all folded up with a bottle of carbon dioxide to blow it up. That boat is kind of hard and this thing at the end of my spine is kind of soft so tonite the tail end of me is sore, like riding a horse for the first time.

Things are popping now. There's a mass flight for 1,000 miles nonstop tomorrow that will take 5 hours.

JULY 19

This morning a non-stop cross-country was agreed on as a fuel consumption test. Peggy G rose into the air without a murmur after a run of about 3,500 feet, coaxed on by 2,300 horsepower.

After three hours my rear was a mass of dead beef and I squirmed first one way then another. One doesn't squirm far in a pursuit ship . . . frankly a virgin horse ride offers far more comfort. After six hours plus we landed back at NCAAB. Old Peggy went like a top all the way—lowest manifold pressure—lowest fuel consumption and coolest engine of the lot. She's a honey, and I mean from the word "clear" to "switches off."

JULY 23

This afternoon what we have all been waiting for started. At 4:45 we took off from Republic Field at Farmingdale and headed North and East . . . across Long Island Sound to the Coast of New England then over New Haven and the Yale Bowl—Harvard and Boston—then along the rocky coast of Maine. The day was beautifully clear and everywhere one looked there were green forests and silvery lakes.

We landed a few miles south of the Canadian border. Peggy ran like a million—her 2,000 horses just purred along ungrumbling hour after hour, drinking up her 70 gals of gas each 60 minutes. This field is Presque Isle. It is the jump-off place for North Atlantic crossings. Ground speed 185 MPH, average alt. 3,000 feet—weather clear—air smooth.

JULY 24

This morning we were issued North Atlantic manuals, charts and marked maps . . . briefed for 2½ hours on the terrain and geographic features we would encounter from here clear across.

JULY 26

Left Presque Isle this morning at 1000. The carpet that stayed under us was the same lake studded one of Maine and it remained so until we entered Quebec at the head of the Baie de Chaleur. Landed at Goose Bay Air Base in Labrador. Distance today 576 miles. Time 3:30, speed 185, altitude 5,-

000 feet, weather—thundershowers—rough air.

JULY 28

It looks like we will be here for a long time. Our orders are to make each leg of this flight CFR (Contact Flight Rules) and that means at least a 1,500-foot ceiling clear across. Weather here tells us there has been only one such a day all year; so God knows when we will leave.

AUGUST 1

Ye Gods, another month gone by—soon it will be another year. We have been here just a day short of a week and still no weather for us to clear . . . either we go on with lessened weather minimums or we return to the States and call it off. I hope it isn't the latter, but I'm beginning to think that is what will happen.

There are many, many combat crews in here on their way across. They, too, are held by the weather, but should be getting out soon.

AUGUST 7

General Giles flew up and told us that by God it didn't make any difference where an engine quit. That as far as he was concerned if it had to quit he wanted lots of air between him and the drink and for us to get on our way. That was like setting off dynamite, 'cause all of us had been waiting too long to hear it. There was a lot to do—top off tanks, check oxygen, check oil, deicer fluid, radios, air in tires, control surfaces, etc.

Weather briefing told us we would find ice at 5,000; so we decided to fly at 7,500, above all clouds and moisture. At 1445 EST the ships took the air. I used turbo and drew about 48 inches on takeoff holding the ship with brakes until I reached 40 inches. Then, with a slow thrust forward, Old Peggy G started down the smoothest runway I've ever seen. She was airborne by 4,000 feet and 120 miles an hour.

We climbed to 7,500 topping a thick layer of stratus. For 140 miles we were above the clouds, which told us we were still over land. Ahead the clouds suddenly stopped and beyond that was the deep rich blue of the Davis Straits of the North Atlantic.

I got a might squeemish. This was my first solo flight over an ocean and with only one engine. Well, I said the Lord's Prayer and asked Him to do right by all of us—then looked at all my instruments—felt of my already tired rear and settled down to my job. Miles before Cape Harrison we could see gigantic ice bergs floating in the sea. Even from 7,000 feet they were massive and cold looking as they floated lazily in the current.

One hour—two hours—three hours then land ahead—way, way ahead, but land. Believe me land looks darned good to a man who's used to seeing it every place he looks.

As we passed a line roughly lying between Cape Desolation on the north and Cape Egede on the south the clouds suddenly stopped, and there below, I saw a sight that if I live a hundred years I will never forget. A rich blue quiet sea flashed by a very rough rocky coastline and jutting into this coastline for miles many deep-cut fjords. These fjords usually ended at the foot of a glacier and they would be literally covered with thousands of large and small icebergs that had broken from the glacier. They looked like salt on a dark cloth. Then fjords, void of glaciers, would be a deep blue. The glaciers run like long rivers of lather to the ice cap. Black granite peaks stick through this icy topping like candles on a cake.

Landed at Bluwie West I—Steel mesh landing strip: Distance flown—776 miles—4 hours 15 minutes, ground speed 181—weather good—air smooth, 295 gals.

AUGUST 8

Up early. After a short weather briefing we went to our ships for takeoff. Peggy ran like a million and took on the first try in spite of freezing weather the nite before. We went to 11,500 feet and levelled off above Greenland's ice cap. Now nothing I can say about this will give you any idea of the way it hits you. You will have to imagine an area over 400 miles long and some 200 miles wide as white or whiter than the most brilliant snow you have ever seen. Only in a few places do black snow thatched peaks stick through. This is solid ice reaching measured thickness of over 8,000 feet. This cap sort of leaks down into the fjords. All along it are tremendous crevices or cracks many hundreds of feet deep. These glaciers run to the water and there, slowly break off into icebergs.

Over the blue North Atlantic again. Outside air temperature was right at freezing all the way, and occasionally I could see the right outboard engine of Lead 1 clearing its carburetor of ice. At the end of 3+20 hours the snowcapped volcanic mountains of Iceland came into view. We went into echelon 10 minutes out from Meeks Field and after 4+20 hours Peggy's wheels set down on another foreign soil. We are but 2° or 120 miles south of the Arctic Circle and the temperature doesn't let us forget that. Distance 746—alt. 7,000—weather good—ground speed 191.

AUGUST 11

Schedule called for a 1045 weather briefing and a 1300 takeoff. Our weather brief and charts showed a 2,000-foot ceiling with showers and tops at 12,000, so we decided on the top.

Takeoff at 1230. Peggy G as usual checked perfectly. I have not had even an indication of anything but perfection thus far. I love to take her off with all her 2,000 horses running so smoothly and the big turbo behind me roaring out its boost to power. She seems to float off, in spite of her 15,300-pound weight.

It was bitter cold at altitude—the thermometer going to 10° below 0°C. However the cockpits of these ships are always warm, so we didn't mind. We were flying above the clouds—up there in the beauty that sometimes is all that holds a man to flying. Soft, fleecy clouds underneath surrounded by tall cumulus reaching thousands of feet above us—these clouds are the reward for a hard day's work.

Today they estimated Starnaway at 2+50 hours, and on the dot I looked through a hole in the clouds. There on the shimmering Atlantic was the northern shore of Scotland. In just a short hour and a few minutes we were over the field at Prestwick after passing near Ben Lomond and Loch Lomond. Peggy's wheels touched just 4+20 after takeoff having covered 904 miles in that time.

I hate to say goodbye to her as she is a wonder, but I have admonished whoever gets her by an entry in the Form 1 to "Fly her like an angel and fight her like a devil."

Mission completed: Aug. 11, 1943. Miles flown, 3,750. Time, 19:40. Average speed, 190 MPH.

Reflecting on the flight, the senator says: "We obviously didn't prove what we were trying to, that we didn't have to ship fighter planes aboard a ship. That one flight was the last. Now they fly jets over both oceans without any problems."

Through the years, the flying senator has maintained his ham radio interest and just recently retired as president of the Quarter Century Wireless Association. He admits that "the avionics part of flying has always been my major interest. I like instrument flying. I think it's a real challenge. I have watched the development of avionics with great interest and I think we're just beginning to knock on the door."

The senator expects to see the day when he can put a computerized flight plan into an autopilot and "as soon as departure control clears me, hit a button and fly to anyplace I bought a ticket for. Not only will it take me there, but it will get me into a landing sequence and let me land."

Still averaging about 200 flight hours per year, he gets the chance to "fly all the new avionics that come out," and says that "each little piece makes it a little easier and a little safer." He agrees, however, that automation causes more of a workload from a fatigue standpoint. He says it "creates a mental fatigue which is worse than a physical one . . . particularly on a long flight when you begin to have avionics problems that have a direct bearing on where you are going or on your ability to get there."

He feels, however, there will be less avionics failures in the future because they are "becoming more and more dependable."

Total automation may be the thing of the future, and he "welcomes any improvements." But, he says, "it's not that simple. You still have to have a pilot up there who has to command an airplane filled with up to 500 people; and he has to be good, for he is the ultimate back-up."

With so many aviation accomplishments already recorded on his slate of life, it is difficult to imagine there are any others left for him to pursue. He sees it differently.

"The only rating I don't have is that of an airline pilot," he says, "and I've made up my mind I'm going to get it when I'm not so tied down with politics. It would mean going back to school. I don't worry about the flying, but when you get older, learning the rules and taking a written examination could be a dog."

It is the type of goal one would expect of aviation's man of the year.

GOLDWATER—WINGED MAVERICK

An eight-pound stone has been hewn from the memorial granite boulder placed by the National Aeronautic Association at Kitty Hawk, North Carolina, to mark man's first flight in heavier-than-aircraft. Mounted on the stone is a silver scale replica of the original flying machine of Wilbur and Orville Wright, builders of the first successful airplane.

That replica atop the symbolic granite is the Wright Memorial Trophy, aviation's highest tribute to the courage, ingenuity and determination of the Wright brothers. For 1973, NAA's president J. B. Montgomery presents this most coveted award to Senator Barry Morris Goldwater on December 14 at the Annual Wright Brothers Memorial Dinner in Washington, D.C.— hosted by The Aero Club of Washington, one of the oldest aviation clubs in America.

The Wright Award is made annually by the NAA for significant public service of enduring value to aviation in the United States. The official citation to Senator Goldwater reads: "For his leadership and inspiration to all elements of aviation in the United States, both military and civilian, and for serving as an articulate spokesman for American aviation and space in the Congress and throughout the world."

But the Senator from Arizona knows that in the spirit of flight there is something more than just the words of a citation. Like the 25 recipients before him, Barry Goldwater has been touched by the winds that blow across that open field on Kill Devils Hill. They are the winds that capture some men's minds and vision in such a manner that compels them to dedicate their lives to furthering man's conquest of air and space.

A strong and outspoken supporter of United States predominance in all phases of aviation, Goldwater has enthusiastically sponsored every space and aviation research and development effort needed to keep the nation in a position of leadership. The Senator has been equally tireless in his support of the U.S. aerospace industry, frequently and eloquently warning that without congres-

sional support for new technology, America may very well become a second-class military and economic power.

Barry Goldwater could probably qualify for the Wright Award solely on his continued efforts in the support of the building of a new Air and Space Museum which, indirectly, may be responsible for the fact that the Wright's original "Flyer" is still in the hands of the Smithsonian Institution where it remains a part of the great American heritage.

After 23 years of frustration at the lack of progress on a new National Air and Space Museum, the Wright Estate was on the verge of concluding that the original agreement by which the Flyer was returned from England to the United States was being violated. They appeared ready to withdraw the Flyer but learned of Goldwater's efforts in getting the new museum constructed. By prodding the Smithsonian, cajoling the President and needling Congressional Appropriations Committees, Goldwater was successful and P.L. 92-369 was signed August 10, 1972. Congress appropriated $40 million for constructing the new building, which will be opened July 4, 1976.

Expressing the appreciation of the Wright Estate, its co-executor Harold Miller, wrote Goldwater, "The Wright plane was returned from its long exile of honor in England to its present place in the Smithsonian only in the confident expectation that there would be a second-to-none U.S. Air Museum in which the plane would be the premier exhibit, displayed in a setting appropriate to its unique character and merit like the crown jewels.

"We hope you continue your interest in promoting the building of the museum and that we will live long enough to see the Kitty Hawk plane displayed in a setting deserving of its importance."

At the same time, Goldwater might well merit the award on his flying achievements alone. As an aviator, he is something of an enigma. While a young man, he tried twice unsuccessfully to become a "Flying Cadet" in the United States Army Air Corps. His problem—he couldn't pass the eye examination. Yet, the young man who couldn't make the grade as a Flying Cadet was ultimately to become a Command Pilot in the United States Air Force, acquire single-, twin- and four-engine propeller ratings, and qualify in the Lockheed P-80, the Air Force's first jet fighter.

Along his flying career, Goldwater has amassed over 10,000 flying hours in 159 different types of fixed-wing aircraft and helicopters, including the British/French Concorde (SST), the European A-300 Airbus and the world's most sophisticated aircraft, the Lockheed SR-71 of the Strategic Air Command. Earlier this year he won his "Lee Badge" as a sailplane pilot and is actively pursuing this new experience of flight in the silent skies.

Barry Goldwater is also the type of man who would give up the rank of Lt. Colonel to become a captain in the Air National Guard and then go on to retire from the Air Force Reserve as a Major General with 37 years of service.

Just six years following the Wrights' first flight, Barry Morris Goldwater was born on New Year's Day, 1909 at Phoenix in the then Arizona Territory. It was there in his high desert country that he developed the love for aviation which was to influence his thinking throughout his life and career.

He attended Staunton Military Academy and the University of Arizona. In 1929, he was commissioned a Second Lieutenant in the infantry, worked his way into flight training, and first soloed in a Great Lakes Trainer in 1930. Also receiving his private and commercial licenses in 1930, he continued flying and returned to his business enterprises in Arizona where he was the first person to introduce aviation to the Inians of the Navajo Reservation.

In August 1941, with World War II barely over the horizon. Goldwater, for the second time, attempted to break into the Flying Cadets only to be again turned away on eyesight. Fortunately, a new aeronautical status had come into being—that of the "Service Pilot." Utilizing his previous flying experience, the young flyer came in through the "back door" as a captain, ironically, soon taking command of pilot training at Luke Army Air Field, Ariz.

He was later assigned to the flight Test and Evaluation Center at Muroc where he had the job of adapting rocket flares to the P-38 Lighting. By then a major, he oversaw the engineering and flew the flight tests, developing tactics that were later used throughout the Army Air Forces.

In 1943 he led the first and unprecedented flight of P-47 Thunderbolts cross the North Atlantic to Europe. Moving on to the Asiatic theater and India with the Transport Command he served with honor and was discharged in 1945 as a Lt. Colonel and Command Pilot.

1948—Following the death of Orville Wright early that year the first Wright Memorial Dinner was held on December 17, 1948 and the first recipient was Dr. William F. Durand, professor emeritus of Standford University, a pioneer in propeller research and, in 1915, the principal organizer of the National Advisory Committee for Aeronautics (now NASA).

That same year, the governor of the State of Arizona came to Barry Goldwater, soliciting his services in organizing the Arizona Air National Guard. Since, at that time, the highest rank authorized by the War Department for an Air National Guard officer was captain, Lt. Colonel Goldwater turned in his silver leaves for two silver bars. Four years later, after having served as Chief of Staff of the Arizona Air National Guard, he left wearing the silver eagles of a full colonel.

1952—Long-time flyer Lt. General James H. Doolittle, following such notables as Charles A. Lindbergh, Grover Loening and Dr. Jerome C. Hunsaker, accepted the fourth Memorial Trophy. It was awarded for his service in a civilian capacity which contributed to the progress of American aviation, dating back to 1924, and for development of fog-flying equipment, making the first successful flight, including take-off and landing while in a completely covered cockpit.

In 1952 Barry Goldwater was first elected to the United States Senate where he would become a member of both the Armed Services Committee and the Committee on Aeronautical and Space Sciences. Throughout the years, his contributions to the Air Force mission and its personnel have been without parallel. Certainly, the excellence of U.S. aerospace forces can be attributed in great measure to his urgings in the Senate and to military and civic groups that a strong and continuing national defense development program must be supported.

However, the Senator's efforts have not been confined exclusively to the support of military aviation. To the contrary, he has been equally fervid in his support of the American civil aviation industry. He has consistently championed the cause of the industry against those who, in his words, wage "what amounts to a senseless war on science and technology which is threatening to reduce America to a second-class military power and a second- or third-class economic power."

1964—For almost half a century of devotion to advancing the science and practice of flight. The Wright Award was presented to Harry F. Guggenheim. As administrator of the Daniel Guggenheim Fund, he had sponsored schools of aeronautics at New York University, Massachusetts Institute of Technology, California Institute of Technology and others. Guggenheim was also the sole financial supporter of Professor Robert H. Goddard, father of modern rocketry.

In the intervening years since 1952, the trophy had been won by other outstanding individuals: Rep. Carl Hinshaw for his work in the growth of aviation, not as an implement of war but as an important carrier of people and a tool in the world of commerce; Dr. Theodore Von Karman for providing many of the foundation stones leading to the development of supersonic aircraft and guided missiles; and Dr. Hugh L. Dryden for his studies of turbulence in wind tunnels and the mechanics of air flow within the boundary layer. In 1956, Dr. Edward P. Warner was cited for continuous achievements over a broad range of aviation, followed by Senator Stuart Symington; NACA organizer Dr. John Frederick Victory; William P. MacCracken, Jr. for his legal vision in the development of civil and commercial aviation; Frederick C. Crawford and A. S. Mike Monroney. Aeronautical engineer John Stack was honored in 1962 and aircraft manufacturer Donald W. Douglas Sr. in 1963.

It was the Guggenheim year of 1964 that Barry Goldwater resigned his seat as Senator to accept the Republican nomination for President of the United States. Defeated, he returned to private life and later was again elected to the U.S. Senate. Back in the nation's capital, he continued his support of aviation and space. Senator Goldwater's speeches on the floor of the Senate in support of the supersonic transport R&D program add up to an unparalleled example of logical and balanced thinking in terms of our country's real interests.

His support for the Space Program is second to none among the members of Congress. He has visited most all of the NASA facilities, flown the LEM (lunar module) simulator and defended the U.S. space activities against the toughest of odds in committee.

1971—Another senator, Howard W. Cannon, received the Wright Memorial Trophy that year for his energetic advocacy and contributions to aviation as a viable national transportation system and essential element in maintaining a strong military posture. Other names stood out in the years following the Guggenheim award to precede Cannon: flight safety expert Jerome Lederer; Pan American Airlines' Juan Terry Trippe; aircraft designer Dr. Igor I. Sikorsky; Senator Warren G. Magnuson; the Boeing Company's William M. Allen; and American Airlines' C. R. Smith.

In 1971, it was a fitting tribute to Senator Goldwater's staunch support of aviation that the President of the United States chose him to be his official representative at the Paris Air Show, an honor again bestowed upon him in 1973, flanking the 1972 Wright Trophy winner, Federal Aviation Administrator John Shaffer. On both occasions of his return and report to the President, he expressed his conviction that much must be done if the United States desired to retain the position of superiority in aviation which has been held for the last 35 to 40 years. He warned, "We in America must wake up to the fact that the Europeans intend, not to just catch up, but replace us as the world leader in aeronautics and everything associated with the field."

So there is Barry Goldwater, businessman, statesman, aviator.

On numerous occasions in recent years he was asked by the Chiefs of the Services to fly the latest aircraft built by the military, including the F-111, F-14, and F-15. He has also flown the latest French fighter, the Mirage III. No one can question the man's prowess in the cockpit of an airplane. In the 1930's, after losing the engine, he dropped a WACO biplane into a golf course and walked away.

In 1948, he flew the Air Force's first operational jet fighter, the P–80. During 1950, he participated in one of the first air-rescue missions into the western Indian countries to push out food and hay to the snowbound Indians and their livestock.

Over the years, Goldwater has landed in ever state of the Union, flown over both poles and around the world in both directions. More recently, as a crew member, he has flown the advanced SR–71 at Mach 3.1, over 83,000 feet above the earth.

But a man does not have to be an aviator to qualify for the Wright Memorial Trophy. Many have not been flyers at all. They have been aeronautical engineers, builders of airframes. Some have been specialists in propellers and aerodynamic flight. There have been missilemen, wind-tunnel experts, aircraft manufacturers, academicians, airline operators, Federal agency administrators, and legislators such as Goldwater himself.

Yet, all have one thing in common, the "spirit" and "vision" of the two bicycle repairmen from Dayton, Ohio—for that is why the Wright Memorial Trophy is awarded.

Senator Goldwater is a product of the Arizona southwest, where a man's stature is measured by the manner in which he speaks the courage of his convictions. Goldwater does precisely that—sometimes to his own detriment, his friends say. All too often he couches his terms in the vernacular of the western cowboy. When this writer asked his reaction to his first catapult launch from the aircraft carrier "Enterprise," he answered man-to-man, descriptively, but not quite appropriately for print.

Today he still speaks out most directly, but with his traditional vision, concerning his "great itch" to build an advanced U.S. supersonic transport (SST). He believes strongly in the future of the SST and advocates it both in public and in the inner sanctums of congressional committee rooms.

The Senator has grave concerns about the United States losing its technological leadership, particularly as he sees the nation being overtaken in its capabilities in building airframes. When the original contractor of the U.S. SST, the Boeing Company, estimates it would cost four times its corporate worth to build such an aircraft and studies indicate that 30 percent of the passengers across the North Atlantic would pay the extra cost for supersonic transport, he is convinced that the government must help support such a project. "Already," he says, "American and other nations' airlines are taking a serious look at the U.S.S.R.'s Tu-144.

"We should build an SST," he says, "even if it never flew commercially, just for the technological spin-offs. For instance, the hyper-critical wing itself would allow much lower-powered aircraft to increase their speeds from 50 to 60 knots."

The Arizona desert has long been noted for the "maverick" mustangs, which are inclined to take the bit and turn as they see fit, regardless of the pressures of the reins restraining them. Goldwater long ago earned the title "maverick." In fact, during the 1964 presidential campaign he was even more stringently labeled because he called the shots as he saw them.

Yet as events in the world arena have unfolded since those days, he seems not so much a "radical" since all too many of his pragmatic predictions have been validated.

Recently, CBS commentator Walter Cronkite broadcasted, "If Goldwater now sounds like the voice of moderation and reason, in this current crisis, it's because he seems to be one of the few outspoken individuals who belong to no faction. Whether or not you agree with him on specifics, he seems to plead no special cause, right now, except frankness and honesty. No wonder he seems like such a loner in Washington these days.

"Once, his many critics told us Goldwater's approach to government was overly simplistic. He was ridiculed as an anachronism. But now, without fundamental change, he seems to strike a responsive chord in wider circles than just those right-wing groups which venerated his name."

As newsman Cronkite summed, "Is Goldwater catching up to the changing times? Or, asked more properly, are the times catching up to Barry Goldwater?"

THE ENERGY CRISIS: A VIEW FROM 1970

Mr. ABOUREZK. Mr. President, many Americans are asking why they were not forewarned of the dimensions of the energy crisis which we face today. Without comment, I ask unanimous consent to print in the RECORD the text of an address by my colleague, the Senator from South Dakota (Mr. MCGOVERN), to the Mid-West Electric Consumers Association in Denver, Colo., 3 years ago this week.

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

POWER AND PUBLIC RESPONSIBILITY

Events of this past summer should leave no one unconvinced that this country is facing an energy crisis of drastic proportions.

The most obvious evidence was supplied by more than 50 major blackouts in which electricity was cut off from consumers, and by hundreds of brownouts in which voltage was cut back.

But those troublesome events properly focused new attention on the entire energy industry and on its capacity to meet the exploding power needs of the American people.

We found that major private electric utilities have reserve generating capacity of 10 percent and less, instead of the desired 20 percent.

We found that there is a shortage, either genuine or manufactured by the industry, in deliveries of natural gas to customers.

We found that oil for fuel is available in sharply reduced quantities, and at ridiculously increased prices.

We found that more coal is being consumed than is being extracted from mines, and that prices are escalating sharply.

We found that electric utilities appear unable to provide added generating facilities to meet consumer demands without intolerable additions to environmental pollution.

The United States has a trillion dollar economy. Our technology is unparalleled. We have huge reserves of coal and lignite and enormous untapped reservoirs of oil and gas. We have, despite its imperfections, attained the best energy distribution system any place on the globe.

But we have nevertheless blundered into a power and fuel emergency which threatens to damage each American citizen.

The consumer has accepted blackouts with good humor, and brownouts with surprising good grace. He will be less patient when the freeze-outs begin. Yet they and other painful consequences are on their way unless government and industry supply inspired leadership to efforts to meet the power needs of both today and decades hence.

The crisis is recognized almost universally. There are apparently still some dimmed eyes, else how explain this summer's fifth straight House vote against the Dickey-Lincoln School Project for the Northeast, on the same day that Capitol corridors were darkened because of power shorages all along the Eastern seaboard. But most responsible observers now see the difficulty.

There is, however, no unanimity in explanations why the crisis has developed.

II

With the physical comfort and well-being of all of its citizens at stake; with the health of the entire economy dependent upon reliable supplies of energy at reasonable cost, it is almost impossible to believe that there isn't a Federal agency that can provide a logical and credible explanation for the development of the present emergency. Nonetheless, that appears to be the case.

You will recall that this past summer the Secretary of the Interior appointed an Industry Advisory Committee to provide him with information on the national energy situation—after an expected 18 months of study. Not even the White House saw that as a reassuring answer to a national emergency, so a Cabinet level team was appointed.

Meanwhile, private industry spokesmen have developed their own rationales, largely self-serving.

The electric utilities blame the conservationists, the manufacturers, organized labor, and the various regulatory agencies.

The coal companies place the principal blame upon the electric utilities for ordering nuclear fuel generating plants. They fault the railroads for shortages of hopper-bottom cars, and they fault the Congress for what they regard as excessively restrictive mine health and safety legislation and pollution controls.

Natural gas suppliers, with remarkable unanimity, place the responsibility on the Federal Power Commission. Natural gas would be available for everyone, they suggest, if only rates were higher.

The oil companies attribute the shortage of residual fuel oils to political disturbances in the Middle East, to tanker shortages, and to higher than anticipated demand. They are particularly fond of noting the interruption of the Trans-Arabian pipeline in Syria.

These pleadings may have mixed merit. It is at least as instructive to look elsewhere for more disinterested analysis.

It is intriguing to note, for example, that the acute energy emergency has developed just at the time when oil and gas companies have been acquiring coal companies, thus depleting interfuel competition from that source. Only two of the ten largest coal companies are now independently owned, and the other eight produce 42 percent of the industry's present production. Simultaneously, oil companies have acquired vast uranium holdings, producing 14 percent of the domestic uranium in 1969 and controlling 45 percent of the known reserves on January first of this year.

Where natural gas is concerned, we have evidence of seriously questionable tactics by producers.

The major oil companies, which control most of the natural gas supplies in the U.S., have made it clear that they are not interested in increasing gas production until it becomes more profiable than other investments they can make, but that could mean a 60 percent increase in present ceiling prices that producers can charge for natural gas.

In short, the shortage of gas is a holdout for higher prices.

Certainly any analysis of the roots of today's grim picture must include some attention to the fragmented and confused voice of government, particularly as it has influenced the growth of new energy sources.

In 1963 Jersey Central Power and Light released the economic analysis which led to that company's decision to go atomic at Oyster Creek. Spokesmen for the Atomic Energy Commission had, for years, been offering confident projections that coal would lose the electric power market to nuclear generation in just a few years. Without a similar public voice speaking for and promoting fossil fuels, investments in new coal mines and coal transport equipment were sharply curtailed.

Now, with the breeder-reactor still acting as the most successful moving target in human experience—staying twenty years away regardless of the passage of time—we find that we have ignored fossil fuels at our peril.

Research priorities reflect a similar pattern. Except for the civilian power reactor program which is primarily Federally financed, the electric utilities, the manufacturers and government agencies have all been niggardly in the financial support devoted to discovery of new concepts and techniques.

Joseph Swidler, former chairman of the Federal Power Commission and now head of New York's Public Service Commission, testified before a Senate Subcommittee recently that,

The amounts that the utilities spend on research are negligible, and this is understandable because of the nature of the industry. It is broken up into 3,000, over 3,000, separate institutions or entities in four different segments. They do not have laboratories or research facilities of their own.

The manufacturers are interested primarily in research with an early commercial payout, and the government thus far has stinted in its research in the energy field. Research, as you know, is one of the first things to be cut in any budget crunch.

Senator Lee Metcalf, who is rightfully regarded as the leading Congressional expert in the utility field, drew this explicit picture last January:

The 212 major electric utilities account for one-eighth of all the investment in this country. They took in $19.4 billion in 1968. They netted 15.4 cents on the dollar, after paying all expenses, including taxes and interest. Yet, almost one-fourth—51 companies to be exact—did not, according to their own reports, spend a cent on research and development in 1968, either within the company or through support of research and development by others.

Senator Metcalf reported further than on the average, investor-owned utilities spent just slightly more than 2 mills per revenue dollar on research and development in 1968. They spent eight times as much on advertising and other sales expenses.

That is the private utilities. During the 1970 fiscal year the Federal government spent roughly $367 million dollars on research in the energy field. But 84 percent of the total went for atomic energy, leaving just a tiny balance for research on the fuels which will continue to be the prime energy source for at least the next two decades and beyond.

III

It is not my purpose here to attempt a complete tabulation of the reasons for the current crisis. I do submit, however, that our first order of business in the short term must be to ascertain all the facts and to make certain the inconveniences, discomforts and economic penalties suffered by the American consumer are held to a minimum. We must be especially determined to see that the consumer is not forced to pay the bill for management's mistakes, and to assure that we are not flim-flammed into changing the rules of the game by unjustified producers' strikes.

We need to know much more, for example, about the maneuverings and negotiations between the Administration and the oil companies, which led to the decision to continue the oil quota system during and in spite of this emergency and in spite of the recommendations of the Cabinet level group. That single decision, according to Senator Phil Hart, will cost the American consumer some 7 billion dollars a year.

If the President has entertained illusions that the big energy companies are going to deal fairly, equitably and responsibly with the consuming public during the current period of shortages, he ought to read the "Inflation Alerts" prepared by his own Council of Economic Advisors. Fuel oil prices increased at an annual rate of 48 percent during the first half of 1970, and bituminous coal prices went up 56 percent during the same period. Now the second report tells us that the price of residual fuel oil has risen 25 percent more in three months. Bituminous coal rose 10 percent in a single 30 day period.

Normal market pressures have not been allowed to prevail, says the Council, because of "direct actions to curtail production." Meanwhile we read news reports every day about public and private agencies that cannot secure fuels for purposes that are vital to the public health and safety.

Hopefully it is still possible for firm and prompt Presidential action to minimize the short term adverse effects of a crisis that should have received executive attention and action long before the problem became so desperate.

While we deal with the present crisis on an emergency basis, however, we should devote equal attention to programs that will safeguard the nation's energy supply in the longer term, and that will do so in ways which are consistent with our interest in keeping an attractive and wholesome environment.

IV

It is an enormous undertaking.

Since 1965, overall energy consumption in the United States has grown at a rate of five percent each year. Electric power consumption is up to a 9 percent growth rate nationwide. Output must be doubled every ten years. Right now we simply do not know how that goal can be accomplished in the foreseeable future, at least not without rendering many parts of this country virtually uninhabitable.

The most prudent and responsible first step would be the adoption of Senator Jennings Randolph's important bill, S. 4092, to establish a Commission on Fuels and Energy. I have been impressed by this organization's testimony on behalf of that legislation. I agree with you that the Commission represents a splendid opportuntiy to identify, in the words of the bill,

"Those programs and policies which are most likely to insure, through maximum use of indigenous resources, that the nation's rapidly expanding requirements for low-cost energy will be met, and in a manner consistent with the need to safeguard and improve the quality of our environment."

I would hope and expect that such a Commission would address itself to the complicated and critical questions of energy and environment with a full willingness to question old institutions and to explore new and potentially better techniques.

V

Along with the Commission, there are a number of specific policy decisions which deserve the earliest possible attention.

It is a travesty that this nation has no national grid system to interlink power-short areas with potential sources of surplus supply elsewhere. The issue was highlighted last summer when Basin Electric Power Cooperative in North Dakota offered power to Consolidated Edison, which did not have enough power to meet consumer demands in New York. Con Ed had to reject the offer because the interconnections were too small to handle the load. The same thing happened during the 1965 New York blackout, when a sizeable block of power offered by the Tennessee Valley Authority could not get through.

References to the national grid were dropped in Administration circles shortly after Secretary Hickel endorsed it last summer. With his departure, we are left with no commitment at all. We need to get moving now on this essential project.

VI

As I have suggested earlier, we also need desperately to expand research on means to employ fossil fuels more cleanly and efficiently. At this moment, for example, we should be placing especially high priority on MHD, or Magneto-Hydrodynamics. MHD can use lower grade coals than are feasible in conventional thermal plants. It is a means of using fossil fuels much more efficiently. It uses less water and pollutes less. Considering its promise, the $400,000 requested by the President for MHD research was grossly inadequate. So is the $600,000 supplied by the Congress. We need to support this work at the highest level at which funds can be effectively used.

Similarly, we should be doing more about fuel cells, super conductors, underground transmission, and the conversion of lignite and coal to gas and petroleum products.

And we should be both supporting elsewhere and demanding from the industry maximum research efforts to develop the best possible techniques for pollution abatement and control. If the American people are someday forced to choose between adequate energy supplies and a healthy environment, it will not be because the two cannot coexist. They will have been let down by government and held up by industry.

I have no way to judge whether the dollar amounts we have devoted to research on atomic power generation are too high or too low. I do know, however, that the present five to one advantage it has over fossil fuel research is unconscionable. It should be remedied in short order.

VII

Where the availability and costs of fuels are concerned we should be moving on at least three fronts.

First, the Justice Department's Antitrust and Monopoly Division should have the trend toward concentration of fuels ownership under constant and intensive scrutiny. There are few areas where monopoly control has greater potential for damaging the public interest. I welcome the current investigations by the Federal Trade Commission.

Second, while the country struggles with a claimed gas shortage, huge deposits on Federal lands and submerged lands under Federal control await exploration and development.

Initially, the Department of Interior's leasing policy should be reviewed and revised. Certainly gas bearing land should be leased on a schedule based on the Nation's energy needs, and not on the Treasury's demands for cash to fill budgetary objectives. And we should make certain those policies make participation by smaller companies both feasible and attractive.

I believe we have reached the time, and we surely have accumulated the reasons, to plan for Federal exploration of those deposits, both to increase supplies and to test the companies' contention that prices are too low. The yardstick of public ownership and control has been immensely valuable in the electric utility field. We need a yardstick in the natural gas industry as well.

Third, any discussion of future energy supplies, particularly for the western half of the country, must heed the tremendous concentrations of lignite and sub-bituminous coal concentrated in the High Plains States.

Almost a third of the nation's coal reserves are located in Montana and Wyoming. With the extensive lignite reserves of the two Dakotas, nearly two-thirds of our reserves of low sulphur coal are found in the western states.

In January of this year, former Interior Assistant Secretary Ken Holum, a citizen of my state, released his study concluding that electric power produced at mine-mouth generating stations on those coal fields could be

economically attractive in Chicago, St. Louis, Dallas, Seattle and Portland. A report released more recently by the Missouri Basin Systems Group comes to essentially the same conclusion.

While they have been acquiring coal companies, the major oil companies and their coal subsidiaries have begun an aggressive campaign of coal land leasing in Montana and Wyoming. It is coupled with an equally aggressive effort to acquire water rights on or near the coal fields.

Senator Metcalf, after questioning Assistant Interior Secretary James Smith, learned this summer that all of the available water from Big Horn reservoir has been placed under contract. Secretary Smith justified that and other commitments in the following terms:

"The size of such investment, which only a few large companies are capable of underwriting, may precipitate charges that those interests are monopolizing the water. However, in view of the several energy companies already holding option contracts and in the light of the potential water supplies that can be developed in the Upper Missouri Basin, we believe that this is not likely. Rather, the problem is more apt to be one of *capital accumulation essential to full utilization of the latent coal resources in your state.*" (Emphasis added.)

Secretary Smith is correct up to a point. Development of those resources will require large amounts of capital.

But he is dead wrong in concluding so quickly that this alone justifies delivery of these resources into the hands of wealthy and powerful private energy companies. Since 1902 and the creation of the Bureau of Reclamation, this country has operated under the premise that water is a public resource to be developed with public funds for the benefit of the consuming public. The worsening energy crisis should reinforce that philosophy, not retard it. The consuming public deserves more from Federal executives than the almost automatic commitment of public resources—coal and water under public lands under Federal control—to private companies, mainly because those companies are already so rich and powerful that they can generate large amounts of capital.

If the challenge is capital accumulation, we should be considering the potential advantages of separating generation and transmission from distribution and establishing generation as a public task. TVA has served its area well. Do we need a similar organization to develop these coal fields in a manner that will satisfy the national needs for electric power, gas and liquid petroleum products? Are there alternatives that might serve the public interest as well? Secretary Smith's letter suggests that the Nixon Administration hasn't even recognized that the opportunity exists.

VIII

Finally, it is time we took a hard look at the basic organization of our entire power supply system.

Years ago, Leland Olds, a distinguished former Chairman of the Federal Power Commission, advanced what he came to call the "giant power concept."

Olds correctly identified the rapid emergence of "economies of scale." He was committed, as well, to what we call the "pluralistic electric system."

The essence of his proposal was that generation and transmission should be separated from distribution in the electric power industry. Under his concept, separate generation and transmission organizations would provide bulk electric power to local utilities that would continue to be responsible for distribution and marketing.

The idea has never received thorough and objective evaluation. Private electric utility management has rejected it out of hand, as they seem to reject all new ideas.

But today it is more attractive than ever before.

The National Power Survey included among its findings a conclusion that we can expect great savings from integrated planning, construction and operation of generation and transmission facilities on a regional basis. Subsequent experience, however, has suggested that there is little hope that such arrangements can be made under existing patterns of ownership and control. It could be accomplished, almost by definition, through the giant power concept.

These economies of scale also apply to pollution control techniques. Again by definition, a number of small plants will create more total pollution than a few large ones, at any given level of anti-pollution technology. And larger enterprise can incorporate the latest technology at the lowest cost per unit of power.

The giant power concept would be a decisive step toward the national power grid which we need so badly. By definition here, too, it would establish regional grids covering the entire country. From that point it would be a short step to interconnection of regions, allowing transmission of surplus power to any part of the country which might experience temporary shortages.

Further, the concept would facilitate meaningful regulation and control in the public interest. It would place generation and transmission under Federal regulation, while leaving distribution largely under the jurisdiction of the several states.

Since atomic power is efficient only in large plants, it would advance in a practical way our interest in using that alternative source of energy as our reserves of fossil fuels go down.

For all of these reasons, I believe the pioneering and farsighted concept of Leland Olds should be well on its way toward incorporation into national power policy.

We have some encouraging signs that it is. A recent report for the New England Regional Commission, which includes the governors of Maine, New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island and a Federal appointee, the best hope of meeting the region's power needs for the next twenty years would be creation of a single bulk power supply agency with full responsibility for power development—including the sole authority to construct all area generating and transmission facilities and the right to acquire all existing plants and lines. George Cabot Lodge of the Harvard School of Business, has reached a similar conclusion for the Northeast, identifying a new regional power agency as the potential answer to that area's bulk power supply problems.

In the early Thirties, when existing institutions had failed, a new application of cooperative principles, initiated by an imaginative and concerned national administration, led to the electrification of rural America. The rural electric program is one of the country's great success stories. Significantly, where REA cooperatives have been permitted to develop their own sources of supply, bulk power supplies are adequate.

Existing institutions—primarily the investor-owned utilities upon whom we must depend for 85 percent of this nation's power supply—are failing again. They are failing not only to offer the opportunities that abundant, low-cost energy can bring; they are failing as well to meet even the minimum requirements that are essential to public health, safety and convenience.

It is time we asserted the same kind of leadership we saw in the 1930's, this time for consumers in all parts of the country.

I recognize that such proposals can be expected to bring screams of outrage from private energy companies. While they have been less than dependable in supplying power, they can always be counted upon to protest loudly against proposals which might interfere with their conception of "free enterprise."

In response, let me quote briefly from a speech by the late Dr. Paul J. Raver, then superintendent of Seattle's Department of Lighting, before the 1960 conference of the American Public Power Association. He pointed out that the electric business:

"Is public business—because the power industry itself is public business, whether it is owned and operated by a public agency or a private agency."

Why is this so?

It is so because electricity is essential to public health, life and economic survival and because this commodity is sold under monopoly conditions. When these two factors, necessity and monopoly, are predominant, we have a "business affected with a public interest" and the business itself is public and not private.

At bottom, I suspect that a goodly portion of energy predicament today has grown out of our inability to recognize that basic fact, and out of the failure of public policy to reflect it.

Henceforth we need a new definition of values in the energy field.

We may well determine that it is in the public interest to retain the involvement of private capital, private management, and the profit motive in our energy system.

But whatever our conclusion on that score, we must never permit it to overrule the purposes of this immensely important "public business" to make energy available to the American people in the amounts they need, at the lowest possible cost, in the cleanest possible way, and with the greatest possible assurances of reliable service.

From now on we can afford to let no secondary interest deter from those transcendent goals.

FRENCH NUCLEAR TESTING

Mr. HARTKE. Mr. President, the world is striving for the elusive concept of peace now more than at any time in the history of international relations. Not only are countries coming together for discussions of their relations with each other, but for discussions of their relations within blocks of countries possessing certain understandings and similarities.

An additional avenue leading toward world order is through world justice, and when countries relinquish certain jurisdictional powers to the international institutions which will safeguard the integrity of human rights, we will have advanced the cause of peace one giant step for mankind.

On August 2, 1973, I introduced Senate Resolution 155, calling upon the President to inform the Government of France of this country's strong disapproval of France's continued detonation of nuclear devices in the Pacific Ocean in blatant disregard of the wishes and rights of the countries and peoples of that area.

Mr. President, I have received a letter from the Ambassador of Indonesia, the Honorable Sjarif Thajeb, which enclosed a copy of resolution 2934 (XXVII) of the United Nations General Assembly calling for the urgent need for suspension of nuclear and thermonuclear tests in the atmosphere.

I ask unanimous consent that the letter and the resolution be printed in the RECORD.

There being no objection, the letter

and resolution were ordered to be printed in the RECORD, as follows:

EMBASSY OF INDONESIA,
Washington, D.C., November 30, 1973.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HARTKE, in response to your letter of October 18, 1973, I have the pleasure of sending resolution 2934 (XXVII) of the U.N. General Assembly on Urgent Need for Suspension of Nuclear and Thermonuclear Tests, which was cosponsored by Indonesia.

I hope we can continue exchanging views on this important subject of nuclear test ban.

With best wishes, I remain

Yours sincerely,

SJARIF THAJEB,
Ambassador.

2934 (XXVII). URGENT NEED FOR SUSPENSION OF NUCLEAR AND THERMONUCLEAR TESTS

A

The General Assembly,

Recognizing the urgent need for the cessation of nuclear and thermonuclear weapon tests.

Recalling its resolution 2602 E (XXIV) of 16 December 1969, by which it declared the decade of the 1970s as a Disarmament Decade, and its resolution 2734 (XXV) of 16 December 1970, which contains the Declaration on the Strengthening of International Security.

Recalling also its resolution 914 (X) of 16 December 1955, 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963, 2023 (XX) of 3 December 1965, 2163 (XXI) of 5 December 1966, 2343 (XXII) of 19 December 1967, 2455 (XXIII) of 20 December 1968, 2604 (XXIV) of 16 December 1969, 2663 (XXV) of 7 December 1970 and 2828 (XXVI) of 16 December 1971.

I

Noting with regret that all States have not yet adhered to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on 5 August 1963.[1]

Expressing serious concern that testing of nuclear weapons in the atmosphere has continued in some parts of the world, including the Pacific area, in disregard of the spirit of that Treaty and of world opinion,

Noting in this connexion the statements made by the Governments of various countries in and around the Pacific area, expressing strong opposition to those tests and urging that they be halted,

1. *Stresses anew* the urgency of bringing to a halt all atmospheric testing of nuclear weapons in the Pacific or anywhere else in the world;

2. *Urges* all States that have not yet done so to adhere without further delay to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water and, meanwhile, to refrain from testing in the environments covered by that Treaty;

II

Noting that no less than nine years have elapsed since the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water came into force,

Taking into account the determination expressed by the parties to that Treaty to continue negotiations to conclude a treaty resulting in the permanent banning of all nuclear weapon test explosions,

1. *Declares* that a treaty banning all nuclear weapon tests is an important element in the consolidation of the progress towards disarmament and arms control made thus far and that it would greatly facilitate future progress in these fields;

2. *Calls upon* all nuclear-weapon States to suspend nuclear weapon tests in all environments;

3. *Calls upon* the Conference of the Committee on Disarmament to give urgent consideration to the question of a treaty banning all nuclear weapon tests, taking into account the views already expressed in the Conference, the opinions stated at the current session of the General Assembly and, above all, the pressing need for the early conclusion of such a treaty.

2093rd plenary meeting, 29 November 1972.

B

The General Assembly,

Conscious of the dangers to mankind presented by a continuation of the nuclear arms race,

Believing that a cessation of all nuclear and thermonuclear weapon tests, including those carried out underground, would contribute to a deceleration of the nuclear arms race, to the promotion of further arms control and disarmament measures, and to a reduction in world tension,

Believing further that a cessation of all nuclear weapon testing would inhibit the wider dissemination of nuclear weapons,

Noting with regret that not all States have yet adhered to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on 5 August 1693,[2]

Nothing with regret that, despite the determination expressed by parties to that Treaty to achieve the discontinuance of all test explosions of nuclear weapons for all time, parties to the Treaty continue to test nuclear weapons underground and that no specific proposals for an underground test ban agreement are under negotiation,

Recalling that the General Assembly has repeatedly expressed its concern regarding the continuation of nuclear and thermonuclear weapon testing, in particular in its resolutions 914 (X) of 16 December 1955, 1762 (XVII) of 6 November 1962, 1910 (XVIII) of 27 November 1963, 2032 (XX) of 3 December 1965, 2163 (XXI) of 5 December 1966, 2343 (XXII) of 19 December 1967, 2455 (XXIII) of 20 December 1968, 2604 (XXIV) of 16 December 1969, 2663 (XXV) of 7 December 1970 and 2828 (XXVI) of 16 December 1971,

Having considered the report submitted on 26 September 1972 by the Conference of the Committee on Disarmament,[3] and in particular the sections thereof concerned with achieving a comprehensive test ban,

Noting with satisfaction the completion of a first set of bilateral agreements on the limitation of strategic arms and expressing the hope that the progress so far achieved will lead to further agreed limitations on nuclear arms and be conducive to the negotiation of a ban on underground nuclear weapon testing,

1. *Stresses again* the urgency of halting all nuclear weapon testing in all environments by all States;

2. *Urges* all States that have not yet done so to adhere without further delay to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water and, meanwhile, to refrain from testing in the environments covered by that Treaty;

3. *Calls upon* all Governments conducting underground nuclear weapon tests, particularly those parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, immediately to undertake unilateral or negotiated measures that would suspend or reduce such testing, pending the early entry into force of a ban on all nuclear weapon tests in all environments;

4. *Urges* Governments that have been carrying out nuclear weapon tests to take an active and constructive part in presenting and developing in the Conference of the Committee on Disarmament, or in any other appropriate body, specific proposals for a comprehensive test ban;

5. *Request* the Conference of the Committee on Disarmament to give first priority to its deliberations on a treaty banning underground nuclear weapon tests, taking full account of views of experts and of technical developments bearing on the verification of such a treaty, and further requests the Conference to submit a special report to the General Assembly at its twenty-eighth session on the results of its deliberations on this matter.

6. *Urges* Governments to take all appropriate measures further to develop existing capabilities for detection and identification of underground nuclear tests through seismological and other technical means, and to increase international co-operation in the elaboration of relevant techniques and evaluation of seismographic data, in order to facilitate an underground nuclear weapon test ban;

7. *Calls upon* Governments to seek as a matter of urgency a halt to all nuclear weapon testing, and to endeavour to achieve at the earliest possible date a comprehensive test ban and to obtain universal adherence to such a ban.

2093rd plenary meeting, 29 November 1972.

C

The General Assembly, Reaffirming its deep apprehension concerning the harmful consequences of nuclear weapon tests for the acceleration of the arms race and for the health of present and future generations of mankind.

Deploring that the General Assembly has not yet succeeded in its aim of achieving a comprehensive test ban, despite twenty-one successive resolutions on the subject,

Deploring further that the determination expressed by the original parties to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, signed in Moscow on 5 August 1963,[4] to pursue negotiations to achieve the discontinuance of all test explosions of nuclear weapons for all time has not so far produced the desired results,

Recalling its resolutions 1762 A (XVII) of 6 November 1962 and 2828 A (XXVI) of 16 December 1971, whereby all nuclear weapon tests, without exception, were condemned,

1. *Reiterates once again with the utmost vigour* its condemnation of all nuclear weapon tests;

2. *Reaffirms its conviction* that, whatever may be the differences on the question of verification, there is no valid reason for delaying the conclusion of a comprehensive test ban of the nature contemplated in the preamble to the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water;

3. *Urges once more* the Governments of nuclear-weapon States to bring to a halt all nuclear weapon tests at the earliest possible date, and in any case not later than 5 August 1973, either through a permanent agreement or through unilateral or agreed moratoria;

4. *Requests* the Secretary-General to transmit the present resolution to the nuclear-weapon States and to inform the General Assembly at its twenty-eighth session of any measures they have taken to implement it.

2093rd plenary meeting, 29 November 1972.

ABA COMMISSION RECOMMENDS JUDGES RETIRE AT 70

Mr. ROTH. Mr. President, the American Bar Association Commission on

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[1] United Nations, *Treaty Series*, vol. 480, No. 6964, p. 43.

[2] *Ibid.*

[3] Official Records of the Disarmament Commission, Supplement for 1972, document DC/235.

[4] United Nations, *Treaty Series*, vol. 480, No. 6964, p. 43.

Standards of Judicial Administration, chaired by U.S. Court of Appeals (D.C.) Judge Carl McGowan, recently formulated and submitted for public scrutiny their proposed standards relating to court organization. One of these standards suggests that all Federal judges be subject to compulsory retirement at 70.

As the Commission has noted,

It is now generally recognized that there should be an age for compulsory retirement for judges, as there is for most officials and professionals in government, business, and nonprofit organizations.

I concur with the Commission in this observation and I commend the Commission's members for their recommendation.

Together with the junior Senator from Maine (Mr. HATHAWAY), I have introduced Senate Joint Resolution 100, proposing a constitutional amendment to establish a mandatory retirement age for all Federal judges and Members of Congress. This measure would prohibit the appointment of anyone to the Federal bench who is 70 years of age. It requires those already on the Federal bench to retire 30 days after reaching that age. Finally, the proposal grants immunity from its impact to certain members of the Federal judiciary. Those judges who have not served the minimum number of years required by law to become eligible for their pension benefits will be allowed to remain on the bench until that minimum time has been served.

I ask unanimous consent that the Commission's Standard 1.24, entitled "Retirement of Judges" be printed in the RECORD at the conclusion of my remarks.

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

AMERICAN BAR ASSOCIATION STANDARDS RELATING TO COURT ORGANIZATION

1.24 Retirement of Judges. Judges should have pension benefits upon retirement as recommended in Section 1.23 and should be required to retire at age 70. A judge who is retired, whether voluntarily or upon reaching the age of compulsory retirement and who is fully able to perform the duties of an active judge should be eligible for call, with his consent, for active service in such assignment as the chief justice may specify. The term of such an appointment shall be not more than six months, but may be renewed. While in active service, a retired judge should be paid the same salary as regular judges of the court in which he is called to sit.

COMMENTARY

It is now generally recognized that there should be an age for compulsory retirement for judges, as there is for most officials and professionals in government, business, and non-profit private organizations. A compulsory retirement system makes possible the orderly termination of service of people who, on the average, have reached an age when their physical and mental powers do not permit them to carry a full workload. Compulsory retirement inevitably works arbitrarily in many cases, unless the age of compulsory retirement is fixed so high as to defeat its purpose. The consequences of not having compulsory retirement, however, are unfortunate and sometimes unpleasant, both for the court system and for the judge himself. No spectacle is more tragic than that of the judge who hangs on in office beyond the point of his disability, wishing to believe he is still doing his job, but suffering the doubts of others and of himself that he is.

A retired judge should be regarded as a public official with responsibilities and modest prerequisites as such. The provision for recalling retired judges to active service has proved an effective way of extending the careers of judges who are still vigorous at the age of mandatory retirement, while minimizing the difficult or invidious distinctions made between people of advancing age. A retired judge recalled to active duty should be compensated the same as the regular judges of the court in which he serves.

ON PEACE IN THE MIDDLE EAST

Mr. WILLIAMS. Mr. President, on Monday, December 17, the American Jewish Committee paid tribute to a great American labor leader, Mr. George Meany, for his years of outstanding service to this Nation and his continuing contributions to the cause of freedom and justice which have benefited not only Americans but millions of people throughout the world.

In a major policy statement on the Middle East for the American Jewish Committee dinner in New York honoring the president of the AFL–CIO, my distinguished colleague, the junior Senator from Washington, praised in particular the solidarity of American labor, under Mr. Meany's leadership, with the Jewish struggle for survival against Nazi persecution, Soviet oppression and Arab aggression. I am proud of the early and consistent support of the greatest free labor movement in the world for our sister democracy in the Middle East—labor's strong stand, which Mr. Meany so forcefully presents, is of course especially vital at this critical time.

Mr. President, I would like to call the attention of my colleagues to Senator JACKSON's remarks congratulating our mutual friend, George Meany, and to the Senator from Washington's important analysis and recommendations with respect to the current Middle East situation. As a strong and consistent supporter of American labor and of the State of Israel, his remarks are especially noteworthy.

I ask unanimous consent that this address be printed in the RECORD.

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

ON PEACE IN THE MIDDLE EAST

(Address by Senator HENRY M. JACKSON)

A TRIBUTE TO GEORGE MEANY

What a pleasure it is to be here tonight to join with you in honoring George Meany: a cherished friend, a courageous leader, a good and decent man whose spirit and independence and vision have advanced the cause of justice at home, and freedom abroad, for more than half a century.

No one in this century has fought as long or as hard or as effectively to assure that America's great abundance, the fruit of our working men and women, is shared by those too poor or too sick, too old or too powerless, to provide for themselves. And no one has seen more clearly or consistently, whether his allies were many or few, that the struggle for freedom and justice cannot, and must not, stop at the water's edge.

One day in 1935—George would remember the exact time and place—David Dubinsky and Matthew Woll went to a meeting in this city called to protest Nazi persecution. The secretary-treasurer of the AFL, an Irishman who had got his start as an apprentice plumber, went along with them; and on that day George Meany knew—and he has known it ever since—that free men cannot rest while their fellows are oppressed.

The rest belongs to history; and it is a history worth repeating. The conventions of the AFL in the 1930's sounded the alarm again and again as convention after convention called for a boycott of Nazi Germany. Together with the Jewish Labor Committee, it was the AFL that approached Roosevelt seeking visas for the victims of Nazi persecution. And, if I may depart from the chronology for a moment, it was the AFL–CIO, under George Meany's leadership, that helped assure the overwhelming victory of the Jackson Amendment in the House of Representatives last week.

At the end of World War II, during the euphoria that swept Europe, during the detente with Russia and the demobilization of the American army, at a time when Americans were urged to turn inward once again, men like William Green, David Dubinsky, Matthew Woll and George Meany were determined that Stalin must not be allowed to pick up the pieces of Europe that had been struck from Hitler's hands. As the tide of internationalist concern was receding around them, these few men, to whom so many owe their freedom, continued the struggle for individual liberty in Europe through the Free Trade Union Committee that they had organized in 1944. On the waterfront at Marseilles, in the factories of Rome, among apprentices in Athens, the Free Trade Union Committee, working with European Social Democrats, frustrated the attempt of the Communist parties of Europe to dominate the trade unions and gain a stranglehold on the economies shattered by World War II. This brave and visionary effort, in my judgment, laid the foundation for the Marshall Plan and for the eventual reconstruction of democracy in Europe.

At home, as my friend Bayard Rustin has so often pointed out, none of the great legislative victories in the field of civil rights could have been achieved without the support of the AFL–CIO. And the AFL–CIO has truly been the leading edge of social justice in America. Go down the list: education, housing, employment, poverty, tax reform, minimum wage, voting rights, the environment, national health insurance—George Meany and the American labor movement have fought and won the crucial battles in the war for social justice that they continue to wage even now.

Following a history of support for, and alliance with, the Histadrut that is as old as Israel itself, the American labor movement was the first non-Jewish institution in the United States that gave full support to Israel during the Yom Kippur War—support that continues in the current political crisis. I am speaking of the entire labor movement—industrial and craft unions, maritime and public employee unions, black and white workers alike.

Tonight we honor a man who, in his support for Israel, is standing with a friend in need, resisting blackmail in the name of solidarity, swimming against the isolationist tide in the defense of freedom—standing strong as he has always stood.

On the eve of the Geneva negotiations, I join with all of you in hoping that the tragic conflict that has four times engulfed the Middle East in catastrophic war, will now be resolved in peace. My hope is for a genuine peace, a lasting peace, a peace not only of the fathers but of the sons as well, a stable peace that can be defended by an Israel whose recognized borders are defensible, whose children can grow up amongst

their Arab neighbors across open bridges, and whose future does not depend on the ephemeral guarantees or the military forces of outside powers.

RECENT HISTORY OF THE MIDDLE EAST CONFLICT

Having followed closely the history of the Middle East, especially its recent history, I can summon hope as the parties assemble in Geneva, but I cannot summon much optimism.

The outbreak of the October 6 war—the Arab war of aggression against Israel—and let us call it what it was and is, even if the Secretary of State will not, was the culmination of a series of events going back at least to August of 1970. The unfolding of those events is so instructive that I wish to review some of them with you now.

On August 7, 1970 the United States, the Soviet Union, Egypt and Israel entered into a standstill cease-fire agreement that had been hastily arranged by Secretary of State Rogers. The August cease-fire provided that neither side would introduce or construct any new military installations in a zone extending 30 miles on either side of the Suez Canal. No sooner did the cease-fire with its standstill provision start than the first Soviet-Egyptian violations occurred—that very night of August 7. The extent of the illegal movement of surface-to-air missiles in the cease-fire zone removed any doubt that the violations might have been unauthorized or spontaneous. It was a calculated effort to take advantage of Israeli compliance. The Russians were deeply involved in the planning and execution of the violations.

At the time, on August 11, I advised Dr. Kissinger, who was then the President's National Security Adviser, as follows: "In my judgment, we should insist that the illegally emplaced surface-to-air missiles be removed . . . We cannot legitimize these violations by proceeding—and asking the Israelis to proceed—as though they had not occurred. Whatever we may choose to say publicly, our private communications with the Soviets must be clear on this point."

I further advised Dr. Kissinger: ". . . a failure to stand firm now may well invite further violations. The illegal activity subsequent to August 7 is an early and alarming indication of what we must expect. While no single violation will, in and of itself, give sufficient cause for terminating the cease-fire, the accumulated result could do irreparable harm to Israel's security."

Referring to the SAM missiles moved illegally into the cease-fire zone, I said this in a December 1970 report to the Senate Committee on Armed Services:

"The position of some elements of this air defense network is such that they are effective against aircraft operating several miles on the Israeli side of the Canal. The net effect is to imperil the effectiveness of the Israeli Air Force as a means of preventing both cross-canal fire and an actual crossing of the Canal itself.

"If the present uneasy cease-fire deteriorates and hostilities resume, the Israeli Air Force would pay a high price in lives and aircraft in attempting to destroy the SAM defense system.

"Any way one looks at it . . . resumption of the earlier level of hostilities along the Canal would claim a higher number of Israeli casualties, both on the ground and in the air, than was the case prior to August 7, 1970."

This is one of those cases where I wish I had been wrong—but unhappily I was right. And the tragic fact is that young Israeli soldiers and airmen paid with their lives for the failure to insist that Egypt and the Soviet Union adhere to the agreement that we arranged and that they joined.

THE SOVIET ARMING OF EGYPT AND SYRIA

In the more than three years that followed, the Soviet Union engaged in one of the largest military build-ups in their history, supplying guns, tanks, aircraft and missiles to Egypt and Syria in huge quantities and under the cover of the cease-fire. We, for our part, limited the Israelis to piecemeal supplies of aircraft and armor—despite the fact that the Congress, in 1970, adopted, and the President signed, my amendment to the Defense Procurement Act authorizing the President to transfer to Israel by credit sale whatever was needed in aircraft and other equipment to offset equipment furnished to the Arab armies.

In recent months the flow of Soviet arms into Syria reached flood-like proportions. More than half of the jet aircraft in the Syrian Air Force and nearly all of the surface-to-air missiles that claimed the lives of so many Israeli pilots were delivered by the Soviet Union to Syria after the beginning of this year. We now know that a substantial fraction of the Syrian force of SA–6 missiles that were used with deadly effect against Israel's Phantoms were delivered in the weeks just preceding the outbreak of war.

My point is simple: we stood by and watched while the Soviet Union supplied the means by which this bloody war was initiated and fought, and we continued to stand by for a week after October 6 before deciding to resupply Israel with essential weapons in adequate numbers.

Without Soviet support and material encouragement, without Soviet training and equipment, without Soviet political and diplomatic backing, without the prospect of unlimited resupply of Arab forces, the Yom Kippur war would not have been started.

Soviet irresponsibility did not stop on October 6 with the outbreak of war. Secretary Brezhnev, violating the letter as well as the spirit of agreements reached at the Washington summit, did his best to urge other Arab states to join the attack against Israel. Then the Soviets undertook a massive airlift of weapons into Syria and Egypt which, combined with massive sea shipments, have now restored the Arab armies to the levels of armament they possessed on October 6.

THE SUMMIT AGREEMENT OF JUNE 22

Just six months ago, on June 22 of this year, Secretary Brezhnev and President Nixon signed an "agreement on prevention of nuclear war." In Article II of this document the Soviet Union agreed to "refrain from the threat or use of force against the other Party, against the allies of the other Party and against other countries, in circumstances which may endanger international peace and security." In explaining the agreement of June 22 at a press conference following the signing, Dr. Kissinger emphasized that it was part of an effort to "calm the atmosphere and replace purely military measures by a new attitude of a cooperative international system." He called it ". . . a milestone in the achievement of self-restraint by the major countries, a self-restraint which is, by definition, the essence of peace and which we intend to observe, which we expect the Soviet Union to observe." He described the agreement as "a formal obligation that the two nuclear superpowers have taken towards each other, and equally importantly, towards all other countries, to practice restraint in their diplomacy, to build a peace that is permanent, to pursue a policy whose dedication to stability and peace will become"—and here Dr. Kissinger quoted Secretary Brezhnev—"irreversible."

I leave it to you to decide whether the alerting of seven fully mobilized divisions of Soviet airborne troops along with a brutal and threatening note from Secretary Brezhnev that was delivered the night of October 24 is in keeping with the agreement as Dr. Kissinger described it. I don't know whether the agreement to pursue peace and stability is irreversible, but on the night of October 24 it became, like so much else in Washington these days, inoperative.

The agreement of June 22, like the euphoric description of it by the Secretary of State—indeed, like much of the as yet unfulfilled promise of detente—has turned out to be mere words: well said, perhaps, but mere words—nonetheless. If you will forgive me for quoting King Henry—Henry the VIII, that is, from Shakespeare: "'Tis a kind of good deed to say well; and yet words are no deeds."

THE REQUIREMENTS FOR PEACE

If there is to be hope for a peaceful settlement at the Geneva talks, we must have deeds as well as words, performance as well as promise, substance as well as atmosphere.

It is all very well for the Arabs to say that they are prepared to make peace with Israel. Those words have been a long time coming, and I welcome them.

But peace must be more than a word, more than a mere document that can be torn up when it suits the convenience of aggressive governments to go to war again. It must be something concrete. It must exist in the daily lives of men, for only then can it eventually come to exist in men's minds as well; and only then—finally—can it be secure. It is naive to imagine that the enmities of decades will vanish with the stroke of a pen. But for a peace treaty to be more than just a scrap of paper, it must do more than simply move the walls that separate Arabs from Israelis to a new location. It must permit Arabs and Israelis to work together, to trade with one another, to talk with one another, to see for themselves the truth about their neighbors.

One of the most hopeful developments of the last six years in the Middle East, in my opinion, has been the progress that has been made in relations between Israelis and Arabs on the West Bank and in the Gaza Strip. Thousands of Arabs work and travel in Israel—in spite of the efforts of grenade-throwing terrorists to stop this by attacking Arab civilians waiting for buses to take them to work in Israel. Thousands of Israeli citizens now visit Arab towns which for almost twenty years they were permitted to see only across barbed wire fences. This progress has been truly remarkable. It has been made under the inevitably imperfect conditions of a state of war. It will continue unless we create artificial political entities that deliver the Palestinian Arabs into the hands of the hijackers who claim so falsely to represent them. It must continue if there is to be a true peace.

I am afraid that the Russians know very little—and want even less—of this kind of peace. Peace for them is not an opportunity for people to know one another better and communicate with one another. The only peace they are interested in is a peace which leads to more Russian influence in the Middle East, to more sales of Soviet arms for Arab hard currency, and to more use of the Arab oil weapon against countries of the West. That is no peace but merely a stopping place on the road to another war.

KEEPING THE GREAT POWERS OUT OF THE MIDDLE EAST

I am astonished to hear it said that the best way to bring stability to the Middle East is to set up a peace-keeping force that would involve the sending of Russian and American troops into that volatile region. This seems to me a formula that carries with it the very great danger of dragging the superpowers into a military confrontation. I do not want to see American troops, I do not want Russian troops, stationed in the Middle East. The military forces of the superpowers cannot and should not substitute for a secure peace based upon defensible borders for Israel.

No peace that requires the presence of Russian forces to police it will be worth the paper it is printed on. Russian participation in any peace-keeping force can be nothing but a consistently one-sided, partisan affair. This is the long and dismal

record that the Soviet Union and its satellite governments have established in every international body in which they have participated in the last 25 years, whether it has been the United Nations Security Council, the Allied Control Commission in Berlin or the several truce supervision commissions in Indochina. It is the same record that we heard played in the Security Council just eight weeks ago. The Russians were interested in a cease-fire only when their side was losing.

A real peace in the Middle East should lead, not to more Russian involvement, but less. Design a peace that does not rely on tissue-paper outside guarantees, a peace that goes beyond the word itself to embrace a climate of Arab-Israeli cooperation, a peace in which Israel has borders that Israel can defend—that is what we should be seeking at Geneva.

PEACE AND INTERNATIONAL GUARANTEES

One hears a great deal these days, from people whose vision is shorter even than their memories, about the wisdom of international guaranteen as a means of assuring Israel's security. I can't imagine a more misdirected policy than to ask Israel, which has been the model of the self-reliant ally, to transform itself into an American dependency. There are few situations in the world that are more volatile than the Middle East, few places so endowed with an abundance of mischievous elements and unbridled passions. For the United States to pour itself into that cauldron of instability, along with the Russians and assorted other forces, is to invite a multitude of mischief makers to try their hand at stirring the pot.

Much of the history of international guarantees is the history of countries who have lost their territory, their freedom and even their sons and daughters. It is the history of nations drawn into conflicts that would have been better contained. It is a history that the Israelis, for their reasons, and we, for ours, ought to do everything possible to avoid.

Give the Israelis the tools they need to provide for their own defense and I am confident that, with defensible borders, they will provide for their own security. Give them guarantees instead and we will inevitably end up joining them in a quagmire of instability.

DEFENSIBLE BORDERS FOR ISRAEL

If there is to be a stable and lasting peace in the Middle East it must be a peace that Israel can defend along borders that are defensible.

I hear a great deal of talk these days about the "pre-1967 borders." Those borders are nothing more than the cease-fire lines of a preceding war. But let me remind you of some of the implications of those borders for Israeli security. Before the 1967 war virtually all of populated Israel, with the exception of the city of Haifa, was within range of Arab artillery. Armored thrusts of just ten or twenty miles could cut the country in two in any of several critical places. The Gaza Strip provided a salient in which the Egyptian Army was able to deploy just 30 miles, along a flat and sandy coast, away from the city of Tel Aviv. From the Golan Heights the Syrian Army rained artillery shells at will, from virtually impregnable positions, on Israeli settlements in the valley below. And, in some ways worst of all, Egyptian bombers could be over Tel Aviv after a mere twelve-minute flight from their bases in the Sinai Desert.

Has any of this changed in the six intervening years? Certainly geography has remained the same. But now, in addition to Arab artillery, the Israelis must worry also about Russian-manned surface-to-surface missiles and about Russian-built SAM's extending their deadly umbrella across Israeli air space over population centers. Now the Arab tanks are new, improved Soviet models, supported by a lethal array of Soviet anti-tank missiles. Now, those short flights from the Sinai to Tel Aviv may be made not only by Arab but by North Korean or even Russian pilots. Very little has changed in six years, except that Soviet equipment has gotten better and their willingness to supply it to the Arabs is virtually unlimited.

Three years ago I made a trip to the Middle East where I examined what some of the ingredients of a more stable settlement might be. Everything that has happened since that time leads me to reaffirm that "for Israel to abandon the security of her present borders in exchange for ephemeral concessions from the other side would endanger not only Israel's survival, but the peace of the world as well."

Now, as then, I believe that a stable settlement cannot be achieved if it simply moves the borders back so that the Arab armies with their Soviet weapons and advisers can move closer to Israeli population centers. Israel cannot tolerate living in the shadow of Syrian guns or along borders arrayed with Egyptian armor and air forces, and an agreement that attempted to force such a result would be properly rejected by any Israeli government that I can imagine.

THE POLITICAL FOUNDATION FOR PEACE

Above all, however, a Middle East settlement must rest on more than firm security arrangements. It must have a firm political basis as well. A secure peace must involve a clear recognition by the Arabs that the existence of Israel is no longer at issue. It must not be possible for a peace settlement to be regarded as merely a tactical step on the road to eventual liquidation of the State of Israel.

There are twenty-five years of deeds in the Middle East that cannot be undone by a few weeks of words. There have been Israeli prisoners of war murdered and mutilated in ways too horrible to describe—and the Syrian government which is responsible for all of this, and which still refuses to release even the names of the Israeli prisoners it holds, is so unreliable and unstable as to raise the most profound doubts about the wisdom as well as the potential, for any meaningful settlement. There has been the mindless slaughter of innocent and wholly uninvolved civilians at Munich and at Lod Airport and airports and cities too numerous to mention—and the Soviet Union and some Arab governments are proclaiming that the men responsible for these atrocities, and not the government of Jordan, are the sole representatives of the Palestinian people. There were almost twenty years in which not a single Israeli was able to visit Jewish holy places in Jerusalem—and yet King Faisal and Sheik Yamani say that Jerusalem must be under Arab control.

This long history of deeds cannot be undone by mere words. It can only be undone by a gradual accumulation of deeds, in the course of measured and deliberate negotiations and a free and open peace—deeds like the open access to holy places that has prevailed under six years of Israeli control of Jerusalem; deeds like the moderation with which Israel has treated even captured Arab terrorists.

THE MEANING OF U.N. RESOLUTION 242

All of the parties that will be represented at Geneva have given public approval to U.N. Resolution 242, a pronouncement of the Security Council adopted on November 22, 1967. The Arabs, encouraged by the Soviet Union, have deliberately chosen to describe that resolution in a manner that is flatly inconsistent with its language, its history and its purpose. To claim, as they do, that it requires Israeli withdrawal from *all* of the territory occupied as a consequence of the Six Day War is a flat distortion of the text and a misrepresentation of the purpose of the Security Council. If 242 called for withdrawal from *all* the territory it would have said so. It does not.

The Soviet Union and the Arab states would have preferred a Security Council resolution calling for total withdrawal of Israeli forces; but they tried and failed to get such a resolution. By seeking to change the rules after the game has been played they not only violate our sense of fair play, they encourage the deep suspicions that can only diminish the chance for peace.

I am particularly disappointed that the Soviet Union, even following the meetings in Moscow at which the present cease-fire was arranged, refuses to adhere to the actual text of U.N. Resolution 242. But no matter how much they try to obfuscate, the Soviet interpretation of 242 is a lie, an uncomfortable lie that exploits the complexity of the issue, but a lie nevertheless.

It would clearly advance the cause of a peaceful settlement if the Soviets could be persuaded to quit lying about the meaning of 242. But the very least that we can do is to reject the Soviet version—clearly and unambiguously. That won't be easy for an Administration so accustomed to protecting itself with ambiguities.

THE MIDDLE EAST AND THE ENERGY CRISIS

Let me say a word about the Middle East and the energy crisis. It is time for the Administration to speak some plain truths to the American people: our energy crisis does not result from the Arab-Israeli dispute and it did not arise out of the Yom Kippur war. Without the dispute, without the war, indeed, even without the existence of the State of Israel, we would have faced an energy crisis this year and for several years to come. Saying this will not solve the shortages we face, but it will help the American people to understand that the oil weapon is a pea shooter and not a howitzer.

The essential fact of the energy crisis is that it arises out of the economics of oil production in a world of many consumers and growing demand and few suppliers who can control production and prices. Saudi Arabia, for example, is producing 2 million barrels a day less oil now than in September yet it is deriving greater revenues and profits on the 6 million barrels a day they now produce than they did on the 8 million barrels a day produced in September. No oil-producing state, Arab or non-Arab, is going to sell a lot of oil for a little money when it can sell a little oil for a lot of money. For economic reasons alone we must look forward to severe limits on Arab oil production: the oil they possess is simply worth more to them in the ground than the dollars for which they sell it are worth in the bank—where those dollars are eroded by inflation and subject to devaluation.

Nothing that we can do in the Middle East will change this fundamental fact of economics. In 1972 Saudi Arabia earned approximately $3 billion from the sale of oil of which it was able to spend only $1.8 billion. The capacity of the sparsely populated oil-rich Arab states to absorb capital is severely limited and no one knows that better than Sheik Yamani's economic advisers. The vast accumulations of capital that would result from greatly increased Arab oil production would be gobbled up by their have-not neighbors, by Egypt, Syria, and the Palestinians, and no one knows that better than King Faisal's political advisers. In today's market, a prudent investor would be well advised to take dollars in the bank and invest them in oil in the ground; yet our diplomats nurture the baseless hope that we will persuade Arab investors to take oil from the ground and invest it in dollars in the bank. That is simply not going to happen no matter what we do in the Middle

East. The oil weapon is a paper tiger, and there is no way that you are going to be able to put that tiger in your tank.

We would be wrong to yield to blackmail even if doing so would turn the tap on a pipeline of cheap and plentiful oil from the Middle East. To submit to blackmail in the expectation of illusory benefits would be the height of folly. When I say that we will not yield to blackmail I am confident that I am speaking for the American people.

And I know equally that I am speaking for all Americans in urging that, in our efforts to achieve a settlement, we seek a genuine and lasting peace—a peace negotiated by the parties to the conflict—that they themselves can nurture and defend.

PRENTISS M. BROWN

Mr. HART. Mr. President, it is my unhappy task to inform the Senate of the death of Prentiss Marsh Brown, U.S. Senator from Michigan, in the years 1936 to 1943. Senator Brown died this morning in St. Ignace, Mich.

Senator Brown's public service spanned 60 years, a lengthy career indeed, but his contributions to Michigan and the Nation will endure for many more decades. His career began as prosecuting attorney of Mackinac County in 1914 and continued until his death when he was still an active member of the Mackinac Bridge Authority.

As a banker as well as lawyer, he brought his knowledge of banking to bear in his years of public service. Elected to the House of Representatives in 1932, he was named to the House Banking and Currency Committee and was instrumental in drafting the legislation for the Federal Deposit Insurance Corporation.

After his service in Congress, Senator Brown was the second administrator of the Office of Price Administration by appointment of President Franklin Roosevelt. He later returned to State government to serve on Gov. G. Mennen Williams' advisory committee on developing a transportation link between Michigan's upper and lower peninsulas. The committee determined that a bridge would be the most feasible link. Prentiss Brown then led the drafting of legislation to construct the bridge, was influential in its passage and was instrumental in the sale of bonds to finance the project.

To sense the impact of this contribution alone, one must be a Michigan resident or at least have a sense of the geography and climate of the State.

The Mackinac Bridge is nearly 5 miles long. It spans the Straits of Mackinac, linking Michigan's two peninsulas. Construction, begun in 1954, was completed 3 years later, at a cost of $99 million. It was a massive, historic public works undertaking which provides the vital link between the two separate parts of the State. The continued importance of that bridge will be a magnificent memorial to Prentiss Brown.

Few men of any generation more clearly have shown by selfless public service their love for their State and devotion to their country. And over those many years never was there question of his integrity. Decency and honesty and civility marked every word and act of Prentiss Brown. In all of this he was supported by a warm, wonderful family. To them, for all of my family, I speak our love and sympathy.

PRESIDENTIAL RESPONSIBILITY

Mr. MOSS. Mr. President, few times in our history has the cry for political and moral leadership been greater. Yet, unfortunately, there is no indication that this cry for leadership is being heard at the White House. Rather, only frustration, rhetoric, and actions calculated to mislead are apparent. It is little wonder that most Americans are confused, angry, and just plain fed up with Government and government officials.

Mr. President, I do not believe that Americans are so hardened that certain mistakes, honestly made, would go unforgiven. But Americans want to be provided with the truth. And, once given the truth, Americans are mature enough to handle most adversities which may confront them.

However, the truth has not been given, except in grudging piecemeal fashion, by this administration on Watergate and everything for which Watergate stands. Nothing has been done by this administration to prevent innuendo, misunderstanding, and mistrust of Government. As a result, confidence in Government has reached an unacceptable low. Americans are bewildered over the disparity between the words and actions of President Nixon. The President says he accepts responsibility for Watergate, but his excuses and denials negate his words. In essence, he blames others for "mistakes of judgment." But real responsibility can be placed on no other individual. And Americans realize this.

On December 15, 1973, the Washington Post carried an editorial by Alfred Friendly entitled "Watergate: Rhetoric Versus Responsibility." Because of the thought-provoking nature of this editorial, 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:

WATERGATE: RHETORIC VERSUS RESPONSIBILITY

(By Alfred Friendly)

President Nixon has assured us in almost every public statement since the unhappy event that although he is blameless for any of the Watergate sins, he nevertheless assumes responsibility for them. That is surely the manly, not to say noble, thing to do, and in the best moral tradition. It touches the fine feelings of all of us who honor the forthright acknowledgment of the varsity captain after a losing game. What is more conducive to our forgiveness than the humble bow of the leader who has been traduced?

But nagging questions remain: Just how does Mr. Nixon discharge the responsibility he has so selflessly and sturdily assumed? Does he pay the fines of the corporations which illegally contributed to his campaign? Is he going to serve the jail sentences of those "overzealous" subordinates—for whom he says he is responsible—who, in an excess of loyalty, had momentary memory lapses about what the law was? Does the idea cross his mind that the head of an organization the summary of whose offenses against the law filled six frugally written columns in The Washington Post the other day might shoulder just enough responsibility to get the hell out?

Certainly not. After all, whatever unfortunate things were done were, in his words, just "mistakes." As far as I am able to research the matter, the characterization of them as crimes or felonies has never crossed his lips. And his two first lieutenants, who presumably presided over the organization if he himself did not, remain in his mind the finest public servants he has ever known. (But, if so, was it not sinful of him and a disservice to the public, to let them resign?)

No, it is sufficient for Mr. Nixon simply to *say* he bears the responsibility. Nothing much else is needed. It is given to us to have salvation by incantation, to achieve the state of grace by rhetoric. It is enough to utter the routine words that render deeds a superfluity. To be sure, the weight of earlier theological thinking is to the contrary, but no matter: We now live in the Age of Billy Graham, when mouthing substitutes for doing.

But does anyone really believe that the President, if himself guiltless of any of the several dozen episodes that go under the rubric of Watergate, has in fact accepted any responsibility whatever in any operative sense of the word? There has not been one word from him of culpability for gathering about him the set of men who made the over-zealous mistakes, men whom, as someone has said before me, it would be flattery to term mediocre.

It can be argued that all Presidents have done exactly as Mr. Nixon, professing to accept accountability for errors made by men of their administrations but themselves undergoing no penalty. But that is not quite true. Many Presidents have pleaded guilty when they were, confessing their own role in mal-, mis- or non-feasance, and bearing some part of the penalty (Not FDR: the only mistake he ever admitted having made was moving Thanksgiving to the third Thursday in November one year at the behest of retail merchants. But transparent cynicism is less offensive than sanctimoniousness).

The Bay of Pigs is a case in point. Kennedy took the blame on his own shoulders for a piece of tragically bad judgment *by him* and faced up to the personal humiliation, including having to authorize ransom for the captives. The evidence is overwhelming that when he said the fault had been his he meant it and felt it, and the people realized that he did. In short, he came clean. Mr. Nixon has not, and it would seem that the people realize that too.

One can sympathize with the plaint made by E. Howard Hunt, high school-primitive though it was. He thought he had orders from above and was entitled to expect that the man who now says he accepts responsibility for Watergate would also be subject to retribution. But Mr. Nixon is in the White House (when not otherwhere) and the fellow in the pokey is Mr. Hunt.

U.S. CONTRIBUTIONS TO WORLD FOOD PROGRAM REDUCED

Mr. HUMPHREY. Mr. President, one one of the most serious effects of the far-reaching food and energy crisis is on food assistance programs throughout the world. Increased world demand for commodities, together with rapidly rising prices, has limited the amount of food available for such programs.

The United States has traditionally participated in food assistance programs, both on a bilateral basis and multilaterally through the World Food Program of the United Nations. In recent years, particularly during 1973, the availability of food and financing for

U.S. food assistance activities has diminished greatly. Successive reductions by the administration of funding for the Public Law 480 Food for Peace Program over the past 3 years, together with a diminishing quantity of food made available for Public Law 480, have severely curtailed these essential development and humanitarian programs.

The effects of these limitations on the World Food Program—which the United States supports through Public Law 480—have been particularly severe. This multilateral food assistance activity, which the United States helped to organize nearly 11 years ago, has experienced a 40-percent reduction in its operations. A recent edition of the World Food Programme News describes this problem in detail and notes that the program has had to completely reevaluate its priorities.

Mr. President, I consider the World Food Program to be one of the better multilateral activities in which the United States participates. During the past 10 years the program has improved its management and developed new and essential project activities. Further, its success has encouraged a greater participation by a number of countries other than the United States. As a result, the percentage of U.S. contributions to the World Food Program compared to total contributions from all countries has dropped considerably. We cannot now allow this program, which we were so instrumental in establishing, and which is now meeting essential development and humanitarian needs throughout the world, to fall by the wayside as a result of the complexities of the world food supply situation.

I believe that the article from the World Food Programme News clearly highlights this critical problem, and I request unanimous consent that it be printed in the RECORD.

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

CEREALS SHORTAGE AND INFLATION REDUCE PROGRAMME'S RESOURCES

The World Food Programme is undergoing its most serious crisis since it became operational nearly 11 years ago.

A combination of inflation and rocketing of cereal prices—particularly wheat—has so reduced the purchasing power of donors' pledges that an anticipated 1.2 million tons of food aid which the Programme expected to distribute in the biennium ending 31 December 1974 have shrunk by more than 40 percent.

Current estimates are that even if all donors are in a position to fulfill their pledges and some 75,000 tons of expensive wheat are substituted by maize, sorghum and other less costly products, little more than 650,000 tons of commodities will be available.

The first steps to meet the situation were taken in the week beginning 20 August when Resident Representatives of the United Nations Development Programme (UNDP) were advised by cable not to sign any new agreements for WFP projects or plans of operations. At the same time all new shipping instructions, with the exception of those for emergency supplies, were stopped. These temporary measures allowed the Executive Director, Dr. Francisco Aquino, and his staff time to survey the Programme's needs and probable emergency commitments and to review each of its projects throughout the world.

"We have now drawn up a number of alternative ways of rationing the Programme's resources and established priorities for the remainder of the biennium," said Dr. Aquino. "These criteria were presented to the 25th Session of the Intergovernmental Committee, which approved them."

The reason for the wheat shortage and the almost 150 percent increase in prices in the last year is that world carryover stocks, which were between 50 and 63 million tons in the years of plenty, are now down to 27 million tons. The failure of its 1971/72 crop caused the U.S.S.R. to buy 19 million tons of wheat from North America last year in addition to 9 million tons of coarse grains. Other recent factors which have reduced grain supplies include the revised downward estimates of United States wheat, maize and soybean crops, and disastrous floods in Pakistan which inundated between 3 and 4 million hectares and destroyed some 285,000 hectares of cropland.

Assessments by FAO and estimates by the International Wheat Council both forecast import requirements of wheat for 1973/74 at 66 million tons against export availabilities of only 57 million tons—a shortfall of 9 million tons.

In a cable inviting major wheat exporting countries to a meeting to discuss the world cereals supply situation, the FAO Director-General, Dr. Addeke H. Boerma, has appealed to them to make every effort to continue food aid programmes "at not less than last year's level in terms of physical quantities."

Dr. Aquino, in an explanatory letter to UNDP Resident Representatives following his cabled instructions, says that while the outlook for the next few months is bleak, he is confident that the current crisis will have been largely overcome by the end of 1974.

"I consider it of the greatest importance that, meanwhile, the Programme demonstrate its capacity, with the cooperation and assistance of donor and recipient countries, to successfully negotiate these current difficulties, minimizing as far as possible any human distress and dislocation of government programming," he added.

THE LEGISLATIVE BUDGET PROCESS—THE ROAD TO A BUDGET DEFICIT

Mr. PERCY. Mr. President, the Federal Government is now 6 months into its fiscal year with the two largest appropriation bills, plus a fiscal 1974 supplemental bill, yet to be enacted into law.

Without taking into account spending bills which have passed one or the other House but have yet to be enacted, Congress is now spending at a rate $620 million in excess of projected revenues for this fiscal year. Backdoor appropriations and mandatory legislative spending bills now pending could easily add another $2 to $3 billion to this overrun before the end of the fiscal year. This situation could not present a stronger case for the vital need for congressional budget reform.

CURRENT BUDGET PROJECTIONS

Revenues for fiscal 1974 are now estimated at $270 billion. The increase in expected revenues since January has allowed the President to revise his unified budget projection down from a deficit of $12.7 billion to a deficit of $0.9 billion. In order to fully balance its budget requests, the administration has indicated that it will see $0.9 billion in Government assets. Such a sale would also balance Congress' current but not projected spending rate.

At this time, unenacted appropriation bills include: Department of Defense, with a Senate-passed spending appropriation of $2.27 billion under the budget request; foreign assistance, with Senate-passed outlays of over $130 million under the President's request; and the first fiscal year 1974 supplemental with Senate-passed spending of approximately $100 million over the President's request.

Chairman MAHON of the House Appropriations Committee has estimated that congressional action on appropriations bills will, in total, match the President's requests. Based on Senate action to date, I predict a smaller enacted outlay on requested appropriations bills than that requested by the President.

My main concern, one which I know is shared by many of my colleagues, is the unbudgeted spending which arises through backdoor appropriations and mandatory spending authorizations. To date, Senate action on such measures calls for spending $4 billion in excess of the $270 billion in expected revenues. Mandatory spending authorizations account for all of the $620 million deficit already enacted and will lead to more than all of the projected spending deficit of $2 to $3 billion.

In my view, and that of the respected economists with whom I have consulted, recent economic indicators call for a balanced spending policy for the remainder of this fiscal year.

Obviously the effectiveness of the administration's fuel allocation program will have a primary bearing on the unemployment rate and economic growth in the months ahead. However, whatever fiscal policy proves to be wisest, Government spending should remain available as an employable economic tool. If we run up a large spending deficit without regard to existing and predicted economic conditions, we lose fiscal policy as a potential stabilizer.

CONGRESS LACK OF EFFECTIVE BUDGET CONTROL

If Congress busts the budget, it will, most likely, be through the backdoor and mandatory route, on measures over which the Appropriations Committees have no control and through a haphazard procedure which allows neither relating nor weighing the desirability or the urgency of one program against others.

A look at the previous fiscal years for which figures are available shows that Congress has consistently voted to cut Presidential appropriation requests and just as consistently has voted to increase Federal spending through the backdoor and mandatory authorization route. Although this haphazard budget process has led to spending surpluses in some years, only in fiscal year 1969 was the congressionally enacted surplus sufficient to bring Presidentially requested spending in line with Federal revenues.

I ask unanimous consent that a table including these figures for fiscal years 1969 through 1973 be printed at this point in the RECORD.

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

[Figures in millions]

Fiscal year	Congressional action on President's budget outlay requests: Appropriations	Backdoor and mandatory	Total [1]	Resulting unified deficit or surplus (Presidential requests plus congressional action)
1969	−4,550	+201	−4,274	+3,236
1970	−2,869	+1,475	−6	−2,845
1971	−657	+4,164	+3,287	−23,033
1972	−1,059	+3,714	−678	−23,227
1973	−1,626	+7,860	+6,127	−14,301

[1] Total includes increased or decreased outlays due to inaction on Presidential requests.

Mr. PERCY. At this time, Congress has effective control over only about 29 percent of budget outlays estimated for fiscal 1974. Backdoor spending authorizations such as the Federal-aid highway program, and mandatory spending authorizations, such as social security and veterans' assistance programs, account for the other 70 percent.

Only the Appropriations Committees make an effort to maintain an overview of the entire budget, and they effectively control only 29 percent of it. While other congressional committees and subcommittees study budget policy and trends, these studies are not integrated into a coherent decisionmaking process. Congress has no means to relate its spending or revenue actions to national needs, and it cedes the formulation of fiscal policy to the President.

Shortly after proposing congressional budget reform legislation early this year, I established my own "in-House" budget to guide my votes and proposals for spending during fiscal year 1974 and pledged to support a balanced fiscal year 1974 budget, thus formalizing a procedure that I have informally adhered to since coming to the Senate. The fiscal year 1974 plan included both additions to and deletions from the President's appropriations requests. It also included new authorizations I believed necessary and intended to support or propose. Unexpected national needs, changing economic conditions, and increased revenue projections have of course called for continuing revisions of those spending policies originally budgeted.

Having compared my own spending votes to date with Congress total, and taking into account the inability to precisely pinpoint the outlay cost of all proposed programs, I find that I have supported "spending" at the rate of approximately $270.5 billion during fiscal 1974. This figure is $1.3 billion under the record of the Senate as a whole, but $500 million over expected revenues. As soon as a House-passed tax bill is made the pending business of the Senate, I will offer a revenue raising amendment to balance my budget, an amendment that is cosponsored by the distinguished chairman of the Finance Committee, Senator LONG.

CONGRESS INABILITY TO SET AND REORDER NATIONAL PRIORITIES

Congress deficit rate of spending has resulted almost totally from our inability to set and reorder national priorities in a budget-conscious manner. It is the fault of no individual Member; we as a whole have failed to institute a coherent system.

Congressional options in the face of unexpected changes in the economy during the past year provide a perfect example of how our nonsystem fails us and the Nation.

The President's January budget estimates called for an actual spending deficit of $12.7 billion. At that time, the administration asserted that a still high rate of unemployment and seemingly controlled inflation justified this rate of deficit spending. However, by August, the cost-of-living index had risen by 10 percent and the price of food has skyrocketed by nearly 28 percent.

Faced with this situation, the Congress could not ignore the plight of those who depend on Federal assistance for the basic necessities of living.

The 92d Congress had scheduled a social security cost-of-living benefit increase for January of 1975, but I, along with most of the Senate, believed that it would be unconscionable not to provide an interim benefit increase to this fixed-income group. Increases in the cost of food had also made it nearly impossible for many school districts to continue their lunch programs without increased Federal support, and a poor family's allotment of food stamps was no longer sufficient to provide even a minimum of its nutritional needs.

The total fiscal 1974 cost of Senate spending increases in these three programs was over $2.4 billion.

I believed these additional funds were absolutely necessary to place a floor on the pit of human disaster. At the same time, responsible fiscal policy called for a balancing of Federal expenditures and revenues. However, because Congress does not have a budget reordering system, spending on these unbudgeted needs, without the ability to cut back previously enacted spending, will translate directly into a budget deficit.

CONGRESSIONAL BUDGET REFORM

As I have stated on countless occasions, the only answer to Congress budgetary dilemma is comprehensive reform of our budgetary system such as is proposed in S. 1541. This legislation, on which Senator ERVIN, I, and other members of the Senate Government Operations Committee have worked for many months, has been referred to the Senate Rules Committee and will be ready for full Senate action by February 1, 1974.

Passage of this legislation is one of the most important contributions the 93d Congress can make to the American people, and will be the most significant congressional reform of this century. It will allow for the first time a coherent congressional approach to all Federal spending. It will provide a means to meet unforeseen needs without upsetting Federal fiscal policy. It will allow Congress to become an equal partner with the Executive in setting fiscal policy and spending priorities.

If S. 1541 were in effect at this time, the House and Senate appropriations committees would have control over virtually all Federal spending. They would be able to recommend spending cuts to offset unforeseen spending needs in a total budget context. If the full Senate or House were unable to agree on their recommendations, the new standing Committee on the Budget, backed by the expertise of the Congressional Office of the Budget, would be required to recommend appropriate revenue and debt measures to maintain proper fiscal policy.

RECAPTURING THE FISCAL 1974 BUDGET

Congress has few options for recapturing control of the Federal budget this fiscal year. I do, however, believe we should carefully examine those options that are available to us and make the effort. Although I have kept my own pledge to support a balanced Federal fiscal year 1974 budget, it would be irresponsible for me not to take cognizance of the fact that new immediate spending needs may arise within the next 6 months.

First, I believe a reexamination by the Appropriation and Legislative Committees of the Congress and spending legislation enacted to date would reveal items of lesser priority that could be cut or reprogramed for next year. Several revenue raising measures that have already been recommended could be put into effect in calendar 1974.

Because no one committee has jurisdiction over all Federal spending, this would be a difficult task. However, if each committee would act on its own motion, the full Senate could attempt to join these several recommendations into a coherent spending adjustment package.

The second, and in my view least desirable, option open to Congress this year is an across-the-board spending rescission.

A 4 percent pro rata cut in spending on those items in the fiscal 1974 budget over which Congress has effective control would save approximately $3 billion. A reduction in spending of this magnitude will be necessary if Congress continues on its present course.

This procedure has the undesirable effect of falling only on the small controllable portion of the budget and makes no differentiation between marginally and fully funded programs. Under the provisions of S. 1541, this procedure is provided for only as a last resort. However, if Congress cannot balance the budget in some other manner, pro rata cuts are our only remaining recourse.

If we do not act, Congress will once again have abdicated budget control to the executive branch and will be hard-pressed to decry subsequent impoundment of congressionally appropriated funds.

THE ENERGY CRISIS AND FOOD PRODUCTION

Mr. FULBRIGHT. Mr. President, I have received a very interesting letter, dated December 6, 1973, from Mr. Roswell Garst of Garst & Thomas Hybrid Corn Co., Coon Rapids, Iowa. Mr. Garst's comments are very relevant to this country's most pressing problem, and are worthy, I believe, of the attention of my colleagues. Mr. President, I ask unanimous consent, that Mr. Garst's letter be printed in the RECORD.

There being no objection, the letter

was ordered to be printed in the RECORD, as follows:

GARST & THOMAS HYBRID CORN CO.,
Coon Rapids, Iowa, December 6, 1973.

Senator J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: The "Energy Crisis" worries me more than almost anyone because I know more about food production than all but a very few.

All of the publicity about the energy crisis has been about the shortage of automobile and truck fuel or about the fuel to keep both houses or factories and schools or hospitals warm, or our railroads running or our oil fueled electric plants operating.

There has been almost no mention of the *additional fuel*—the extra fuel needed to farm the extra 50 million acres that the U.S. Department of Agriculture is putting back into production because of the world food shortage.

It is true that there have been broad statements that "Of course, the needs of agriculture will be taken care of." But, I have seen no figures on how much additional tractor fuel it will take in 1974 over 1972 to plow, disc, plant, cultivate, harvest and in the case of corn dry the extra production.

Nor have I seen any figures about how much more fertilizer will be needed to maintain our present high yields.

Neither the U.S. Department of Agriculture nor the State Department have spelled out the fact that fertilizers, insecticides and herbicides are responsible for about 40% of our present production of agricultural production.

A shortage of fertilizer for our 1974 agricultural production is now certain. In spite of which the U.S.D.A. has set goals of almost maximum yields per acre. Which borders on the ridiculous!

Because you are Chairman of the Foreign Relations Committee of the U.S. Senate—and because the world has the smallest reserves of grain since 1952—and because the world population is growing at a rate of about 80 million people per year, food is now the greatest problem of the future. And, the problem which seems to be getting the least attention!

It seems to me that Secretary of State Kissinger has need to know that the world has almost no reserves of food—that bad weather in any of the principal grain producing areas of the world could create widespread hunger to the point of starvation.

There are three principal plant food ingredients—nitrogen, phosphorus and potash. Phosphate and potash are obtained from concentrated deposits in various parts of the world and can be produced in larger quantities rather rapidly.

But, nitrogen is made from the air and water and gas. Air is unlimited, of course, and water almost unlimited. Gas is scarce—and becoming more scarce and more expensive every day.

And the nitrogen in fertilizer is the ingredient that gives the greatest increases in yield. The phosphorus and potash are needed to balance the nitrogen but the nitrogen is measurable.

When supplemented with phosphate and potash, two pounds of nitrogen will produce a bushel of corn or wheat. One pound of nitrogen will produce a bushel of oats. In short, a pound of nitrogen will produce about 30 pounds of grain. Furthermore, a pound of nitrogen will produce about 20 pounds of dry matter in the form of pasture, which will produce a pound of beef.

Present predictions are that we will have about one million tons less nitrogen in 1974 then we had available in 1972. (We ran short in the spring of 1973—and because of price ceilings we exported some in the past summer.)

The shortage will affect not only grain crops but cotton and fruits and vegetables—and pastures.

What can be done about the shortage of nitrogen fertilizers?

There are three options on the expansion of nitrogen fertilizers.

First, the oil companies who produce oil in the Arab countries of the Mid-East have always "flared" all of the gas. They just burn it into the air. It is a crime against humanity. I think the U.S. State Department might induce the oil companies to make nitrogen fertilizer out of it and market it around the World—and pay the countries a reasonable price for the gas. It may well be that the Arab countries could even contribute cash to the building of the nitrogen fixation units—which would make them less interested in seizing them.

Second, nitrogen can be made out of coal. Bake the coal and you have gas and coke. Make nitrogen out of the gas—and electricity out of the coke. We have half of the world's coal reserves and it would let us control our own supplies of fertilizer.

Third, the Soviet Union has one-seventh of the world's land area. They probably have about that proportion of petroleum reserves. They have a stable government. They have, however, less land than they need which has adequate rainfall and a long enough season. So, they need grain. It might be possible to make a trade with them. We could trade several million tons of wheat, corn, grain sorghum or soybeans per year for a similar number of tons of urea.

Actually, if they were to enjoy "Most Favored Nation" trade such as the United States has granted to Yugoslavia and I believe Romania, among the communist nations I believe no year after year deal would be necessary.

They need the grain! We need the urea!

(The reason I have suggested urea is that it is a dry fertilizer—so the same boats that carried our grain to the Soviet Union could bring their urea back and thereby save freight.)

A decision on which of the three options should be made not a year from now—or two years from now—but at the earliest possible time, someone knowledgeable should be working on this problem for either the Senate Agricultural Committee or the Foreign Relation Committee—as well as in the State Department and in the U.S. Department of Agriculture Department.

It will probably take two years after a decision is made before the first ton of nitrogen fertilizer is available or even three years.

It seems to me that it might be best to use all three methods. Because most of the world's best agricultural lands are now being used—and within the next three years world population will have grown by more people than now live in the U.S.A.

And, that takes a great deal of food—the extra 240 million people we will have by 1977.

I am sending you six copies of this letter hoping you will send Secretary Kissinger and Secretary Butz each a copy and give one to Senator Talmadge who Chairs the Senate Agricultural Committee.

Your own reaction to this letter will interest me.

Most sincerely,

ROSWELL GARST.

A BIT OF HISTORY

My brother, Jonathan, was always alert about new things in agriculture. He graduated in agriculture from the University of Wisconsin in 1915. He farmed the farm where Elizabeth and I lived in 1916 and until June of 1917 when he went off to the army to World War I. I graduated from high school in 1916—was at the University of Wisconsin in 1917—and came home to run the farm for him while he was in the army.

When the war ended on November 11, 1918, every soldier wanted to come home at the earliest possible moment. In order to keep soldiers content with not getting home, the United States would let any soldier go to school in Europe for a year or so at army expense. Jonathan took advantage of that offer—and went to the University of Edinburg in Scotland. He enjoyed it thoroughly. He returned to the U.S.A. in 1919—farmed in Canada for a couple of years, spent a couple of years in California in the garden seed business—but returned to the University of Edinburg where he earned a Ph.D. in geography and geology in 1930. He spent the next three years as director of the McCaully Institute of Soil Science on the Isle of Lewis, off the west coast of Scotland. He returned to the U.S.A. in 1933 to "see the depression". He spent most of the rest of his active career with the U. S. Department of Agriculture.

In the winter of 1940–41, he wrote me from California that the Consolidated Mining and Smelting Company of Trail, British Columbia was producing both ammonium nitrate and ammonium phosphate—and sending them into California. He urged me to get a couple of carloads of each shipped to Coon Rapids which I did in the spring of 1941.

Pearl Harbor was December 7, 1941.

In 1942 every bit of emphasis was on raising and equipping an army. The bombs which we used in 1943–44–45 were made of TNT. So *all* nitrogen was used for bombs.

But, it was ruled that nitrogen from Trail, British Columbia could still be imported for use on "essential crops"—and the production of hybrid seed corn was recognized as an "essential" crop.

So in 1941–42–43–44–45, I obtained two carloads of ammonium nitrate and two cars of 16–20-ammonium phosphate.

In those years—and for 100 years before those days—every land grant college had taught—and rightfully taught—that rotations that included legumes were the way to maintain satisfactory yields. "Corn, corn, oats and clover" was the basic recommendation but three year rotations were even better—"Corn, oats and clover".

The "clover" could be red clover or alfalfa or sweet clover. The soil had to have lime to correct acidity—and the clover was far more vigorous if acid phosphate and potash were also used. The clover year probably with a 4-year rotation—every three years averaged putting 50# of N every four years with a 3-year rotation.) Which would be 12# of N per year on the four-year rotation and 16# on the three-year rotation.

Prior to the end of World War II no agricultural university advocated the use of nitrogen fertilizer!

Henry A. Wallace was Secretary of Agriculture from 1932 to 1940. Then he was Vice President from 1940 to 1944. Then he was Secretary of Commerce from 1944 until he resigned in 1947 to run for president.

As Secretary of Commerce one of his assignments was to dispose of the nitrogen fixation plants that had been built to make the bombs that were dropped on Germany to win the war. He first considered dismantling them and selling them abroad.

However, he knew that I had been using nitrogen fertilizer with great success and sent some people out from Washington to see the results. They were almost unbelievably good. So, he had Jonathan Garst join the Department of Commerce staff and the factories were sold to the companies who had managed them while the nitrogen for the bombs were being made for use as nitrogen fertilizer plants.

In 1963, my brother, Jonathan, wrote a book, "No Need For Hunger", which basically is a story about how food production has been improved by the use of nitrogen

for fertilizer for our crops and by the use of urea as the protein of our ruminants.

One of the recommendations for the book printed on the cover follows:

"The nation and the world owe a great deal to Roswell and Jonathan Garst. More than anyone else they showed what nitrogen expansion could do to grain yields. They were entirely right and did a terrific job. No Need For Hunger is a splendid book and its essential message is sound."—Henry A. Wallace

In January of 1951, a farm neighbor of ours, Jake Bell, and I decided that our wives needed a Florida vacation. So we drove to Washington, D.C. and on down to Florida. While our wives were doing some shopping and looking over Washington, Jake and I went over to the U.S. Department of Agriculture. Charles Brannan was Secretary of Agriculture at the time and I had known him for several years. So, we called on him! I introduced Jake—and then asked about as follows: "How are things?"

His answer was about as follows: "Terrible! We are short of grain. We are short of cattle—short of hogs. We are at war in Korea—and there is a possibility that we may be at war with the Soviet Union or China. How can we produce more food?"

I told him I knew the answer. The answer I suggested was that we do for agriculture what we did for the manufacturers of airplanes, tanks, guns and every kind of war equipment. We gave them a "certificate of necessity" which permitted them to depreciate out their factories in a short period of say four or five years—instead of over a 20-year period.

The United States had what was known as a "War Production Board". The "War Production Board" issued the "certificates of necessity" which gave the holder a priority for the purchase of the steel or other scarce commodities—and a fast depreciation schedule.

I pointed out that every Soils Department of every agricultural university had proven between 1946 and 1950 that two pounds of nitrogen would produce a bushel of corn—that, therefore, 2,000 pounds of nitrogen would produce 1,000 bushels of corn—that a million tons of nitrogen would produce a billion bushels of corn! And, that was the only way I knew he could do what he wanted.

He said, "Who would you get to manage it?"

I told him that Jonathan had helped Henry Wallace sell the nitrogen plants built in the war years. And, that he knew about nitrogen. And, that he was retired—in good health and available. So, within a week, Jonathan was back in Washington as "Assistant to the Secretary of Agriculture for Fertilizer Facilities Expansion for Mobilization".

In his book No Need For Hunger written in 1963 Jonathan quotes in full a letter he wrote Secretary Brannan May 23, 1951. I quote it here as follows:

"DEPARTMENT OF AGRICULTURE,
Washington 25, D.C., May 23, 1951.

To: The Secretary of Agriculture.

From: Jonathan Garst, Assistant to the Secretary for Fertilizer Facilities Expansion for Mobilization.

"Here is a simplified review of the need for fertilizer in the United States which has been checked throughout the Department of Agriculture.

"This year we are short of meat. We are short of cotton. We are not going to produce enough wheat. Even with a normal crop we will not harvest enough feed grains and it looks now as though we will be lucky to harvest a normal crop. The population of the United States has finally caught up with the farming. We not only have to build up our farm production to satisfy present demand, but we have to provide for an increase in population of two million people per year.

"In the decade of the 1950's we will increase 20 million people and it may run to 24 million people (it actually went up 27 million), which is by comparison two-thirds of the total population in the United States in 1860. In 1860 an increase in population gave no concern because we had much more land to bring under cultivation. In 1951 we are not only short of farm production for our present population, but increases should bring concern because we have, practically speaking, no more land to bring under cultivation.

"It is estimated we will this year exhaust our reserves of grain to the danger point. We are therefore faced with an emergency situation to provide more grain in 1952 just to keep up our present rate of consumption.

"We can calculate our present and future needs as would have been done in 1860; that is, in terms of more land instead of more fertilizer. To produce the grain that we are drawing from reserve this year we would need another 7 million acres of land. If we produced enough feed to equal the demand for all foods it would take 20 million acres. To meet our increase in population, we need to add 1½ acres of good land per person. We would have to add 3 million acres per year or in this decade we would have to find 30 million acres. In other words, *we would have to discover another state like Iowa.*

"It is a relief to turn to the alternative. One ton of nitrogen in fertilizer equals 14 acres of good farmland. We are not using nearly as much nitrogen as could be applied to increase crop yields. We use an average of 7 pounds per cultivated acre. In Holland the average application is 50 pounds. We get the nitrogen from fuel and air. We will have to balance it with phosphate and potash, but we have these in our mines. For simplicity we will speak in terms of nitrogen. So—to get our emergency need of 7 million more acres for grains we just produce 500,000 more tons of nitrogen; to keep up with the population gains, we simply add 200,000 tons capacity per year."

Because of the fact that Jonathan could issue "certificates of necessity" which carried with them not only a high priority for the acquisition of steel and other necessities for building the nitrogen fixation plants but also carried the accelerated depreciation schedules—he was able to issue fixation units for the production of more than a million tons of nitrogen in the years 1951 and 1952. And, more certificates of necessity were issued when the Republican administration took over under Eisenhower and Secretary of Agriculture Benson.

Corn and sorghum yields zoomed upward starting in 1955—as more and more farmers discovered what a great increase could come from generous fertilizer applications. It took from 1951 and 1952 until 1955 and 1956 to get the plants built and the nitrogen available. Just look at the corn history enclosed.

Before 1955, corn yields only went from 21.9 bushels to 38.5 bushels, a gain of only 16.6 bushels in 25 years, a gain mostly due to changing from no use of hybrid seed to complete use of hybrid seed.

In the 18 years since fertilizer became available, the yield has increased from 38.5 bushels per acre to 85 bushels per acre.

Every farmer who plants corn now knows that 40% or thereabout of his yields are due to generous applications of balanced fertilizer containing N—P_2O_5 and K_2O—and to herbicides and insecticides and to other top management practices such as the use of well-adapted hybrid seed corn—and irrigation where rainfall is short and irrigation water is available.

The world population is shown below:

First billion people	1830
Second billion people	1930
Third billion people	1960
Fourth billion people	1975

Present world population growth is estimated to be 80 million per year. By 1977 we will have added 240 million people to the world population—which is more people than now live in the United States.

We must not only have more fertilizer in the U.S.A.—but much more all over the world.

ROSWELL GARST.

CORN HISTORY—JAN. 19, 1973

Year	Acres harvested for grain (in 1,000 acres)	Per acre yield 5-year average	Per acre yield (bushels)	Percentage lost due to poorer yields	Total bushels for grain (in 1,000 bushels)	Total harvested bushels 5-year averages
1930	101,465		20.5	17.7	1,757,297	
1931	106,866		24.1		2,229,903	
1932	110,577	21.9	26.5		2,578,685	2,023,906
1933	105,918		22.6		2,104,725	
1934	92,193		15.7	32.6	1,448,920	
1935	95,974		24.0		2,001,367	
1936	93,154		16.0	38.6	1,258,673	
1937	93,930	25.0	28.1		2,349,425	2,050,232
1938	93,160		27.7		2,300,095	
1939	88,279		29.2		2,341,602	
1940	86,738		28.4		2,212,367	
1941	86,186		31.0		2,435,307	
1942	89,021	31.9	35.2		2,849,340	2,604,631
1943	94,455		32.1		2,724,530	
1944	94,014		32.8		2,801,612	
1945	87,625		32.7		2,577,449	
1946	87,585		36.7		2,916,089	
1947	82,888	35.6	28.4	28.3	2,108,320	2,771,638
1948	84,778		42.5		3,307,038	
1949	85,602		37.8		2,949,293	
1950	81,817		37.4		2,760,374	
1951	80,736		35.9		2,617,319	
1952	81,099	38.5	40.4		2,977,243	2,787,849
1953	80,608		39.6		2,876,394	
1954	68,668		39.4		2,707,913	
1955	68,462		42.0		2,872,959	
1956	64,877		47.4		3,075,336	
1957	63,065	48.7	48.3		3,045,355	3,234,891
1958	63,549		52.8		3,356,205	
1959	72,091		53.1		3,824,598	
1960	71,422		54.7		3,906,949	
1961	57,634		62.4		3,597,803	
1962	55,726	62.5	64.7		3,606,311	3,722,910
1963	59,227		67.9		4,019,238	
1964	55,369		62.9	11.2	3,484,253	
1965	55,332		73.8		4,084,342	
1966	56,933		72.3		4,117,355	
1967	60,557	77.4	78.6		4,760,076	4,387,516
1968	55,880		78.6		4,393,273	
1969	54,598		83.9		4,582,534	
1970	57,359		71.7	17.2	4,109,792	
1971	63,819	85.3	88.4		5,641,112	5,074,877
1972	57,141		95.8		5,473,727	

GRAIN SORGHUM HISTORY

Year	Acres harvested for grain (in 1,000 acres)	Acres 5-year average	Per acre yield	5-year average	Total bushels for grain (in 1,000 bushels)	5-year average
1930	3,477		10.2		37,561	
1931	4,443		16.2		71,914	
1932	4,400	3,814	15.0	12.4	66,097	49,833
1933	4,354		12.5		54,386	
1934	2,396		8.0		19,209	
1935	4,597		12.5		57,610	
1936	2,793		10.8		30,270	
1937	4,915	4,353	14.2	12.6	69,948	55,664
1938	4,699		14.3		67,210	
1939	4,760		11.2		53,280	
1940	6,374		13.5		85,824	
1941	6,015		18.9		113,543	
1942	5,991	6,931	18.3	17.3	109,653	120,707
1943	6,889		15.9		109,536	
1944	9,386		19.7		184,978	
1945	6,324		15.2		96,063	
1946	6,669		15.9		106,025	
1947	5,480	6,478	17.0	17.7	93,217	115,037
1948	7,314		18.0		131,384	
1949	6,602		22.5		148,494	
1950	10,346		22.6		233,536	
1951	8,544		19.1		162,863	
1952	5,326	8,446	17.0	19.4	90,741	167,687
1953	6,295		18.4		115,719	
1954	11,718		20.1		235,575	
1955	12,891		18.8		242,638	
1956	9,209		22.2		204,881	
1957	19,682	14,742	28.8	28.2	567,506	430,296
1958	16,524		35.2		581,012	
1959	15,406		36.1		555,441	
1960	15,601		39.7		619,954	
1961	10,985		43.7		480,208	
1962	11,571	12,645	44.1	42.6	510,284	537,127
1963	13,326		43.9		585,394	
1964	11,742		41.7		489,796	
1965	13,029		51.6		672,698	
1966	12,813		55.8		714,992	
1967	14,999	13,672	50.4	53.2	755,936	726,120
1968	13,995		52.9		739,695	
1969	13,525		55.3		747,280	
1970	13,751		50.7		697,050	
1971	16,601	14,776	53.9	54.6	895,349	806,334
1972	13,975		59.1		826,604	

PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

Mr. McGEE. Mr. President, throughout the course of debate on S. 1868, opponents of the measure launched a concerted attack on the United Nations. It was obvious to me that the real issue involved in S. 1868 on the part of these Senators was not sanctions against Rhodesia, but the United Nations itself.

As a long-time and pragmatic supporter of the U.N., I was very disturbed by this assault. I believe the arguments to be very shortsighted and potentially dangerous to our participation in an institution which is vital to our national interests and foreign policy conduct. I was deeply relieved and gratified by the Senate action yesterday which resulted in passage of S. 1868.

Therefore, I would like to note a column written by Anthony Astrachan which appeared in the December 16 edition of the Washington Post. Mr. Astrachan very effectively lays out the case for why there is a need for a United Nations.

As Mr. Astrachan noted:

The October war in the Middle East proved once again that the United Nations cannot make peace on its own but is indispensable when its members want peace.

He added:

Had there been no United Nations, there would be no new talks in Geneva.

However, the most appropriate observation offered by Mr. Astrachan was the following:

It is indispensable because it provides the forum in which the combatants and the great powers can give public form to the positions they work out in private, and because it provides the machinery by which they institutionalize their decisions.

This cuts to the heart of the issue. We live in a very complex international community in which many complex problems abound. We cannot attempt to rationalize this reality in simple terms and simple solutions, because the international community is not marked by simplicity. We have to recognize the realities and come to grips with these realities in the most effective manner possible. It does not mean retreating from responsibility, but exercising responsibility.

In this morning's edition of The Washington Post, Mr. Astrachan also had an analytical piece on the 28th General Assembly:

This has been a good year for the United Nations, diplomats agree—primarily because the Security Council proved able to play what U.S. Secretary of State Henry A. Kissinger called "a very useful role" in ending the Middle East War.

Here again, Mr. Astrachan offers some very poignant observations when he noted:

The council's (Security Council) actions drew praise from Kissinger last month. He called the U.N. an effective sounding board, a rapid means of communication among the parties to the war, the most effective way to reach a cease-fire and a buffer preventing confrontation.

This is the essence of why the United States must remain in the United Nations and why the United Nations must continue to exist. We solve nothing if attempts diminish our participation in the institution. On the other hand, by upgrading our participation in the United Nations. we stand to gain much from the international stability arising out of such a participation.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD.

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

[From the Washington Post, Dec. 19, 1973]

A GOOD YEAR FOR U.N. ENDS WITH UPBEAT NOTE

(By Anthony Astrachan)

UNITED NATIONS, Dec. 18.—This has been a good year for the United Nations, diplomats agree—primarily because the Security Council proved able to play what U.S. Secretary of State Henry A. Kissinger called "a very useful role" in ending the Middle East war.

The achievements of the 28th General Assembly, which ended today, were much more tenuous, although both the Soviets and the Americans praised it for their own purposes.

The council's actions drew praise from Kissinger last month. He called the U.N. an effective sounding board, a rapid means of communication among the parties to the war, the most effective way to reach a cease-fire and a buffer preventing confrontation.

Some diplomats here doubt that the council will be as effective next year, when Byelorussia, a Soviet state, and Iraq, an Arab militant, take non-permanent seats. They will replace Yugoslavia and India, two nonaligned states which played important roles in the council's peacekeeping efforts this year.

The only real reason for optimism is that the council showed this year that it can deal with a specific crisis, when the parties and their great-power patrons allow, even though it still has not reached the long-sought agreement on the general philosophy of peace-keeping.

U.S. Ambassador W. Tapley Bennett Jr. called the assembly "a constructive force for international cooperation on the broadest scale."

The comment astonished U.N. observers. Bennett explained, "The assembly wisely chose to agree where agreement was possible, and, in most instances, to avoid fruitless confrontation where it was not."

That made the assembly's most important achievement its decision to defer votes on the U.N. presence in Korea and the question of who should represent Cambodia.

Bennett also praised the assembly decision to hold a world food conference in Rome next year. He attributed it to a suggestion Kissinger made here in September and called it an example of speedy U.N. action, but the conference had actually been in the works of the Food and Agriculture Organization well before that.

Soviet Ambassador Yakov Malik gave his highest praise to the assembly's endorsement of the Soviet proposal to ask the five permanent members of the Security Council to cut their military budgets by 10 per cent and use 1 per cent of the total budget to aid developing countries.

The vote was 83 to 2, with China and Albania voting against, and 38 abstentions, among them Britain, France and the United States. The proposal has no chance of being put into effect.

[From the Washington Post, Dec. 16, 1973]

U.N. CONTRIBUTION LIMITED, INDISPENSABLE

(By Anthony Astrachan)

UNITED NATIONS.—The October war in the Middle East proved once again that the United Nations cannot make peace on its own but is indispensable when its members want peace.

Now diplomats here are wondering what they can do for an encore. Kurt Waldheim's presence at the new talks in Geneva is merely symbolic—a reminder to the Arabs, the

Israelis and the great powers that they cannot ignore the world as they try to end the perennial crisis in the region. The United Nations is no more likely to make a major contribution to the new efforts to build a "just and durable peace" than it did in the six years between the last two wars, when Gunnar Jarring, the special U.N. representative, seemed always to end by talking to himself.

Still, had there been no United Nations, there would be no new talks in Geneva. That's considerable comfort to U.N. diplomats who fumed during the first week of the war while the Security Council met four times and did nothing. Neither the Arabs nor the Israelis were ready to stop fighting, and their great-power patrons were unable or unwilling to pull them apart—the effort might have reduced the influence that Moscow and Washington try to exert in the Middle East, or brought them into serious confrontation with each other. The limits of U.N. "power" were never clearer.

But by the third week of fighting, the United States and the Soviet Union shared a fear that the war effort would injure their detente more than a peace effort. Egypt and the Soviet Union shared a desire to forestall Israeli military gains and to create an opportunity for Arab diplomatic gains. Europe and Japan feared that a longer war would mean a worse oil crisis.

So Egypt, the Soviet Union and the United States went to the United Nations for a cease-fire that would be politically acceptable to everyone. Diplomacy in Cairo, Jerusalem, Moscow and Washington produced agreement to link the cease-fire to "immediate and concurrent" negotiations for a durable peace, but the agreement came to life only when it was embodied in a Security Council resolution. It was a classic illustration of the indispensability of the United Nations.

It is indispensable because it provides the forum in which the combatants and the great powers can give public form to the positions they work out in private, and because it provides the machinery by which they institutionalize their decisions.

The United Nations has never forced a sovereign country to stop fighting, but it formalized cease-fires in the Middle East in 1949, 1956, 1967 and 1973.

The United Nations has never constructed a solid peace, but it made peace in the Middle East a possibility with two resolutions: Security Council Resolution 242 of November, 1967, which is still the basis of negotiations, and Resolution 338 of last October, which gave the negotiations new life in Geneva.

The fact that the Geneva talks grew out of a U.N. resolution reassures diplomats who are disturbed that the talks may become a way of institutionalizing diplomacy outside the United Nations. Waldheim's presence is intended to provide further reassurances.

It may be only symbolic, but the importance of the symbolism was demonstrated by the long consultations among Security Council members last week over the way the council would endorse the idea that Waldheim should preside, at least at the ceremonial opening sessions in Geneva. Even the diplomats who wish he would play a bigger role admit that peace never could be constructed in a council debate.

Waldheim may also remind the world that the United Nations does two other important things that neither the great powers nor the combatants can do in the Middle East: It gives other nations a voice in shaping peace, and it does most of the dirty work involved in preventing war from breaking out by accident.

Those functions were closely linked in the Security Council's October session. The eight non-aligned nations in the council, disturbed at the threat of U.S.-Soviet "condominium" over Middle East diplomacy, suggested the establishment of a U.N. Emergency Force to keep the cease-fire alive. The United States, anxious to keep Soviet troops out of the area, decided to support them if permanent members of the council were barred from the force, and the Soviets had to follow suit.

The force created by those "other nations" is now keeping the Egyptians and Israelis in place, supplying the civilians in Suez City, and generally maintaining the cease-fire. Its commander, Gen. Ensio Siilasvuo of Finland, keeps trying to find ways in which his troops can make greater contributions to the transition from cease-fire to peace, like offering to place them between the Egyptians and Israelis if the two sides are ready to try disengagement before Geneva.

Some of the small nations, remembering the real contribution they made by creating UNEF, demanded and got another Security Council meeting before Geneva, so they could maintain their claim to a voice on the Middle East by giving Waldheim "instructions." This was intended to be no more than an endorsement of what Egypt, Israel and the great powers had agreed on, but the council met before Henry Kissinger achieved final agreement on details, and Moscow and Washington obstained on the instructions to Waldheim. If the road leads straight from Geneva to a durable peace, the small nations' efforts may quickly be forgotten. In the much more likely event that it does not, their emergency force will be remembered, and they may get yet another chance to show that the United Nations, despite its limitations, is indispensable to peace.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Mr. TAFT. Mr. President, I urge my colleagues to support the conference report on the Comprehensive Employment and Training Act of 1973, S. 1559. This legislation is a culmination of excellent initiatives from the administration and extensive work by the House Education and Labor Committee, and the Senate Labor and Public Welfare Committee. Special praise in the Senate should go to the chairman of the Employment, Poverty and Migratory Labor Subcommittee, Senator NELSON, for his leadership on this legislation. My colleagues, Senators CRANSTON, JAVITS, and SCHWEIKER also deserve praise for their continuing interest and work on this legislation.

When hearings began earlier this year in the Employment Subcommittee there was a great deal of skepticism in the minds of many regarding a special revenue-sharing approach for manpower training. These concerns I believe have been adequately resolved without destroying the merits of a specialized revenue-sharing approach, as the legislation provides State and local governments with flexability and financial assistance to assume responsibilities for job training and public service employment. As ranking minority member of the subcommittee, I had an opportunity not only to review testimony in Washington, but also to consider firsthand in my own State of Ohio the views of city and county officials, program administrators, business community leaders, labor organization officials and program participants with respect to the merits of job training. I firmly believe from my experience in considering this legislation that job training is an essential key to alleviating the unemployment problems which periodically surface in the economy. This legislation is especially pertinent today as our economy faces the possibility of substantial unemployment resulting from the energy shortage in that it not only provides job training opportunities, but also authorizes for public service employment programs for areas that have unemployment of 6.5 percent or more.

The bill would consolidate and decentralize programs to create jobs and train the unemployed. Any unit of local government having a population of 100,000 or more would be eligible to receive funding as prime sponsors for job training programs. Additionally, a provision is provided to permit units of local government with populations between 50,000 to 100,000 to apply as program agents for the implementation of public service employment programs.

Vietnam era veterans would be given a preference for public service jobs and, hopefully, the unemployment rate among this most deserving group of Americans can be reduced.

Protections are also contained in the legislation to provide strong considerations for the continuation of existing manpower training programs of demonstrated effectiveness. Part of these programs could include skilled training centers, which I might add can receive additional assistance through State allocated money earmarked for vocational education, SER, operation mainstream, and summer neighborhood youth employment programs. Opportunities industrialization centers—OIC—also are included in the legislation as a community based manpower training activity that should be considered for future funding. I am especially pleased to see this reference to OIC, as I believe this program is one of the best ways to bring meaningful jobs to individuals in the inner city.

Providing training programs to individuals so they can help themselves is one of the most important ways by which government can help its citizens. The legislation before the Senate is consistent with this objective. I urge my colleagues to approve it.

RUSSELL LONG'S BUNCH OF ACTIVISTS

Mr. RIBICOFF. Mr. President, on December 18, 1973, I had the pleasure to read an article in the Wall Street Journal which describes the work of the Senate Finance Committee and its distinguished chairman, RUSSELL LONG of Louisiana.

I have been a member of the Senate Finance Committee for 10 years and have had an opportunity to watch it evolve as well as to participate in its deliberations.

The committee handles some of the most important issues in America—social security, medicare, health insurance, taxes, unemployment insurance, and international trade.

As the article points out the Finance Committee is more and more an activist committee—taking the lead in increasing social security benefits, improving medicare, and a host of other programs. Its staff is made up of top-notch professionals.

The members of the committee reflect

differring philosophies. But more often than not we can find mutually agreeable paths to achieve beneficial legislative results.

A recent example is the Long-Ribicoff health insurance bill. It has the support of moderates, conservatives, and liberals of both parties and is a major step forward in protecting all Americans against large health bills.

As the article correctly points out our legislative achievements in the committee are due in large part to Senator LONG's skill and patience in reconciling conflicting views on an issue.

I ask unanimous consent that the Wall Street Journal article be printed in the RECORD.

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

RUSSELL LONG'S BUNCH OF ACTIVISTS

(By Albert R. Hunt)

WASHINGTON.—Russell Long insists he's a strict constructionist. "I firmly believe in what the Constitution says about the House originating revenue measures," avers the Senator from Louisiana.

Then comes the clinker. "But I haven't been able to find where the Constitution says anything about 'germaneness.'"

With these words, the chairman of the Senate Finance Committee is laying down a direct challenge to the power and the authority of the once-almighty House Ways and Means Committee. For what he's really saying is that he intends to go right on doing something he and his committee have done a lot of lately—taking minor House-passed bills and tacking sweeping pieces of unrelated legislation into them.

This tactic has enabled the previously less important Senate committee to frustrate its House counterpart and dominate one legislative issue after another for a whole year now. While Ways and Means has been mired in internal disputes and the lengthy consideration of very few issues, the Senate Finance Committee has leaped into the vacuum and, with much abandon, initiated far-reaching legislation in such key areas as Social Security, welfare, health benefits and campaign financing.

Some of this legislation has been flatly rejected by offended House members. But in a number of other instances, the Senate committee has prevailed. Clearly it has its opposite numbers in the House on the defensive.

"Every time we turn around we're responding to the latest whim of Russell Long," complains one House member. "The Constitution says the House is supposed to initiate revenue legislation, but recently you'd never know it," echoes Rep. Bill Archer (R., Texas), a freshman member of Ways and Means.

A CHANGE OF ACTION

In years past, the Senate panel served primarily as an appellate court for Ways and Means decisions, usually only making modest changes. Even when major alterations were adopted in the Senate, more often than not they were topped out when the two groups went to conference to resolve differences.

No longer. This year the Senate committee was the driving force behind Social Security benefit boosts, a sweeping overhaul of the private pension system, increases in federal welfare payments to the aged, blind and disabled, new regulations governing social service payments to the states for welfare recipients and refinements in the taxpayer checkoff plan to finance future presidential elections.

All of which suggests that considerable changes will now be necessary when it comes to calculating what Congress will do in the expansive legislative territory these two committees hold.

Further, the Finance Committee itself is changing. It's no longer a citadel of conservatism. Three or four assertive and intelligent liberal Democrats have been named to the panel and a resurgent Russell Long now seems more attuned to the liberal tendencies of the Senate in some areas. The committee remains more conservative and small state-oriented than the Senate as a whole, but the trend clearly is leftward.

All of which means, according to some Senate insiders, that the Finance Committee will continue to strike out on its own whether the House likes it or not. At the same time it will be more likely to sharply alter bills it receives from the House.

Specifically, this probably will produce more social welfare schemes, including attempts to channel more funds and inducements to the working poor, such as the recent Senate-approved plan to give a tax credit to working poor families.

In the crucial area of health care, which Congress may take up next year, the committee is attracted by a middle ground already advanced by Chairman Long and Sen. Abraham Ribicoff (D., Conn.), an influential liberal on the panel. This $9-billion-a-year plan would have the federal government pick up "catastrophic" medical costs for all income levels and provide more direct aid to low income families.

Regarding trade, few expect the Finance Committee to rubber-stamp the House-approved bill it will take up next year. Early estimates are that some more restrictive trade provisions could be written into the legislation, with the President's unprecedented new authority modified somewhat and perhaps some curbs slapped on the activities of multinational corporations.

To be sure, in the key area of taxation, the Finance Committee may continue to take a back seat to Ways and Means. Few serious new tax proposals are floated from the Senate tax-writers and they retain an image of frequent caterers to special interests.

Technically, the finance panel never does actually initiate legislation. But what it does do is tack key proposals onto minor measures sent over from the House. The major pension legislation, for example, was added on an unimportant bill making some insignificant technical tax changes.

House members complain that such additions are often done hurriedly and carelessly. Practically every member of the Ways and Means Committee for example, says the pension bill is full of sloppy legislative mistakes. This is why the Senate shouldn't use such a "loophole," they say, to infringe on the House's constitutional duties.

But Sen. Long, a 25-year-Senate veteran, shows no signs of bowing to House pressures here. "I went on the Finance Committee not because I wanted to keep things from happening but because I wanted something to happen," he recalls.

It's this activist streak, whether it be for liberal or conservative causes, that distinguishes Russell Long from many earlier finance panel chairmen. When he took over the committee in 1966, he inherited a skeleton staff with no real experts. Today, there are about a dozen first-class staffers including specialists in taxes, welfare, Social Security, health care and trade. (The panel also uses the staff of the prestigious Joint Congressional Committee on Internal Revenue Taxation.)

Recently, Chairman Long also has become more sensitive to spreading power around his committee a little. This year, for example, he bowed to pressure and set up six subcommittees, marking the first time in memory the committee has had such subgroups. (The Ways and Means Committee still has no subcommittees.)

Further, Sen. Long seems to have concluded reluctantly that the committee's composition will have to continue to move closer to the liberally-inclined Senate. This year, he raised no fuss when liberal Sen. Walter Mondale (D., Minn.) was added to the committee, although he had fought the idea previously. He acknowledges that more Northern liberals of the Mondale stripe probably will fill any upcoming vacancies.

Sen. Mondale, along with more veteran members Abe Ribicoff and Sen. Gaylord Nelson (D., Wis.)—and on some issues, freshman Sen. Lloyd Bentsen (D., Texas)—provide an intellectual force that liberals lacked before. "Russell knows that on almost any issue he just can't ignore these terribly bright liberals or he may get taken on the floor," says another Senator.

Sen. Long has a close personal and professional relationship with Gaylord Nelson and often works with Sen. Ribicoff. "This committee is becoming more broad-gauged," notes the Connecticut Democrat. "And the fact is that Russell himself is often a very broad-gauged man."

Meanwhile, the seven Republicans on the 16-man committee have their problems. The ranking minority member, Utah's Wallace Bennett, is a highly respected, very knowledgeable conservative: Chairman Long tries to work closely with him on major legislation even though they sometimes disagree sharply.

But Sen. Bennett is retiring next year. The next two Republicans—Nebraska's Carl Curtis and Arizona's Paul Fannin—share his conservatism, but, according to insiders, lack his expertise and the respect he generates. "These guys are pettifoggers," says an uncharitable committee Democrat. Some GOP strategists feel GOP leadership on some issues may be provided by two able Republicans with the least seniority on the panel, moderate Bob Packwood of Oregon and conservative William Roth of Delaware.

All of which means that Russell Long usually will be able to move the committee at least in the general direction he desires. "Russell doesn't have much trouble forming either a moderate-conservative or a liberal-conservative coalition," says one member.

NOT EASY TO CATEGORIZE

And the colorful bayou battler is anything but easy to conventionally categorize. He's the son of the most famous Southern populist, the late Huey (Kingfish) Long, and also is the darling of the oil and gas lobby. Few Senators are more generous in voting aid for the elderly or disabled, yet none are more eager to crack down on alleged welfare abuses. He's equally efficient arguing for special tax breaks to aid major industries or for public financing of campaigns to curb the political influence of fat cat industrialists.

Elected to the Senate when he was only 30, Sen. Long became chairman of the Finance Committee at the relatively youthful age of 48. Back then, in the mid-1960s, he also was the Senate Whip and clearly the rising power in the Senate.

But, beset by personal problems, he infuriated colleagues by waging several abrasive fights, began drinking heavily and gradually saw his influence erode. He began receiving frequent setbacks on the floor on Finance Committee legislation, was dominated by Wilbur Mills in conference committees and lost his Whip's job to Ted Kennedy in early 1969.

Several years ago, however, the downhill slide stopped—something close associates date from his remarriage in late 1969. He curbed the drinking and renewed his attention to legislative responsibilities. He changed personal style as well, becoming less contentious and more senatorially courteous to colleagues. (Even so, he remains one of the truly colorful performers left in the Senate. Watching Russell Long recently, arms flailing, his voice cracking, and his mind usually

racing far ahead of his speech, one colleague noted: "You'd never miss it—that's Huey Long's son.")

Whatever the case, Sen. Long's influence as Finance Committee chairman probably is at its zenith now. If the ailing Wilbur Mills retires, "I think Russell sees a chance to project himself as the congressional leader on great issues in the 1970s, and I think he'll do it," ventures Sen. Ribicoff.

To achieve this, however, the Finance Committee chairman probably will have to shed his reputation as an ardent foe of any tax revision and demonstrate some of the vaunted flexibility that has marked Mr. Mills' career. "Russell Long has championed special tax breaks for many vested interests, not just the oil industry," complains Bob Brandon, head of Ralph Nader's tax group.

The Senator still receives handsome royalties from his interest in oil-producing properties, but his views probably owe more to Louisiana's dependence on oil. "The oil industry employs 74,000 people in Louisiana and I'm going to continue to look after my state's interest," he proclaims. (This isn't the only area where Sen. Long puts Louisiana interests first. Last year his finance panel rewrote the House-passed revenue sharing formula, which resulted in the Bayou State getting about 50% more federal funds.)

Yet, even in the tax area, Chairman Long isn't totally predictable. For example, he favors a fairly stiff tightening of the minimum income tax, even though this could hit some of the oil barons.

A FORMIDABLE FORCE

Whatever policy the Louisiana Democrat pushes, he's usually a formidable force, practically everyone concurs. "We don't always agree with Russell Long, but when he's with you there's nobody better to have on your side," says Fred Wertheimer, lobbyist for the citizens group, Common Cause. Common Cause recently worked with the Senator in the unsuccessful effort to get public financing of presidential elections through Congress.

And it's usually perilous to predict which way Russell Long will turn. Despite his reverence for his late father, Sen. Long says he doesn't quite buy Huey Long's famous "Share the Wealth" program. "I think you can raise poor people's income without taking it all from the rich," he says. Then, with a twinkle in his eye, Huey Long's son quickly adds: "Of course, if it took my vote to pass it [share the wealth] in the Senate, I'd probably vote for it."

NINETIETH BIRTHDAY OF FORMER CONGRESSMAN CARL E. VINSON

Mr. NUNN. Mr. President, on November 18, 1973, a celebration was held in Macon, Ga., to honor the 90th birthday of former Congressman Carl E. Vinson, and to mark the 100th anniversary of the Walter F. George School of Law at Mercer University.

Hundreds of Mr. Vinson's friends, from virtually every corner of this Nation, gathered in the small Willingham Chapel at Mercer University to honor the man who served longer in the U.S. House of Representatives than any other person in this Nation's history. Among those present to pay tribute were: President Richard M. Nixon, Senator HERMAN E. TALMADGE, Congressman PHIL M. LANDRUM, and Georgia Gov. Jimmy Carter.

I am certain that there are many Members of the U.S. Congress who recall with great affection and respect the life and career of this great American. With the knowledge that many Americans would be interested in reading the comments of those who participated in the celebration, including Mr. Vinson's response, I ask unanimous consent for the printing of these comments in the RECORD, in the order in which they appeared on the program.

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

CARL VINSON DAY

Whereas: The Honorable Carl Vinson has dedicated his life to serving his country and fellow citizens in an outstanding manner; and

Whereas: Entering Congress as its youngest member in 1914, Carl Vinson quickly established himself as a great leader in this body, bringing immense strength and integrity to our government; and

Whereas: For thirty years Congressman Vinson was Chairman of the House Armed Services Committee and its predecessor, the Naval Affairs Committee, becoming a symbol of our national defense; and

Whereas: When he retired after a half century in Congress, Carl Vinson had served longer than any other member in the U.S. House of Representatives; and

Whereas: Carl Vinson has served his country with distinction—his leadership in the free world, his country and his state unprecedented and unequaled; and

Whereas: November 18, 1973, marks the 90th birthday anniversary of Carl Vinson, at which time many of our citizens will pay tribute to this great man in Macon, Georgia; now

Therefore: I, Jimmy Carter, Governor of the State of Georgia, do hereby proclaim the day of Sunday, November 18, 1973, as "CARL VINSON DAY" in Georgia, and urge all our citizens to join together in recognition and appreciation of the wisdom and dedication of this great and good man.

REMARKS OF U.S. SENATOR HERMAN E. TALMADGE

We honor a man today of many distinctions—a man who has become a veritable legend in his own time. Carl Vinson not only is a great statesman. He is unique. He is the first person in the history of our Republic to serve 50 years in the United States House of Representatives.

He is the only member of the House of Representatives in history to be honored by a Resolution of the House for his, and I quote from that Resolution: "incomparable record as a legislator, his manifold contributions to the strength of our country, his constant and unimpeachable devotion to the public interest."

Carl Vinson, more than any other individual in history, influenced and guided our nation's defense that saw us victoriously through two World Wars.

As Chairman of the House Armed Services Committee for 14 years, and as Chairman of the old Naval Affairs Committee for 16 years before that Carl Vinson compiled a record of 30 years as Chairman of a standing Committee of Congress. He played a major part in developing a defense system that made America the world's supreme super power, for which generations of freedom-loving Americans and generations yet unborn are in his debt.

Carl Vinson came to the House of Representatives in the 63rd Congress in 1914, 30 Congresses ago. Woodrow Wilson was in the White House, and after him, Congressman Vinson served under 8 other Presidents. He was confidant and advisor to them all. During the time that Chairman Vinson presided over his Committees, Presidents of the United States, Cabinet members, Joint Chiefs of Staff, high ranking generals and admirals came and went.

But, Carl Vinson was always there, steadfast in his devotion to his country and dedicated to the principle that the United States should have a defense establishment second to none in the world. Carl Vinson came to Congress when the Springfield rifle was our nation's principal weapon. Under his leadership, the country's defense establishment evolved from horse and buggy days to the modern era of the Polaris submarine and intercontinental ballistic missile.

Carl Vinson had never seen a battleship until he achieved prominence in the Congress. Yet, he was a founding parent of the two-ocean Navy, which became vital to our nation's survival during World War II.

He did not like to fly in airplanes. Yet, he was a forceful and persuasive advocate of an expanded United States Air Force, when it became apparent to him, in his characteristic wisdom and foresight, that command of the skies in the modern world was just as important as command of the seas a generation ago.

Chairman Vinson was an astute student of world affairs and military matters. Yet, only once in his entire lifetime did he set foot outside of the United States, and that was when he went on an inspection trip of the Panama Canal Zone in the early 1920's.

Mr. Vinson used to say that his responsibilities in the House of Representatives kept him too busy to go travelling all over the world. And, when he was not busy in Washington, his next responsibility was to get back to Georgia among his friends and family, on the first available train.

He was then and is now Milledgeville's and Baldwin County's favorite son. For all of his importance in Washington—he talked with Presidents and dismissed admirals like cabin boys—Mr. Vinson never lost touch with the people of his District of Georgia who sent him to Congress 25 times. He believed in staying close to these people and the beloved soil of Georgia.

Mr. Vinson was known by the military establishment as "the Admiral"—because of his early affection for the United States Navy. By his colleagues in the House, some of them his adversaries from time to time, he was known as the "Swamp Fox"—because of his masterful grasp of parliamentary procedure and virtual unerring strategy in getting important legislation through Congress.

It is interesting to note that Chairman Vinson lost very few legislative battles. One time he lost was when he urged fortification of the Island of Guam not too long before the Japanese attacked Pearl Harbor. As it turned out, his foes on that bill didn't relish their victory very long.

Just as Chairman Vinson was an eager and brilliant student of world affairs and military matters, he was a hard-driving headmaster and teacher. They had over on the House side what was called the "Vinson College." Students in the college included of course all the members of the House Armed Services Committee—as well as some other very important people . . . such as Lyndon Baines Johnson, who served as a freshman congressman under Chairman Vinson on the Naval Affairs Committee . . . such as Franklin Delano Roosevelt, who "studied" under Chairman Vinson when he was Secretary of the Navy . . . as did Dwight David Eisenhower, when he was Supreme Commander of Allied Forces in Europe.

Someone once said, and very correctly, that Chairman Vinson possessed more foresight, more wisdom, more understanding of military matters than one could encounter from wandering through the Pentagon for a year.

The people of Georgia, of course, and especially in this part of the state, know Mr. Vinson as far more than just an expert on military matters and parliamentary strategist. Mr. Vinson is known and loved in Georgia as "Uncle Carl."

He has brought credit to our state—as a Congressional leader, an American statesman, and as a legendary institution—that

the keepers of history have not yet fully measured.

Carl Vinson embarked upon his career before most of us here were even born. He set out with one primary goal—to serve his state and nation.

He achieved this goal to a larger degree than has any other man in the history of the United States.

Uncle Carl, we salute you on your 90th birthday today, and we hope you will continue to give us the benefit of your wise counsel.

INTRODUCTION OF CARL VINSON BY CONGRESSMAN PHIL M. LANDRUM

Ladies and gentlemen, I have the happy privilege and very high honor to present the composer and the conductor of a legislative symphony—more sensitive, more beautiful, and more comprehensive than any in our history—a simply magnificent American.

RESPONSE BY HON. CARL E. VINSON

Mr. President—Dr. Harris—Distinguished Guests—Ladies and Gentlemen:

Five years ago, on the 18th day of November 1968, when my span of life had reached its 85th year, President and Mrs. Johnson invited a group of friends to the White House.

Many of my colleagues with whom I had served throughout the years in Congress, the Armed Services Committee and its brilliant staff, military personnel, heads of departments of government, my friends and neighbors who lived on the same block where I lived for 40 years, and life-long friends from Georgia were there. It was a most delightful affair.

After my namesake, Carl Snead, had blown out the candles and the festivities had begun to subside, President Johnson said to his guests, "I invite each and every one of you to join Mrs. Johnson and me at the LBJ Ranch when Carl Vinson reaches his 90th year."

Time rolled by—months became years—years piled upon each other, and now and then I would receive a communication from some good friend saying, "I will see you at the LBJ Ranch on November 18, 1973."

But fate decreed otherwise—the uncertainty of life broke the chain of events—for on January 22nd of this year President Lyndon Baines Johnson, that great and distinguished man, journeyed to "that bourne from which no traveler ere returns," and passed into history as one of the Nation's most outstanding Presidents.

A few months thereafter, unknown to me, some of my good friends in Washington and here at home picked up the broken chain of events.

Dr. Harris appointed a group of distinguished men to formulate plans to have a joint affair entwined with a far more memorable event—the 100th anniversary of the Mercer School of Law.

I am grateful to the committee which has devoted so much time and effort in organizing this celebration.

I can think of no more sincere words to express my appreciation than to say to each member of the committee, "thank you from the bottom of my heart."

It is impossible for me to express in words my gratitude for the honor you pay me today. No event in my life, and no event in my future can ever equal this day.

When I look upon the faces of those who are here today, I see some of my good friends who were at the White House five years ago. I know that some have traveled a long distance and I want to thank all of you for being here.

A man is wealthy beyond his greatest dreams when he has friends such as you.

I am highly honored to have been presented to you by my good friend, one of the Nation's leaders in Congress, The Honorable Phil Landrum. I thank him for his most kind, complimentary, and laudatory remarks with reference to my public service, and his best wishes to me for many happy returns of the day.

And finally, no tribute could be more touching to me than that which is paid by the presence today of our distinguished and revered President, Richard Nixon. Since the time he and I were colleagues in the Congress a quarter of a century ago, I have admired this man's ability, his courage, and his patriotism. I have set a high value on his friendship ever since. So it is a special privilege for me today to be able to say thank you, Mr. President, for redeeming Lyndon Johnson's promise made 5 years ago—that of giving an old friend a Presidential sendoff into the tenth decade of his life.

So here today in the eventide of my life, in this mellowed old chapel hall at Mercer University which rekindles old and wonderful memories, I greet you my friends with deep humility.

When one reaches his 90th year he can truly, on bended knees, thank Divine Providence.

I was fortunate to have parents who were strong in mind and body, and who enjoyed ripe ages of mid-80's and the thresh-hold of the 90's.

Someone once said, "To know how to grow old is the master work of wisdom, and one of the most difficult chapters in the great art of living."

But I cannot give you the secret of longevity, for I do not know what produces it, except perhaps, to suggest that maintaining a vigorous pace in all my mental and physical activities has played a very important part.

However, if I had to select one factor that may have played a dominant role to reach my years, I would name the challenge of Public Service.

When one serves a busy, progressive, intelligent, and God-fearing Georgia constituency such as I did for 60 consecutive years, in various State and Federal offices, he has so many other people's needs and problems on his mind that he does not have the time to worry about his own physical well-being or even to count his own advancing years. A lifetime spent in such work furnishes proof of the wise men's saying—that "the harvest of old age is the recollection and abundance of blessings previously secured."

Among these blessings which will linger with me through my life is the hand of friendship that all of you have extended to me throughout the years.

A memorable event brings us together today to celebrate the 100th anniversary of the Law School at Mercer University that was established in 1873, which is one of the oldest and most distinguished law schools in the South and which is now so appropriately named the Walter F. George School of Law, after that great and outstanding Georgia Senator.

I can recall that as a young man my one great ambition was to become a lawyer, and one of the most important decisions I have ever made in my life was to attend Mercer School of Law.

Perhaps it was the admonition of one of the greatest patriots in the history of our Nation, Benjamin Franklin, which sent me in that direction of the Mercer School of Law. Franklin's wise counsel to the youth of America was this: "If a man empties his purse in his head no man can take it away from him, an investment of knowledge always pays the best interest."

I can truly say whatever success I have attained in life can be attributed in large measure to the sound foundation in law which I received in this school of law at Mercer University.

This school's beneficial influence upon the judicial and political life of the South and the entire Nation has been profound and far-reaching.

My mind's eye today ranges over the procession of the distinguished Georgians who have served the State and Nation in the legislative halls and judiciary who have passed through the portals of this great law school.

These alumni have left their footprints in every place where they have resided. They were, and are, leaders in their communities and their judicial labors and legislative foresight have contributed much to the present greatness of the State and Nation.

In quantity of enrollment, Mercer is by no means as large as some other schools of law in the South; nevertheless it has become renowned as a school whose quality of teaching is unsurpassed.

Here is some evidence of that quality:

Two Justices of the Fifth U.S. Court of Appeals.

Five Federal District Judges.

Seven Georgia Supreme Court Justices.

Five Georgia Court of Appeals Justices.

Twenty-six Georgia Superior Court Judges.

Six Governors of Georgia.

Two Governors of Alabama.

One Governor of Texas.

One Governor General of Puerto Rico.

Four U.S. Senators.

Eleven Congressmen.

In all, there are more than 1,500 alumni. Almost to a man, those alumni are men of vision who look forward—fine Americans, whose love of country and whose patriotism run deep.

Among their ranks are distinguished lawyers whose forensic oratory rings daily down the corridors of the temples of justice; distinguished judges whose daily decrees temper justice with mercy; distinguished public servants whose voices are heard in the legislative halls of the land and in chancelleries around the world.

How well do I recall when there were five alumni of this school serving in Congress at the same time.

The Great Statesman, Walter F. George

That incomparable Eugene Cox, my classmate

That learned lawyer, Malcolm Tarver

That brilliant Jurist, Carton Mobley, who today is Chief Justice of the Georgia Supreme Court,

and myself

Mercer University was established by the Georgia Baptist Convention in 1833. It is a private institution and from its founding has always had a high academic standing.

It was moved from Penfield to Macon in 1871 and became an integral part of the history, tradition, future life, economy, cultural and moral stability, not only of the Macon area but also of all Middle Georgia.

Mercer is no longer a local institution. It has a national reputation for educating young men and women in the best of Christian tradition.

There are here today students from 27 different states and several foreign countries.

For the fall term of 1973, the Walter F. George School of Law received approximately 1,000 applications from new students, of which one-half were from out of state. Present classroom facilities and competitive standards permitted the enrollment of only 87 of this number making a total law school enrollment of approximately 247.

I am pleased to note that the Law School is number one on the priority list to expand its classroom facilities to admit more of these deserving applicants, under the University's 5-year, $42,000,000 fund-raising campaign aptly labeled "an investment in human resources."

Mercer's dynamic expansion in plant facilities and enrollment is due to the leadership of Dr. Rufus Harris who is in my opinion one of the most distinguished educators in America.

But all of our advances in education, all of the learned men who have graduated from this law school and other colleges and universities throughout the land, all of the other blessings we seek, will avail Americans nothing—if we allow ourselves to become a second-class Nation insofar as our national security is concerned.

Maintaining a strong defense is the most vital challenge that faces this generation.

We hear the complaints of an increasing vocal minority which does not like spending defense dollars. We even hear some who are foolish enough to think national defense is unnecessary. But with all due respect, I believe that those who feel this way ignore history and gamble with our Nation's very survival.

In two thousand three hundred years of recorded history there have been only two hundred and seventy years of peace. The lesson is plain: We must always be prepared for war, for only in this way can we avoid war.

It has been my good fortune in life to play a role in developing the defense structure of this Nation. I believe we are today the strongest nation in the world, but I also believe that we are in danger of losing that superiority. I have lived a full life in a free nation—and for this I'm very grateful.

Our President, who honors us all with his presence at this ceremony today, has done as much as any man alive over the past several years to educate all Americans in the paramount necessity of keeping this country second to none in our national defense.

He had also provided strong leadership in opening a new era of negotiation and a new hope for lasting peace among the great powers.

He had the vision it took to visit Peking and Moscow, and the stature it took to look those Communist leaders square in the eye when he got there.

He had the backbone it took to lead America out of the Vietnam war not with disgrace but with honor, and to bring our prisoners of war safely home.

At the same time, he is a President who knows that peace does not mean weakness.

He has stood firm against the pressures to cut our strategic weapons or our troop strength overseas without mutually negotiated cuts on the other side.

He has insisted that Congress must never send any President to the conference table as head of the second strongest power in the world.

So my friends, on my 90th birthday and the 100th anniversary of this Law School, I leave you with a prayer in the words of Shakespeare: "Oh Lord, who lends me life, lend me a heart replete with thankfulness."

I thank you.

REMARKS OF THE PRESIDENT

Dr. Harris and all of the distinguished guests who are present here today on this historic occasion, I am honored to be here for the two reasons that have been mentioned so well and so eloquently by all of the speakers who have preceded me: First, because it is the 100th Anniversary of a great educational institution, the Law School of Mercer University, now the Walter George Law School; and second, because it is the 90th birthday of a man who has served longer in the House of Representatives, in the Congress, than any man in our history, and one who is a legendary figure for those who did know him, and one who is a loved figure for those like myself who had the privilege to know him.

Now, in view of the fact that those two events are being celebrated simultaneously, I expected that we would probably have a very good crowd today, and the chapel, of course, is full. However, I also know that this is Atlanta Falcon territory, and so when I was at the airport, I asked one of the people there—and there was quite a big crowd—how come they were out; why weren't they watching the football game? And they said, "They are going to play tomorrow night."

Well, as you know, I am somewhat of a football buff, probably because I never made the team, even at Whittier, but I followed the Falcons, and I guess you would call them the comeback team of 1972. They lost their first three and they have won their last six. I have been thinking, I ought to have a talk with Norm Van Brocklin and find out how they did it.

With regard to this law school, when I was speaking to Dr. Harris earlier, he said it was a small law school, and I was thinking of my own law school at Duke when I was there in the middle of the depression, and when my roommate was a boy from Macon, Georgia, Bill Perdue, who was first in our class, the highest record that was ever made by anybody who went to the Duke Law School, and there were only 105 in the Duke Law School total in the years '34 to '37. So in my view, the size of the law school is not what is important; it is its quality.

Mr. Vinson has, of course, recounted what this law school produced in terms of four Senators and 11 Congressmen and 10 Governors, six of them Governors of the State of Georgia, and 45 judges of various courts, and that is a great record for any law school, large or small.

But a law school means more, simply, than whether it produces public figures of quality. A law school means the character of the young men and the young women who go through those three years and then go out into public life and what they contribute, and I think Mercer, by the very fact that it has produced the public figures of such quality that I have mentioned, also over its 100 years produces that great character that affects every community, whether that lawyer is a very big man in the community or—and just as important—just a lawyer handling people's cases, rich or poor, each of them deserves the honor and any law school that produces them deserves honor.

I think it is very appropriate it is named the Walter George School of Law. As Carl Vinson was speaking, I was thinking of my first days in the House of Representatives back in 1947, and I remember that usually there wasn't much attention paid to speakers, and Phil Landrum says it is the same today; they don't pay much attention. But I always remembered there were two men who, when they spoke, the chamber filled. One was Jim Wadsworth. They always came to hear him, from New York. And the other was Carl Vinson.

The reason they came was not because these two men always agreed, although they always did agree on matters of national defense, but because they were the giants of the House in those days. There were others that were giants, but these two seem to loom above all the rest.

And in the Senate, the law school that bears the name of Walter George also has that same distinction, because I recall in the days that I served in the United States Senate, and later presided over it, that the Senate chamber was usually empty, and for good reason. The speeches really weren't worth listening to. They were worth reading, but not worth listening to. But there were two men who filled that chamber in those days almost inevitably. One was Robert Taft and the other was Walter George, and whenever those men rose to their feet, the word would go around in the cloakrooms and through the offices, and the chamber would fill. They didn't always agree, and they were very different in their approach, Taft with his pithy, terse, sometimes people thought, even rather brittle speech, but yet going to the heart of every question, and Walter George, with that magnificent background which comes from centuries of being taught eloquence of the great Southern statesmen.

So if I were in the Mercer Law School, or on its faculty, I would be proud to be here not only because it is a fine law school, but because it bears the name of such a very great man who served the State of Georgia and served his Nation so well.

And now comes the part of my remarks that have to do with Carl Vinson. Actually, I had a very—not very long, but I thought appropriately long speech, and as the various speakers went along I began to scratch it out because everything I wanted to say about Mr. Vinson had already been said more eloquently than I could possibly say it.

But there is one thing that was not said. A great deal of attention has been paid to the fact that Carl Vinson was a man who stood for strong national defense. He was Mr. Armed Services, he was Mr. Navy, he was Mr. American, he was Mr. Congressman.

He was all of those things, but the emphasis on his life was primarily that of strength, military strength. He must not be just remembered and thought of that way because Carl Vinson was a broad-gauged man.

There are men in the House and the Senate who think solely in terms of strength by itself is enough; if America is strong enough, we don't have to worry about our diplomacy and we don't have to worry about what we have in the way of national character; it is that military strength that we need that will keep the peace and perhaps win the wars.

But a young Congressman came to the House of Representatives as the youngest Member of the Congress when he came, 30 years of age, Carl Vinson of Georgia.

In his first speech, listen to what he said: "I devoutly hope that the casting of every gun and the building of every ship will be done with a prayer for the peace of America. I have at heart no sectional nor political interest but only the Republic's safety."

In those words we capture the life of a very great man. "I have," he says, "at heart no sectional nor political interest." He served eight Presidents, four of them Republicans, four of them Democrats. He had the confidence of every one of them and he served each one of them as loyally whether they were of his party or the other, and it is that kind of service which puts America above party that he represents and that America can always use today.

And then, "the building of every ship, the casting of every gun will be done with a prayer for the peace of America." I thought as he was speaking that we could be thankful for a lot of things today; thankful for the fact that our young men, for the first time in 25 years, are not being drafted for the Armed Services. They can make the choice, and we hope many will, to serve their country in peacetime as volunteers.

We can be thankful that for the first time in 12 years America is at peace with every nation in the world; that for the first time in eight years all of our prisoners of war are home, and that we are beginning to make progress, we believe, toward building a structure of peace that is not just limited to Southeast Asia and Vietnam, an important, but not critical part of the world; not just the Mideast, which is a very important and possibly a more critical part of the world than Vietnam, and not just Europe, which is important and potentially an area where confrontation would lead to the disaster that all of us are trying to avoid, but to build the kind of a peace in the world which will cover all of the world.

I have always felt that it was wrong to be Asia first, or Europe first. I have always thought it wrong to think just of our own nation, except as it relates to our living in the whole world.

The world has become very small in those years that Carl Vinson has served in the Congress of the United States. The world

has become much smaller in the years when he first advocated the two-ocean navy. Today, whether it is half way around the world to the People's Republic of China in Peking, or a third of the way around the world in the Kremlin in Moscow, or wherever we go, we must realize that there cannot be real peace in the world unless there is developed a structure of peace which covers not only the small nations, but particularly the great powers that have the key to peace or to war in their hands and that is what strength is all about.

I know that many think that when the President of the United States or Herman Talmadge, on this platform, or Eddie Hebert out there in this audience, or Phil Landrum, or Carl Vinson, any of us, talk about a strong America, and let's not be number two, there is the thought that that is jingoism.

Who cares whether we are number one in arms? I will tell you who care: People in every small and weak nation in the world, because without America and its strength, no small nation would have a chance to survive today. That is what it is all about.

I am not suggesting that America should be the world's policeman.

I am not suggesting that whenever there is a problem, as there was in Korea and then in Vietnam, that America is the nation that must go to the rescue of these small nations. I am only saying this: that in a world where there is nuclear power, and in a world where there are superpowers, two in existence and one coming along very fast, the People's Republic of China, we must not leave the position of leadership to other nations without having the balance that is needed, so that they will see that their interest will be served by not using that enormous power that they have, either for the purpose of conquest without war, or even with war itself.

I am not suggesting here that Mr. Brezhnev wants war, or that Mr. Mao Tse-tung or Mr. Chou En-lai wants war. I am only saying this: that reading the pages of history when a vacuum is left and when there is a great power with no other power to balance it, then a very dangerous situation develops in terms of a threat to the peace of the world.

And looking at the United States and all of the criticism we have taken for our role in Korea and then in Vietnam, and even in other times, we can be thankful for this: Our young men have gone abroad in four wars. They have fought bravely. They have died. But we have never gone in terms of conquest. We have never gone to seek territory. We have never gone to break the peace. We have always gone to keep the peace. We have never gone to destroy freedom. We have always gone to defend freedom.

Mistakes, yes, we have made; perhaps in the conduct of the wars, perhaps in the conduct of foreign policy before they ever came about. But we can be proud that the United States in this century is a nation that is dedicated to peace, and that the world needs, as a strong, powerful nation, because we do stand for peace and will work for peace whenever the case ever arises.

Looking ahead to the year 2000, and it is very difficult to look much beyond that but I think there is a better chance than there has been since World War II that because the relationships which Carl Vinson has spoken to that we have established with countries with whom we have nothing in common as far as ideology is concerned—in fact, we differ completely with, Chou En-lai, Mao Tse-tung, Mr. Brezhnev, Podgorny and their colleagues—but because of the initiatives we have taken, we may be establishing the pattern which will mean that the great powers will recognize that the risk of war is too great for them to engage in adventurism in any part of the world, and that the benefits of peace, on the other side, are so much greater that we should use our strength for peace rather than for war.

Let me say just one personal note. I am known as an anti-Communist, and I earned that, and I suppose most of the people in this audience would say, well, I am against the Communists. But let me say, I know the Russian people.

They are strong. They are vigorous. They are fine people. I know the Chinese people, and whether they are on Mainland China or Taiwan or in Bangkok, where there are a couple million of them, or in Manila where there are a million. They are sophisticated, with layer on layer of history behind them, and also with an ability to give much to the world, and I want a world—I want a world for these young people that we have heard outside a few moments ago in which not only they won't have to be drafted, not only they won't have to go to war, but a world in which they can work with their young colleagues in Russia, in China, in Latin America, in Africa, to find the answer to such critical questions as how do we avoid cancer; to find the answer to such critical questions that we are faced with in the field of energy and all of that; the answer to how we can work together to make the world's environment better.

I am not suggesting that it is going to be easy and I am not suggesting that because we settled the Mideast conflict, momentarily at least, that we can expect that people who have hated each other for thousands of years are now going to start to love each other. But I do know this:

With the kind of power that we have, with the kind of power that exists in other nations across this globe, and can exist in others, it is essential, if civilization survives, that America remain strong enough that our voice will be respected so that we can play a peacekeeping role because a war is unthinkable in the present context in which we presently live.

And that brings me now to Carl Vinson again. He was for strength always in his life, and America can be thankful that because of what he stood for we were strong enough to have handled World War I, World War II, Korea, Vietnam, with military strength that was necessary; to have handled the recent airlift which avoided what could have been a very difficult situation in the Mideast and helped to avoid an American involvement in the Middle East. All of these things he contributed to.

And a monument must be built to this man, must be left to him. We built part of it today with this ceremony when we honor him and the great law school, the Walter George Law School.

He would not want a monument built for himself to be there in Washington. I don't know, I have never seen him on a horse, I don't know how he would look on that kind of a monument. (Laughter)

But next to his country, and next to his State of Georgia, Carl Vinson loved the Navy most, and so I have an announcement to make today. I have discussed with Chairman John Stennis of the Armed Services Committee of the Senate, and Congressman Ed Hébert, the Congressman from Louisiana, the Chairman of the Armed Services Committee of the House, and their counterparts, a proposal, and they have given me permission, because we must do this thing jointly, to make this announcement today.

As you know, we have just begun to develop nuclear carriers. The first one was named the Eisenhower, the second one was named the Nimitz, the great Naval Commander of World War II. The third is just beginning, and it will be named the Carl M. Vinson.

THE ARAB-ISRAELI WAR

Mr. MONDALE. Mr. President, I would like to call to the attention of my colleagues a moving and thoughtful letter written by a 25-year-old Israeli soldier after he arrived home from the most recent Arab-Israeli war.

In poignant, personal terms he is able to describe the terrible tragedy of war.

He writes:

It is difficult for me to believe that I have passed through four wars since my birth, 24 years ago. Four wars in 25 years—isn't it too much for a young man?

Four wars is indeed too much and I hope that the Geneva negotiations will result in a lasting peace settlement achieved by the Israelis and Arabs themselves.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

NOVEMBER 5, 1973.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: Shalom! How are you and your family? I was planning to answer your letter a long time ago. But, all of a sudden a war broke out in my country . . . I was called to the Army and unable to write during those "hard days". Today is the first time I have come home for a few hours since the war started. Although I am very tired I feel like I must write to you.

First of all I want to thank you for the warm letter you sent me on the occasion of my wedding. My wife and I appreciated it very much and we were very sorry you left Israel a few days before our wedding.

The second and more important thing which brings me to write is my desire to express my deep appreciation and thanks to your country. We will never forget all that your people have done for us during one of the most dangerous periods in the history of our nation! I want you also to know that your personal initiative and support for helping Israel and for saving the Jews in Russia, were widely reported and welcomed by the Israeli newspapers—and especially by my paper—"Maariv". They added the fact that you were in Israel a few weeks before the war broke out.

I am sure that now, after you have visited our country, met our leaders and seen our society, you understand us more deeply than before. I remember you telling me (on the way to your hotel) that you have found here a true desire for peace, and a will for negotiations with our neighbours. Therefore, I am sure you know we did not want that war, and we did not start it. The war came to us like thunder on a clear day—and we paid a very heavy price for it. It is terrible; relatives and friends whom I knew for a long time and enjoyed being with, were suddenly gone. They will not be with us any more. Mothers were bereaved of their only sons. Young wives were left alone with no husbands. Thousands of people are crippled for the rest of their lives.

So sad—so painful.

Why?

Why—we are all asking.

It is difficult for me to believe that I have passed through four wars since my birth, 25 years ago. Four wars in 25 years—isn't it too much for a young man?

I was born during the Independence War, so I don't remember it. But I do remember the 1956 War and, of course, the 2 wars I took part in. The Six Day War and the October 1973 War. There is no doubt, and I felt it, that during this last war we were fighting for the existence of our small nation. For the integrity of our country. We all want to see this war as the last one.

"Enough", "No more", "We have suffered so much"—people say everywhere in Israel . . . and on the other hand, the Arabs are threatening a new war, and you can never know . . .

That's the way it is! Maybe it is our destiny to live with a situation such as this, but I believe we shall overcome. I personally hope that it won't be far away for Isaiah's prediction to come true—as he said in Chapter II, 4: "Nation shall not lift up sword against nation, neither shall they learn war any more."

I am looking forward to seeing you soon in Israel in more peaceful days. They will come. They must come! It's time now!

Best wishes and peace.

Sincerely,

RAZI GUTERMAN.

ENDANGERED SPECIES ACT

Mr. MOSS. Mr. President, as a member of the conference committee on endangered species, I am happy to support S. 1983, the Endangered Species Act of 1973. This is a vital piece of legislation that must be accepted if additional endangered or threatened species of wildlife are not to be destroyed and eventually become extinct.

The goal of this legislation is to use conservation procedures as are necessary to protect any endangered or threatened species. These procedures can include scientific resource management which means research, census law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation techniques. Regulated taking of certain endangered animals is possible where absolutely necessary.

The Secretary of the Interior lists some 109 species as endangered in the United States. Over 300 species are on the foreign list. Because it is impossible to restore a species following extinction it is absolutely necessary that proper methods be established now to prevent the possibility of additional species becoming extinct.

This legislation provides a means to such prevention. It allows an adequate time for each State to implement necessary machinery to carry out the provisions of this act. However, where States fail to protect its endangered or threatened species, the Federal Government has the necessary authority under this act to do so.

S. 1983 gives added impetus to the authority which the Secretary of Commerce and the Secretary of Interior have under the Reorganization Plan No. 4 of 1970 to determine endangered species or threatened species.

Adequate penalties are levied by this legislation against those who knowingly or for commercial purposes destroy endangered or threatened species. However, an exemption is provided for the Alaskan Natives who may utilize certain threatened species for subsistence reasons. Such an exemption is legitimate.

This legislation authorizes $22 million for the Department of the Interior over a 3-year period and $5.5 million for the Department of Commerce to carry out the provisions of this act. This is an acceptable amount to implement the provisions of the act.

Mr. President, the conferees have worked hard on this legislation. Several differences existed between the House and Senate versions of this legislation. Amicable relations between House and Senate conferees made this legislation possible. I wish to commend those who have been conferees with me for their work.

I ask that my colleagues in the Senate support S. 1983 as it has come from the conference. Legislation in this area is long overdue. This legislation provides means by which our endangered and threatened species can be given necessary protection for future generations to enjoy.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DISTRICT OF COLUMBIA SELF-GOVERNMENT ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 1435, which the clerk will please state by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1435) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes, having met, after full and free conference, have agreed to recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

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

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 6, 1973, at pp. 39900–39913.)

The ACTING PRESIDENT pro tempore. The time for debate on the report is limited to 1 hour, to be equally divided between the manager of the conference report, the distinguished Senator from Missouri (Mr. EAGLETON), and the distinguished Senator from Maryland (Mr. MATHIAS).

Who yields time?

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. EAGLETON. Mr. President, the Senate passed the home rule bill on July 10, 1973, by a vote of 69 to 17. That bill would have delegated to the District government power over all legislation including appropriations and over court appointments. The home rule bill which passed the House gave the District control over all legislation except for appropriations, which continued to be vested in the Congress. In addition, the House bill continued the present system of appointment for judges and provided for nonpartisan elections. Both bills contained specific restrictions on the powers of the Council, such as the imposition of any tax on the property of the United States, enactment of any law which concerned the function of property of the United States, or the imposition of a commuter tax.

The conference report provides for an elected Mayor and a 13-member City Council, of which 5 shall be elected at large and 8 from wards, with guaranteed minority party representation of 2 at-large members of that Council. The Mayor will possess all the usual executive functions of a mayor; the Council will possess all of the usual legislative functions except for the power to appropriate funds. That power, as is presently true, will rest in Congress, and the District of Columbia budget will be submitted to the Congress by the President through the Office of Management and Budget.

All acts of the Council must lie before the Congress for 30 days for review before they go into effect and if both Houses by concurrent resolution agree that such legislation shall not go into effect it is vetoed. Furthermore, the home rule charter itself may be amended only by act of Council followed by a referendum of the citizens of the District of Columbia, and if they approve the change, it then must be affirmatively approved by both Houses of Congress before it will take effect. Finally, any changes enacted by the Council in the criminal laws would not go into effect if either House disapproves such change.

Judges will be appointed in accordance with the Missouri plan. The President, with the advice and consent of the Senate, will pick a nominee from a list of three names submitted for each appointment by a Judicial Nominating Commission. The 15-year term of judges is continued. However, if the Commission on Judicial Disabilities and Tenure finds a judge to be well qualified or exceptionally well qualified he will receive automatic reappointment to a new term, subject only to the retirement age of 70.

I think that this short summary is sufficient to give the Members a fair idea of what the bill contains. I am very pleased that we have been able to reach agreement with the House on this step forward after the Senate has tried so many times to obtain such legislation, and I commend the House conferees and especially Chairman DIGGS on their efforts to reach an accommodation of views.

This bill does not give the District of Columbia what I would call true home rule. The citizens do not have the power of the purse. However, I do view it as an important step forward; it is one of a series of steps which we have taken in the past few years. We began with the 22d amendment which allowed the citizens of the District for the first time to vote in Presidential elections. Then we passed legislation allowing the election of a nonvoting Delegate in the House of Representatives from the District. And now we have before us a bill which would for the first time in over 100 years allow the citizens of the District to elect a Mayor and Council which would be both responsible and responsive to them in the first instance.

I am confident that the new powers which Congress is delegating to the citizens of the District will be used wisely; that the review procedures which have been set up will be unnecessary, and that another step will take place in the future

which will allow the District to finally achieve true home rule.

Any change usually generates a certain amount of apprehension that certain adverse actions will result from such change. This bill conferring home rule on the District of Columbia is no exception.

Some concern has been expressed from several sources to the effect that the amendments in the conference report restructuring the Redevelopment Land Agency, in some manner, might be construed as authority to enable the Agency to unilaterally take action which would nullify valid agreements and understandings entered into or arrived at prior to the effective date of the conference report in connection with certain redevelopment plans or projects.

I am not aware of any provision of this conference report which would give the District government, Redevelopment Land Agency—or any successor agency—or any other agency the power to take any unilateral action, by the adoption of a law, regulation, reorganization or otherwise, which would in any way impair or abrogate such contractual arrangements, safeguards, and procedures for modification of redevelopment plans or urban renewal plans.

In short, it is not the intention of Congress to deprive any party, the Government or the private investor, from any legal right it had at the time it invested its capital.

Mr. President, I am prepared at this time to yield such time as the Senator from Maryland may desire on my time, so that he in turn may yield his half hour to Members of the Senate who wish to speak in opposition to the conference report.

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

The Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the distinguished chairman of the committee for yielding me this time. I have spoken so often and at such length on the subject of home rule for the District of Columbia over a period of a number of years that I do not intend to repeat all the arguments I have given before.

Nearly 6 months ago, when this body considered S. 1435 with more hope than confidence, I observed we had reason to be optimistic that home rule would come to the District of Columbia this year. Today we find that this body, this U.S. Senate, which has gone on record eight times in eight separate Congresses as favoring home rule, will have the privilege of taking the final congressional step to restore to the citizens of the District of Columbia some measure of self-government.

I feel that the chairman of the committee, the distinguished Senator from Missouri (Mr. EAGLETON), deserves a tremendous debt of gratitude from the citizens of the District for the leadership that he has given; and I would also pay particular tribute to the staffs of both the majority and the minority of the District of Columbia Committee, Mr. Colby King, who is the head of the minority staff, Mr. Robert Harris, who is the head of the majority staff, and Mr. Robert Lothian, of the Senate Legislative Counsel's Office, who have done an outstanding job in providing the committee with the backup in the complex difficult progression of events which finally led to the conference report which I hope the Senate will adopt today.

In attempting to describe the bill before us today, I am reminded of a line from "Romeo and Juliet" which goes as follows:

> No, 'tis not so deep as a well, nor so wide as a church door; but 'tis enough, 'twill serve.

S. 1435, as reported by the conference committee, probably fits this description. This bill will create a representative local government for the District of Columbia. It will relieve the Congress of the responsibility for the day-to-day government of this city. Yet, it will retain the historic constitutional responsibility of the Congress to oversee the government of the Nation's Capital.

Mr. President, when I came to the Congress some years ago as a freshman Congressman, I received an assignment to the House District Committee. While my views on home rule were not as developed then as they are today, I soon became convinced that there had to be a better way to conduct the affairs of the District of Columbia. What I found then is what we observe today: A situation in which we are trapped—Congress, the White House, the city government, and most of all, the people of the District. As I have observed before, we are trapped in a system which hardly deserves to be called a system. It is an obsolete and cumbersome and arbitrary system of arrangements that have been made at various times through which authority is diffused and power is fragmented and decisionmaking is delayed. The Mayor does not have the power, Congress does not have the time, and the people of the District do not have the vote.

As a Senator from Maryland, I have found this problem to be even more acute. Let me repeat what I have said before: If there is a problem affecting the District of Columbia and another problem which arises at the same time affecting the State of Maryland and I am asked to choose where I will devote my time and attention, I must say that it is going to be on the affairs of the State of Maryland and not on the affairs of the District of Columbia. But that has been the problem for the District all along. The members of both committees of both Houses have had their own National and State or district responsibilities to look after and so the District of Columbia has always had to get by on what time is left over. And that time has never been enough. Home rule for the District of Columbia is simply an idea whose time has come.

Mr. President, as the Senate knows, the home rule bill passed by the Senate in July differed conceptually from the House-passed version. When the distinguished chairman and I got together 3 years ago and drafted our bill, we intentionally produced a bill which would provide a substantial delegation of administrative and legislative authority to the elected Mayor and Council, including, I might add, fiscal autonomy, while at the same time reserving a substantial degree of veto power to the Congress. The underlying assumption in our bill was that the local officials would act responsibly with the substantial powers we were delegating to them and that the Congress would not act irresponsibly with its veto powers.

We assumed, therefore, that a spirit of good will would continue to exist between the Congress and the elected Mayor and City Council. It was our view in the Senate that the heart of the entire home rule proposal was the Federal-District fiscal relationship which envisioned the Mayor and the Council as the focal point for determining the general allocation of resources to meet the various needs of the District. The House conferees made it quite clear, however, that their body wanted fiscal control to remain in the Congress. And so, having reached this unprecedented stage in the quest for home rule, it was the judgment of your Senate conferees that we should not place in jeopardy a bill which had finally managed to clear the House. In this respect, every supporter of self-government for the District of Columbia should pay tribute to the chairman and ranking minority member of the House Committee on the District of Columbia and the members of his committee who supported this bill on final passage yesterday in the House.

It is noteworthy, in my judgment, to point out that the conference report received the support of Chairman DIGGS and ranking minority member of the House Committee, Representative ANCHER NELSEN of Minnesota. This, I believe, is ample evidence that the home rule measure before us today is a product which can be supported by all sides.

For those who might be concerned that the constitutional power of the Congress over the affairs of the District is lessened, let me point out that under the terms of this bill, the Congress retains full residual, ultimate, and exclusive jurisdiction of the District. The Congress still has the power to repeal, amend, initiate local legislation, and to nullify individual acts of the Council. Moreover, among other limitations on the Council, it does not have the power to impose a so-called commuter or reciprocal income tax; and the Council cannot enact any legislation which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District.

But on the positive side, the feature about this bill which most strongly commends its support is that it makes possible a progression from the total denial of the rights of citizenship to the opportunity to choose municipal government, not one appointed by the President and confirmed by the Senate, but one selected by the people and responsible to the people.

I had hoped that the final product would go further toward relieving the Congress of some of the burdens of having to pass on every detail of the District's affairs. With the retention of control over the city's budget, I now find

that I shall continue to have responsibility for reviewing and passing judgment on just about every penny which the local government may wish to spend. This, of course, is due to my position as the ranking Republican on the Senate District of Columbia Committee which authorizes local programs, and my position as the ranking Republican on the District of Columbia Subcommittee of the Senate Appropriations Committee. It is my fervent wish and expectation that future congressional-city relationships will be as harmonious and fruitful as those we have enjoyed up to now.

The legislation we shall adopt today has been needed for exactly 99 years. There is no better way for the Congress to meet its own obligations to provide for the government of the Nation's Capital, and no better way to show the Nation and the world that the Declaration of Independence does not stop at the District line, than to adopt this conference report on home rule today.

Mr. EAGLETON. Mr. President, I thank the Senator from Maryland for his customary eloquent remarks. And I echo his fine remarks for the excellent work done by the staff at all levels.

I pay tribute to the Senator from Maryland for his active role in this bill.

No piece of legislation that comes to the floor is ever the product of just one Senator. This bill was truly a bipartisan effort, participated in by all seven members of the District of Columbia Committee.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against my time.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator yield me 5 minutes?

Mr. EAGLETON. Mr. President, I yield 5 minutes to the Senator from Montana.

CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 610, 611, and 612.

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

GRATUITY TO ANNE M. HUSTED

The resolution (S. Res. 218) to pay a gratuity to Anne M. Husted was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate, to Anne M. Husted, widow of Arthur W. Husted, an employee of the Senate at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO MARCELLE S. MOUNTFORD

The resolution (S. Res. 219) to pay a gratuity to Marcelle S. Mountford was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Marcelle S. Mountford, widow of John A. Mountford, an employee of the Senate at the time of his death, a sum equal to six and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO GEORGE E. ARTHEN

The resolution (S. Res. 220) to pay a gratuity to George E. Arthen was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to George E. Arthen, father of Gordon E. Arthen, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the rest of the calendar, beginning with Calendar Order No. 616, House Concurrent Resolution 278, be considered at this time.

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

SOVIET ECONOMIC PROSPECTS FOR THE SEVENTIES

The concurrent resolution (H. Con. Res. 278) authorizing the printing of additional copies of the joint committee print "Soviet Economic Prospects for the Seventies" was considered and agreed to.

NATIONAL WORKERS' COMPENSATION STANDARDS ACT OF 1973

The resolution (S. Res. 212) authorizing the printing of additional copies of the committee print entitled "National Workers' Compensation Standards Act of 1973" was considered and agreed to, as follows:

Resolved, That there be printed for the use of the Committee on Labor and Public Welfare two thousand five hundred additional copies of its committee print of the current Congress entitled "National Workers' Compensation Standards Act of 1973 (S. 2008)".

DISCLOSURE OF CORPORATE OWNERSHIP

The concurrent resolution (S. Con. Res. 59) authorizing the printing of compilation entitled "Disclosure of Corporate Ownership" as a Senate document was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the compilation entitled "Disclosure of Corporate Ownership", prepared by the Subcommittees on Intergovernmental Relations and Budgeting, Management and Expenditures, of the Senate Committee on Government Operations, be printed with illustrations as a Senate document; and that there be printed five thousand additional copies of such document for the use of that committee.

CHILD ABUSE PREVENTION ACT

The concurrent resolution (S. Con. Res. 56) authorizing the printing of additional copies of Senate hearings on the Child Abuse Prevention Act, 1973, was considered and agreed to, as follows:

S. CON. RES. 56

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Labor and Public Welfare one thousand additional copies of the hearings before its Subcommittee on Children and Youth during the present session on the Child Abuse Prevention Act, 1973.

MEASURES PASSED OVER

The bill (S. Res. 214), a resolution authorizing supplemental expenditures by the Committee on Aging for inquiries and investigations was announced as next in order.

Mr. MANSFIELD. Mr. President, over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

The bill (H.R. 11088), an act to provide emergency security assistance authorizations for Israel and Cambodia was announced as next in order.

Mr. MANSFIELD. Mr. President, over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

"IMPEACHMENT, SELECTED MATERIALS"

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 369) to print as a House document committee print on "Impeachment, Selected Materials" which had been reported from the Committee on Rules and Administration with an amendment on page 1, beginning with line 9, insert:

SEC. 2. There shall be printed two thousand thirty additional copies of the document authorized by section 1 of this concurrent resolution, of which one thousand copies shall be for the use of the Senate Document Room and one thousand thirty copies shall be for the use of the Senate.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

THE SUPREME COURT OF THE UNITED STATES

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 375) providing for the printing as a House document of the booklet entitled "The Supreme Court of the United States" which had been reported from the Committee on Rules and Administration with an amendment on page 1, beginning with line 9, insert:

SEC. 2. There shall be printed for the use of the Senate ten thousand three hundred

additional copies of the document authorized by section 1 of this concurrent resolution.

The amendment was agreed to.

The concurrent resolution, as amended was agreed to.

AUTHORIZATION FOR CERTAIN PRINTING FOR COMMITTEE ON VETERANS' AFFAIRS

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 88) authorizing certain printing for the Committee on Veterans' Affairs which had been reported from the Committee on Rules and Administration with an amendment on page 1, beginning with line 10, insert:

SEC. 2. After the conclusion of the first session of the Ninety-third Congress there shall be printed for the use of the Committee on Veterans' Affairs of the United States Senate twenty thousand copies of a publication similar to that authorized by the first section of this concurrent resolution, but with emphasis upon matters relating to veterans' affairs considered by the Senate or by the Committee on Veterans' Affairs of the Senate.

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The title was amended so as to read:

Concurrent resolution authorizing the printing of summaries of veterans legislation reported in the House and Senate during the Ninety-third Congress, first session.

CONTINUATION OF GI BENEFITS DURING THE ENERGY CRISIS

The Senate proceeded to consider the bill (S. 2794) to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions (Rept. No. 93-648), which had been reported from the Committee on Veterans' Affairs with an amendment to strike out all after the enacting clause and insert:

That section 1780(a) of title 38, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Administrator may, subject to such regulations as he shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2).".

Mr. HARTKE. Mr. President, I rise to urge my colleagues to support and promptly pass an emergency measure to protect thousands of veterans from the hardships occasioned by the energy crisis. This bill will insure that GI Bill benefits will continue to be paid to eligible veterans, wives, widows, and children during periods when educational institutions are temporarily closed to conserve energy or are closed due to emergency conditions. As many of you are aware it has become evident in recent weeks that the fuel shortage and the resultant energy crisis is having serious consequences for many educational institutions. Many residential colleges and other schools, particularly those in New England and the North Central States have announced or have under active consideration, plans to extend normal Christmas vacations or to delay the start of the spring semester or quarter. Recent articles in the Washington Post and the U.S. News & World Report illustrate some of the problems which are facing these schools and I ask unanimous consent that the articles be inserted in the RECORD at this point.

There being no objection, the articles were ordered printed as follows:

[From the Washington Post, Dec. 8, 1973]

OIL SHORTAGE FORCING COLLEGE RESCHEDULING

(By Bart Barnes)

Thousands of college students in the nation's northern states are facing extended Christmas leaves this year as a shortage of heating fuel forces prolonged shutdowns of many institutions of higher learning.

Scores of institutions have already announced winter closings ranging from three days to six weeks in an effort to conserve heating fuel. Hundreds of others in the northern states, particularly New England, are developing contingency plans to close down in the event heating fuel runs out, according to college spokesmen.

At Maine's Bowdoin College, for example, a scheduled Dec. 14 to Jan. 7 winter break has been changed to run from Dec. 22 through Jan. 30, Provost Olin Robison said. Semester examinations, originally set to follow a two-week period of reading and term paper writing in January, have been rescheduled for this month.

The January assignments for reading and term papers still stand, Robison said, but students will be expected to do the work at home and mail term papers to their professors.

Princeton students, many of them beginning their Christmas holiday this weekend, leave with no date set for the resumption of classes after New Year's. They were originally set to resume Jan. 7, but since then Princeton has announced it is not sure it can meet that schedule. Toll-free numbers have been set up for students to call after the holidays to find out when classes are to begin again.

Vermont's four state colleges will begin their Christmas recess Dec. 20 and students will be away from school until Feb. 11, when classes begin for the next semester—a three-week extension of the winter break, Provost Robert S. Babcock said. Lost time, he said, will be made up by eliminating most of the Easter vacation and extending the academic year further into June.

For the most part, the pending shutdowns are concentrated in the New England states, particularly among the large number of private colleges in that region. New England is expected to be especially hard hit by the fuel shortage this winter.

But colleges planning shutdowns extend into the Midwest, and the institutions range from Harvard to the University of Maine to Grinnel College in Iowa.

"There is absolutely no way to generalize about what institutions might or might not do," said John F. Morse, director of governmental relations for the American Council on Education. "Some have a backup of coal and they're in good shape."

Among the difficulties, Morse said, is that under current monthly quotas of fuel allocation, colleges have no assurance that they could get in February any of the fuel they would save by closing in January. He said the council has asked that this regulation be changed.

In the meantime, HEW Secretary Casper W. Weinberger is weighing whether or not to recommend special priority for fuel allocation for the nation's elementary and secondary schools.

Weinberger yesterday recommended to the White House energy office that elementary and high schools be required to lower temperatures six degrees from last year's heating levels instead of the previously proposed 10 degrees.

Weinberger's energy adviser, Don Wortman, said the recommendation would put schools on the same basis as residential dwellings. But it would not make schools a high priority fuel customer as requested by the National Education Association.

Colleges were not covered in Weinberger's recommendation.

Weinberger also recommended that school buses using diesel fuel—about 10 per cent of the fuel used for all transportation—be allowed to remain on last year's fuel consumption levels. Wortman noted that any reduction in school busing would create an increased demand for family gasoline.

At Harvard, where the Christmas break has already been extended by one week until Jan. 13, students have been warned that the situation will have to be reevaluated at the beginning of the spring semester Feb. 6.

"This plan goes only to Feb. 6," said the dean of the faculty or arts and sciences, Henry Rosovsky. "I think it is really fruitless to speculate about the future because we just don't know. We'll try and stay open. We'll try and have as little disruption as possible. We'll try and meet our educational responsibilities. But we're just like the rest of the American people, wondering what the hell is going to happen to us."

Like many of the nation's older universities, Harvard is plagued by a number of buildings with antiquated heating systems that have no thermostats and are not subject to temperature controls as a means of saving fuel.

"All you can do," a university spokesman said, "is turn them on or turn them off."

Spots checks of the major state university systems of the Midwest and Far West indicated that most have enough fuel reserves to remain open on their regular schedules. But a number of smaller private colleges, St. Olaf's, Macalester and Augsburg in Minnesota, for example, are shutting down for periods up to two weeks.

[From the U.S. News & World Report, Dec. 17, 1973]

SIXTY-THREE MILLION IN THE SCHOOLS BRACE FOR THE FUEL PINCH

Winter and the energy crisis are aiming a one-two punch at U.S. classrooms. Result: Educators everywhere are putting emergency measures into effect.

Nowhere is the foreboding over fuel shortages sharper than among the people who run America's schools and colleges.

Already it is becoming clear that for most of the country's 60 million students and 3 million teachers, winter will be a season of disrupted education, discomforts and discontent.

Worries are most acute in Northern States, where curtailment of classroom schedules already has been ordered in some instances.

Keeping classrooms warm, however, is only part of the problem foreseen by school and college officials. Even in Southern States, the gasoline shortage is thought likely to reduce busing and student driving drastically.

EFFORTS TO STAY OPEN

Staff members of "U.S. News & World Report," checking with educators at all levels, put together this picture of their concern, and how they are trying to stay in operation:

Many public and private colleges in New

England are extending winter vacation periods by anywhere from one week to a month or more.

Class days are being shortened by schools in some places. Nighttime and week-end activities are being cut back or abandoned.

Busing is being curtailed and in a few cases eliminated. Nobody seems to know whether there will be enough gasoline available to continue massive busing programs ordered by the courts to achieve racial integration.

Using computers, some colleges are organizing hundreds of car pools for the large number of students who use automobiles to get to and from campuses.

Maryland and some other States have asked high-school students to leave their cars at home and use buses. If they don't do so voluntarily, they may be required to by law.

Many athletic contests and cultural events that take students out of town are being canceled. So are field trips.

Lighting is being reduced and temperatures lowered. Use of electrical appliances is being limited, while outdoor lighting displays have been banned almost universally.

WORRY OVER RISING COSTS

School officials everywhere are worrying not only about how to get fuel but how to pay for it. Rising costs of oil, natural gas and gasoline are straining operating budgets already cut to the bone.

"Normally, heating is our fifth-largest budget item," said Frank Graham, superintendent of the Viola public schools in Arkansas. "Now it is third, only behind transportation and teacher salaries."

In Georgia, some schools have been forced to buy gasoline at service stations. Commented one official: "This is murder for school systems that have been getting gas at wholesale prices."

Education is a major consumer of fuel The Columbus campus of Ohio State University, for example, used 1.36 billion kilowatt hours of energy last year. Purdue University's vehicle fleet burned 310,000 gallons of gasoline in the same period. In recent years, the electric bill at American University in Washington, D.C., has topped 1 million dollars.

Now, there are widespread complaints that the Government in Washington is keeping schools in the dark about what they can expect in the way of fuel supplies this winter.

"What we need is some direction from Washington," said Stanley Raub, associate commissioner of education in New York State. "We're just spinning our wheels."

HIGHER PRIORITIES SOUGHT

Proposed federal regulations for fuel oil would classify classrooms, libraries and other nonresidential facilities as "commercial," entitled to 75 per cent of last year's fuel allocations.

School authorities want a higher priority than that. Declared Robert R. Spillane, superintendent of schools in New Rochelle, N.Y.:

"Schools have taken on a lot of social problems and issues in the past, and I don't think they should bear the brunt of the energy crisis. I strongly object to the school leading the way in the crisis by shutting down."

To avoid long shutdowns, legislatures in Illinois, Indiana, Wisconsin and Georgia, among other States, are considering relaxation of rules that require a specific number of school days each year. This would permit school districts to shorten their calendars as weather and fuel conditions warrant. Maryland has declared three extra days of Christmas vacation for public schools as a conservation measure.

In Nebraska, however, schools have been told they will have to make up all lost days by extending classes into June or holding Saturday sessions.

Many schools in South Dakota already are drawing on contingency supplies of heating oil and propane gas, with no sure replacements in sight. Some have put antifreeze solutions into their pipes in anticipation of closing.

"HAND-TO-MOUTH"

The situation in Georgia was described as "almost hand-to-mouth." An official reported that some schools have enough fuel to carry them to March, but others are apprehensive about January.

In an effort to reduce energy consumption by 15 per cent, Governor Dolph Briscoe of Texas has asked schools to end all classes by 2:30 p.m. during January, February and March.

Houston is thinking about a four-day school week and elimination of summer school to save on air-conditioning.

Suggestions for a long December recess have been turned down in Michigan, California and Oregon. In the latter State, the idea was strongly opposed by working mothers.

John W. Porter, Michigan's superintendent of public instruction, reported that 136 of the State's 536 school districts are having difficulty getting fuel, and "it's possible that these districts will have to curtail school hours, extra-curricular activities, or both." He added:

"My biggest concern is that we don't know what to expect. Every day out of Washington we get a different set of guidelines."

The fuel squeeze was especially felt by private elementary and secondary schools, many of which have boarders and extensive busing services. Officials of these independent institutions agreed they would probably have to fend for themselves, since the Government's chief concern will probably be the public schools.

"We are getting ready to roll with the punches," said William Cohen, headmaster of Town & Country School in Silver Spring, Md.

BUSING PROBLEM

Some authorities suggested gasoline might turn out to be a bigger problem than fuel oil in the lean days ahead. Noting that most school districts rely on bus transportation of students, Harry Benedetto, head of the energy task force for the Pennsylvania department of education, said:

"If you can't get them there, heating fuels won't help."

At Spring, a Houston suburb, busing service has been eliminated for 1,300 students who live close enough to schools to walk.

WHERE SCARCITY IS ACUTE

Hardest hit by the energy crisis appears to be the Northeastern U.S., where there is a combination of cold weather and tight fuel supplies. In this area—

All eight branches of the University of Maine have been advised to add a week to winter vacations. Longer mid-term shutdowns are scheduled for State colleges in Vermont and for the University of New Hampshire. The latter will be closed for six weeks.

Tufts University in Medford, Mass., Bowdoin in Brunswick, Me., and other private schools in New England are making similar plans. Lost time is to be made up by shortening examination periods, eliminating spring vacations and working into the summer.

At some of these institutions, fears are being expressed that, unless conditions improve, they will begin losing students to colleges and universities in warmer climates.

Even closing down doesn't always solve fuel problems.

Connecticut school authorities have been told that, if they shut down to conserve fuel, their allocations for the shutdown period will be given to other customers. An oil official said the only way colleges and other large institutions could accumulate fuel saved by shutdowns would be to put their reserves in storage tanks—as Lawrence College, in Appleton, Wis., already is doing to augment its gas heating system. However, few of these institutions have big reserve capacities.

On the Pacific Coast, Oregon State University has ordered major reductions in heating. Most buildings will be heated for only four hours in the morning and two in the evening. In some others, all heat will be turned off. At the beginning of December, Oregon State had less than a week's supply of fuel oil—and no idea where it could get more.

COMEBACK FOR COAL

Whenever possible, institutions of higher education are going back to coal for heating. Ohio University in Athens has always used coal, and anticipates no problems this year, since it lies in the middle of a coal belt.

Lignite, or brown coal, is reported to be the most plentiful fuel in North Dakota—so that is what the University of North Dakota will use for heat.

For most other schools and colleges, the onset of winter offers a far less warming prospect.

Mr. HARTKE. Mr. President, these extended vacations or delayed openings could mean reductions or terminations in the educational assistance payments to some of the 1.2 million veterans, widows, wives, and children currently receiving GI bill benefits unless we pass the measure before you today. Recent regulations issued by the Administrator of Veterans' Affairs have taken care of part but not all of the problem. In order to provide equitable treatment of those attending schools not leading to a standard college degree as well as to clearly establish the authority of the Administrator to continue payments in situations where educational institutions may be temporarily closed due to the energy crisis or other emergency conditions, I introduced S. 2794 on December 11. Yesterday, the Committee on Veterans' Affairs, which I am privileged to chair, met in executive session and unanimously ordered S. 2794 with technical perfecting language favorably reported. The problem of school closings due to the energy crisis has been far reaching and is of considerable dimension. The Veterans' Administration has conducted a preliminary field survey and found the school located in Connecticut, New Hampshire, Maine, Vermont, Iowa, Kentucky, Texas, and Washington will be affected by the energy crisis and will have or are actively considering extended leave policies. Other States may be affected as well.

Mr. President, my good friend, the distinguished Senator from Minnesota (Mr. HUMPHREY) recently wrote me expressing his concern for veterans attending trade and technical schools in his State who would be affected if remedial action were not taken. In his letter to me, Senator HUMPHREY noted:

> Due to the fuel shortage such schools may find it necessary to shorten instructional weeks or close for short periods. Due to restrictions under current law authorized absences for veterans attending these schools, these veterans could face a reduction of full pay benefits due to school closings.

Mr. President, I have also received a letter of support for this measure from James M. Mayer, president of the National Association of Concerned Veterans, an organization representing over 300,000 Vietnam era veterans which has

over 200 affiliated campuses and vocational technical school veterans' clubs. I ask unanimous consent that his letter be included in the RECORD at this point.

There being no objection, the letter was ordered printed as follows:

NATIONAL ASSOCIATION OF CONCERNED VETERANS,
December 15, 1973.

HON. VANCE HARTKE,
Chairman, Committee on Veterans' Affairs, U.S. Senate Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate very much your introducing S. 2794, which concerns itself with "The Energy Crisis And GI Bill Payments For Veterans."

America's energy shortage has already necessitated many changes in our citizens' planning and habits. For example, many schools and universities are considering extended Christmas vacations to conserve energy usage. These extended vacations would save precious fuel but could also spell decreases or terminations for veterans' GI Bill allowances, under current Veterans' Administration regulations.

If enacted, S. 2794 would protect GI Bill students from such losses in their allowances. Therefore, the National Association of Concerned Veterans (NACV), with 200 affiliated campus and vocational-technical school veterans' clubs, fully supports S. 2794. NACV hopes that S. 2794 receives expeditious Committee approval and unanimous Senate passage.

Thank you, Mr. Chairman, for authorizing such a timely and effective measure such as S. 2794.

Respectfully yours,
JAMES M. MAYER, *President.*

Mr. HARTKE. I also ask unanimous consent that appropriate excerpts from the committee's report to S. 2794 be inserted in the RECORD at this point.

There being no objection, the material was ordered printed as follows:

INTRODUCTION AND SUMMARY OF S. 2794, AS REPORTED

S. 2794 was introduced on December 11, 1973 in response to increasing reports of anticipated extended closings of educational institutions due to the energy crisis. Following receipt of the report of the Veterans' Administration to S. 2794, the full committee met in executive session on Tuesday, December 18th and after adoption of a perfecting technical amendment it unanimously ordered the bill, as amended, favorably reported. The bill, as reported, would amend subsection 1780(a) of title 38, United States Code, to authorize the Administrator to continue to pay educational benefits to eligible veterans, wives, widows, and children during periods when educational institutions are temporarily closed pursuant to an established policy proclaimed by the President, such as closings to conserve energy, or are closed due to emergency conditions.

BACKGROUND AND DISCUSSION

During the past 4 weeks, it has become evident that fuel shortages and the resultant energy crisis could have serious consequences for educational institutions. Many school heating plants are older and inefficient units which use larger amounts of fuel and are not readily adaptable to fuel conservation measures. Consequently, many residential, educational institutions, particularly those in New England and the North Central States have announced or have under active consideration, plans to extend normal Christmas vacations or to delay the start of the spring semester or quarter.

The Veterans' Administration, in a preliminary field survey conducted by telephone from various regional offices on November 27 and 28, 1973, found that a substantial number of schools are going to close or are actively considering closing in January. These schools are located in Connecticut, New Hampshire, Maine, Vermont, Iowa, Minnesota, Kentucky, Texas, and Washington. Additional, more detailed information is needed and the committee strongly believes it appropriate that a more thorough survey be conducted promptly by the Veterans' Administration which would cover all educational institutions (including those not leading to a standard college degree). This survey should reveal in greater detail the exact dimensions of the problem which the committee suspects may be even larger than that indicated by current available estimates.

The extended vacation or delayed opening of new schools terms is of particular concern to the committee because such closings could mean reductions or terminations in educational assistance payments to some of the 1.2 million veterans, widows, wives, and children currently receiving GI bill benefits. Under current law in section 1780 of chapter 36, title 38, United States Code, and regulations issued thereunder, veterans and eligible persons attending institutions of higher learning receive monthly assistance payments only during an "ordinary school year" which is generally 9 months. Regulations further provide that college enrolled veterans will not have their monthly assistance payments reduced during the school year for school holidays and short intermissions between semesters or periods of instruction. More extended closings, which are a result of the energy crisis, presented problems that were not covered by existing regulations, however. Consequently, the committee was quite concerned that many veterans or other eligible persons would have their monthly benefit payments reduced or even terminated. In response to these concerns the Administrator of the Veterans' Administration issued new regulations on December 4, 1973 effective immediately, which state in part that:

"At the discretion of the Administrator, payment may be made for breaks including intervals between terms, within a certified period of enrollment during which the school is closed under an established policy upon an order of the President or due to an emergency situation. Leave will not be charged for such breaks."

While such regulations presumably resolve problems for veterans or eligible wives, widows, and children attending colleges, it does not so provide for those attending vocational, technical or trade schools not leading to a standard college degree. Clause 2 of subsection 1780 (a) restricts students enrolled in courses not leading to a standard college degree to no more than 30 days of absence in a 12-month period (not counting as absences weekends or legal holidays established by Federal or State law).

Thus, in order to provide equitable treatment for those attending schools not leading to a standard college degree as well as to clearly establish the authority of the Administrator to continue payments in all situations where educational institutions may be closed by reason of the energy crisis or for other emergency reasons, S. 2794 was introduced on December 11, 1973. The Veterans' Administration reported favorably as to the intent of S. 2794 in its report of December 13, 1973 with suggestions for technical perfecting language which have been generally incorporated into the bill as reported.

S. 2794, as reported, would allow continued educational assistance payments for veterans under chapter 34, and eligible wives, widows, and children under chapter 35 (and continued subsistence allowance payments to veterans enrolled in chapter 31 vocational rehabilitation programs) where an educational institution is temporarily closed under established policy based upon an Executive order of the President or due to an emergency situation. Schools which close due to the current energy crisis would obviously present a situation where the Administrator would permit continued educational assistance payments. It is also the committee's intention in permitting payments in an "emergency situation" to expand the Administrator's authority to continue payments to other situations where schools close due to certain natural calamities such as (1) earthquakes, floods, hurricanes, and severe snow storms; (2) breakdowns of facilities such as boilers and heating systems; and (3) other emergency situations where there is an expectation that the closing will be for a temporary period of time. It is not contemplated by the committee that this authority would be extended to include situations such as the closing of individual schools due to financial problems.

In order to effectively monitor the operation of this discretionary authority, it is expected that the House and Senate Committees on Veterans' Affairs will be notified by the Administrator of the exercise of such authority in any case within 30 days of its implementation.

The committee believes that enactment of this bill is thoroughly and immediately warranted. Veterans, particularly those with dependents must rely upon their educational assistance checks not only for educational costs but for subsistence expenses as well. School closings occasioned by the energy crisis generally will not present realistic opportunities for veterans to find new employment during these periods, and they will depend on their GI assistance for continued living expenses. At the same time, the committee wishes to emphasize that veterans and eligible persons may conserve their entitlement in these cases by electing not to receive payment for the period in which the school is closed. The committee expects the Veterans' Administration to notify veterans in an appropriate manner of their option either to continue receiving payments or to conserve their entitlement.

COST ESTIMATES

In accordance with section 272(a), of the Legislative Reorganization Act of 1970 (Public Law 92–510), the committee requested the Veterans' Administration to estimate any costs occasioned by this bill for the first 5 fiscal years in its report to S. 2794. The report of the Veterans' Administration to S. 2794 (cleared with the Office of Management and Budget) does not provide any estimate of cost and the committee understands from staff conferences that the Veterans' Administration is of the opinion that enactment of this bill would have "no significant cost impact."

Accordingly, the committee, based upon such information as is available from the Veterans' Administration, estimates that enactment of this bill might have some slight but no significant cost impact on the educational assistance program. Should additional costs in fact be incurred in the future, the committee expects to be promptly informed by the Veterans' Administration as soon as such information becomes available.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in person or by proxy of the Members of the Committee on Veterans' Affairs on a motion to report S. 2794, with an amendment, favorably to the Senate:

Yeas—9

Vance Hartke	Clifford P. Hansen
Herman E. Talmadge	Strom Thurmond
Jennings Randolph	Robert T. Stafford
Harold E. Hughes	James A. McClure
Alan Cranston	

Nays—0

Mr. HARTKE. Mr. President, finally, I want my colleagues to know that I have been in contact with the distinguished chairman of the House Committee on Veterans' Affairs, Mr. DORN, who is equally concerned about this problem and who introduced similar legislation this past week. It is my understanding that the House is prepared to act expeditiously on this measure should we pass it today so that it could be sent on to the President prior to our adjournment.

I would like to express my appreciation to all members of the Committee on Veterans' Affairs, for their cooperation and efforts to get this bill promptly reported. In particular, I would like to express my appreciation to the distinguished ranking minority member of the committee, Mr. HANSEN, and to the distinguished ranking minority member of the Subcommittee on Readjustment, Education and Employment, Mr. STAFFORD, for their support and assistance in speeding committee consideration of this measure. I urge my colleagues to support S. 2794 and ensure that the veterans on the GI bill will not have their assistance payments cut needlessly because of the energy crisis.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, that completes the call of the calendar.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, it is anticipated that sometime this afternoon, the Senate will seek to proceed to the consideration of Calendar No. 609, Senate Joint Resolution 176, a joint resolution to authorize the production of petroleum from Naval Petroleum Reserve No. 1.

I ask unanimous consent that when that bill is called up, there be a time limitation of 20 minutes attached thereto, with the time to be equally divided between the distinguished Senator from Nevada (Mr. CANNON) and the distinguished Republican leader, the Senator from Pennsylvania (Mr. HUGH SCOTT), under the usual rule.

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

Mr. MANSFIELD. I thank the distinguished chairman of the committee.

DISTRICT OF COLUMBIA SELF-GOVERNMENT ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on S. 1435, a bill to provide an elected Mayor and City Council for the District of Columbia, and for other purposes.

The ACTING PRESIDENT pro tempore. Who yields time?

ORDER OF BUSINESS

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged to the Senator from Maryland.

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

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the pending business.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum, with the time to be charged to the Senator from Missouri.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR YEAS AND NAYS ON A CUSTOMS CONVENTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in executive session, that it be in order at any time to order the yeas and nays on order No. 24, Executive P, 93d Congress, first session, the Customs Convention on the International Transit of Goods.

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays, as in executive session, on order No. 24, Executive P, 93d Congress, first session, the Customs Convention on the International Transit of Goods.

The yeas and nays were ordered.

DISTRICT OF COLUMBIA SELF-GOVERNMENT ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1435) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes.

Mr. MATHIAS. Mr. President, it has been brought to my attention that there may be some uncertainty as to whether the vast number of Government employees residing in the District of Columbia will be able to participate in the local elections established in the home rule bill.

Mr. EAGLETON. Do I understand that the concern is whether the Hatch Act might prohibit Government employees from undertaking political activity in local partisan elections?

Mr. MATHIAS. Yes. As you know, the Hatch Act prohibits political activity by employees of the executive branch and the District of Columbia government in partisan political activities. Does this bill alter that?

Mr. EAGLETON. Section 740 provides that the fact that someone is employed in the competitive or excepted service of the United States shall not disqualify him from being a candidate in the partisan campaigns for the position of mayor or council member.

Mr. MATHIAS. The home rule bill refers to candidacy for offices and says nothing about whether Government employees may actively campaign for candidates or otherwise actively participate in the partisan local elections.

Mr. EAGLETON. That is correct.

Mr. MATHIAS. Does that mean, then, that all the Dsitrict of Columbia residents who are Government employees are covered by the Hatch Act and will be prohibited from participating in the partisan elections we are authorizing in this home rule bill?

Mr. EAGLETON. The Hatch Act does cover Government employees residing in the District, and as a rule the Hatch Act prohibits Government employees from participating in partisan campaigns and elections. However, the Hatch Act also contains an exemption provision. According to this provision, Maryland and Virginia communities in the immediate vicinity of the District of Columbia, or communities in which a majority of the voters are employed by the Government of the United States, may apply to the U.S. Civil Service Commission for an exemption from restrictions of the Hatch Act.

If a community applies for and is granted an exemption from the Hatch Act, the Government employees residing in that community may participate actively in local partisan political campaigns and elections as an independent candidate, or on behalf of, or in opposition to, an independent candidate.

Mr. MATHIAS. But the District of Columbia has not obtained such an exemption.

Mr. EAGLETON. No. Until now, there have been few elections—partisan or nonpartisan—in the District. Thus, there has not been the pressing need to free individuals for political activity that exists now that the mayor and council members are to be elected in partisan races?

Mr. MATHIAS. Can the District of Columbia qualify for an exemption?

Mr. EAGLETON. As I read the Hatch Act, the District of Columbia could apply and qualify for an exemption since it meets the statutory criterion of being a municipality in which the majority of voters are employed by the Government of the United States. Clearly, with the passage of the home rule bill, the other criterion set forth in the statute will exist; namely, the existence of "special or unusual circumstances" so that "it is in the domestic interest of the employees and individuals to permit that political participation.

Mr. MATHIAS. Is there anything in the Hatch Act which precludes the Dis-

trict of Columbia from eligibility for an exemption?

Mr. EAGLETON. No. The exemption is available to permit political activity and management by employees and individuals to whom the Hatch Act provisions apply, and the Hatch Act applies to "an employee in an executive agency or an individual employed by the government of the District of Columbia." Thus the District of Columbia is eligible to apply for exemption.

Mr. MATHIAS. I take it that the District must demonstrate to the Civil Service Commission that a majority of its voters are employed by the Government of the United States.

Mr. EAGLETON. That is correct.

Mr. MATHIAS. We should understand who is included in the count of employees of the Government of the United States, are military personnel included?

Mr. EAGLETON. Uniformed military personnel are not counted. Civilian military personnel are counted and, if it would make a difference to the outcome, their family members are counted.

Mr. MATHIAS. Are employees of all branches of Government included?

Mr. EAGLETON. Yes. Employees of the executive, legislative, and judicial branches, and of independent regulatory agencies, commissions, et cetera.

Mr. MATHIAS. The status of District of Columbia government employees should be defined.

Mr. EAGLETON. District of Columbia government employees should be counted as employees of the Government of the United States. When the Hatch Act provision relating to the District of Columbia was added to the act in 1940, District of Columbia government employees were considered part of the executive branch of the Federal Government. Specific reference was made to employees of the District of Columbia, in the words of Senator Hatch, "to make the matter clear" that "they are employees of the Federal Government." In fact, the language of the Hatch Act as amended in 1940 read:

SEC. 14. For the purposes of this act, persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States . . .

This section was never amended but the precise language disappeared when the Hatch Act and related laws were revised and reenacted into title 5 of the United States Code. The revisions in 1966 did not make any substantive changes in the law.

Mr. MATHIAS. As I understand then, the legislative history is clear on the fact that District of Columbia government employees should be considered U.S. Government employees for purposes of the Hatch Act and thus for purposes of qualifying for the exemption from the Hatch Act.

Mr. EAGLETON. Yes.

Mr. MATHIAS. How is the application for the exemption made?

Mr. EAGLETON. A letter must be submitted to the Civil Service Commission by residents of the community. A group or individual makes the request by sending a letter to the Office of the General Counsel, U.S. Civil Service Commission, containing the following information:

(a) The name of the area with date and authority of its incorporation and designation;

(b) The number of registered voters and number of government employees registered as voters (estimates from the local registration clerk or other knowledgeable source will suffice if exact figures are not available);

(c) A list of local municipal offices involved;

(d) A statement showing how nominations are made and the manner in which elections are conducted;

(e) The name of the principal government agencies in which the government employees to be affected are employed; and

(f) A concise statement showing in what way the employees and the local municipality will be benefited if the request is granted, and in what way there would be a detriment to their domestic interests if it is denied.

Mr. MATHIAS. Assume for a minute that the District of Columbia applies for and is granted an exemption. The affected employees will now be able to participate in the partisan elections as independent candidates, on behalf of, or in opposition to, independent candidates.

Mr. EAGLETON. Yes.

Mr. MATHIAS. And employees of the District of Columbia Department of Motor Vehicles will be able to participate to the same degree as employees of the U.S. Department of Labor? That is correct?

Mr. EAGLETON. That is correct.

Mr. MATHIAS. Mr. President, I yield 2 minutes to the Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from Maryland.

First, I want to compliment both the ranking member and the chairman of the committee, and the staff, for the diligence they have exhibited in getting us to this historic day. I am sure that we are going to pass the home rule bill. I am equally certain that, over the years, there will be improvements on it. I am proud and pleased to be a small part of seeing the desires of so many people, including leading legislators and citizens of this area, finally reaching fruition today.

I have only one concern, which is not sufficient to cause me to vote against the bill, but it is sort of a red flag, in that I predict we will have some problems because we decided to have partisan elections.

As some Senators know, I was a mayor before I came to the Senate. I served a community that did not have partisan elections. It was a community that had many Federal employees in its environs, perhaps as many as 12 to 15 percent. We went through a charter revision. As we looked at all the facts, we determined that if we turned our elections into partisan elections, there were certain advantages, indeed, the advantages inherent in the two-party system, but there would be disadvantages, too, because we would be saying to many leading citizens and activists who wanted to participate, "You cannot participate because of the Hatch Act."

In this instance, the alternative was to have nonpartisan elections and all residents of the community who otherwise qualified could participate because the Hatch Act would not preclude their activity.

By going partisan here in the District of Columbia, we run into very serious problems with the Hatch Act. I voice this concern, because in the District of Columbia, of the approximate 305,000 registered voters, 135,141 or 40 percent would be subject to the Hatch Act and thus unable to actively participate in the election process. Chairman EAGLETON has attempted to remedy this situation in a separate amendment by excluding the present Mayor and all bona fide City Council candidates from Hatch Act provisions. It would seem, however, that this will only reach a small percentage of this 40 percent and thus will eliminate by law the active participation of many others in the election process of this new form of government.

I sincerely believe that by adopting a partisan election process you will inherently exclude many from the right of self-government. I voice this objection, because this bill comes very close to offering the needed provisions for self-government, but this one provision will deny such a large percentage of their right to participate in a complete home rule.

I think we should have faced up to the issue and asked whether Congress wanted people participating in partisan elections removed from the Hatch Act; and, if not, we should have decided to make this a nonpartisan city election. Participation would not have been minimized. I can cite numerous cities in this country that have nonpartisan elections, with tremendous participation and no problem with the Hatch Act, among them Houston, Dallas, and Albuquerque, N. Mex. Most California communities have nonpartisan elections.

So we would have had activity and participation, and we would not have had the problem of basically eliminating, in this instance, about 40 percent of the electorate of the District which cannot participate actively because they are "hatched," so to speak.

I do not want to change the Hatch Act to let them participate, unless we are willing to do this for all citizens across this land, in all cities, and I do not favor that.

So I indicate my concern and predict a rather serious problem, when the citizens find out that they are indeed given participation with the left hand and that it is taken away with the right hand of the Hatch Act. I hope it does not prove to be too onerous a burden. I hope that participation is maximum and that all citizens who are interested will work toward making home rule actually function on a day-to-day basis in this community. I hope that what I have predicted will not come true.

I thank the distinguished ranking member of the committee for yielding to me.

Mr. KENNEDY. Mr. President, I am pleased to have this opportunity to offer my support for approval of the confer-

ence report on legislation to provide elected city officials in Washington, D.C., the right to self-government is enjoyed by Americans in every city in every State of this Union. But here in the Capital City of the Nation, self-determination and local control have been denied the city's residents for over a century. Every reasonable Member of this Senate will surely agree that Washingtonians, like other Americans, deserve to select those who administer their local government. None of us will deny that the uniqueness of this city, due to the presence of the Federal Government and the national legislature, grants certain perquisites to the Federal Establishment. Yet, I have been dismayed over the continuing obstinacy that has prevented Washington's citizens from exercising the right to self-government.

Throughout the time I have served in the Senate, my efforts have been devoted to the enactment of legislation that would assure the fundamental rights of self-determination to the taxpayers of the Capital City. Election of city government officials is an important step in that direction. And, after this bill, S. 1435, is enacted, it will be fitting to approve other pending legislation to provide full congressional representation for the District of Columbia. For, the people of this city need parity of representation in the Congress, as well as in city hall.

Many of the dedicated, hardworking citizens who have been struggling throughout the years for suffrage in this town are said to be skeptical and apprehensive over the pending legislation. The distinguished chairman of the Senate District of Columbia Committee, who is largely responsible for the success of this bill, succinctly established the facts of life in this regard, when he noted, "That the Lord giveth, and the Lord can taketh away," and so it is with the home rule bill. Congress authorized home rule for the District of Columbia, and Congress can take it away. Writing in the editorial page of the Washington Post on December 17, Robert Asher asserts that the proposed turnover of authority to local control has one big catch to it:

> If some act of the elected city council displeased Congress, it could be repealed on Capitol Hill: similarly, if Congress wished to enact certain restrictions of its own on the city government, it would always be free to do so. Above all, if this whole experiment in modified self-government doesn't work out to the satisfaction of Congress, the entire charter could be pulled out from under the community.

Washingtonians feel apprehensive about this measure, because they know that no other jurisdiction within these United States is subject to such capriciousness regarding the right to vote.

I fully understand the concern of these citizens and I believe I can appreciate their reasons for being doubtful.

But, I also believe this is an opportunity to continue pressing for the full guarantees of self-determination in every respect. Such guarantees rightfully belong to Washingtonians as they do for Bostonians, Chicagoans, New Yorkers, Arlingtonians, and to every citizen of this great Republic. It is not necessary for Washingtonians to prove they deserve the right to representative government. That right is granted by the Constitution.

It is not necessary for Washingtonians to forswear allegiance to any Member of Congress, hoping for a minimum of meddling in local affairs. Authority over local affairs will be extended upon enactment of this measure.

It is only necessary, that we in the Congress, and the American people outside of Washington, commit our energies and attention to the passage of legislation, Constitutional amendments, and other lawful procedures that can deliver the exercise of this basic right to our fellow Americans in our Capital city.

I see the passage of S. 1435 as simply another episode in the campaign for citizens' rights. Passage of this bill is one more clear demonstration that the barriers to self-determination for the District of Columbia are crumbling.

In 1960, Washingtonians voted for the first time in a national Presidential election. The first elected school board members were chosen in 1968. Washington sent its first Delegate to the Congress in 1971.

Next year, 1974, will bring the city its first elected local government.

During these 14 years we have seen more strides toward self-determination than in the 160 years since 1800 when the city became the seat of government.

Full representation by the people and for the people of the District of Columbia is inevitable. And I believe we shall reach that goal before this decade is ended.

Let us, therefore, commemorate what we are doing here today as another advance toward suffrage.

Senator THOMAS EAGLETON, the distinguished chairman of the Senate District of Columbia Committee, rates the highest praise for his work in focusing the attention of the Senate on this very important legislation. He deserves the highest commendation for devoting so much of his time and energy to the completion of this measure.

At the same time, Congressman CHARLES DIGGS, chairman of the House District of Columbia Committee, rightfully deserves the plaudits of us all for his skill in guiding a home rule bill through the House of Representatives. It is not incidental that Chairman DIGGS is the first chairman since 1947 to successfully report a home rule bill to the full House. His personal diligence, his knowledge, his legislative skills, and his deep commitment to the principles of citizens' rights have served to make this measure more than a dream.

It is my hope that this bill will signal the rush to finish the job of ensuring suffrage for the District of Columbia.

Washingtonians have waited long enough. Self-determination is the birthright of every other American. Our failure to implement procedures to install fully representative government for residents of the Capital City is inexcusable. And it is understandable that some observers label that inaction as unconstitutional.

This is a call for the Congress to guarantee that S. 1435 is indeed another blow for freedom and justice.

Mr. BARTLETT. Mr. President, although I have some reservations about the bill we will pass today, it is good that the Congress is finally granting the residents of the District of Columbia a measure of autonomy.

The bill will accomplish the goal of allowing the citizens of the District to participate in their government while retaining in Congress an oversight authority through the power of the purse.

I am disappointed that the bill provides for partisan rather than nonpartisan election of the mayor and members of the District council. While there is provision for some minority party representatives on the District council, it is obvious it will be dominated and run by the majority party. I am concerned about a government which does not have the cleansing effect of the two-party system.

Also the partisan elections will, in effect, deny to Federal employees the opportunity to run for office in the District.

In spite of these objections, I do support the bill. Now will be a time of testing, as well as an opportunity for the people of the District of Columbia. I sincerely hope it is a successful venture, and wish them well.

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

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the conference report. 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 Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator South Carolina (Mr. HOLLINGS), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Massachusetts (Mr. BROOKE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Virginia (Mr. WILLIAM L. SCOTT) is detained on official business.

The result was announced—yeas 77, nays 13, as follows:

[No. 597 Leg.]

YEAS—77

Abourezk	Cranston	Inouye
Aiken	Curtis	Jackson
Baker	Dole	Javits
Bartlett	Domenici	Johnston
Bayh	Dominick	Kennedy
Beall	Eagleton	Magnuson
Bellmon	Fong	Mansfield
Bentsen	Fulbright	Mathias
Bible	Griffin	McGee
Biden	Gurney	McGovern
Brock	Hart	McIntyre
Buckley	Hartke	Metcalf
Burdick	Haskell	Mondale
Byrd, Robert C.	Hatfield	Montoya
Cannon	Hathaway	Moss
Case	Hruska	Muskie
Chiles	Huddleston	Nelson
Clark	Hughes	Nunn
Cook	Humphrey	Packwood

Pastore	Roth	Symington
Pearson	Schweiker	Taft
Pell	Scott, Hugh	Talmadge
Percy	Sparkman	Weicker
Proxmire	Stafford	Williams
Randolph	Stevens	Young
Ribicoff	Stevenson	

NAYS—13

Allen	Hansen	Saxbe
Byrd, Harry F., Jr.	Helms	Stennis
Fannin	Long	Thurmond
Goldwater	McClellan	Tower
	McClure	

NOT VOTING—10

Bennett	Eastland	Scott, William L.
Brooke	Ervin	Tunney
Church	Gravel	
Cotton	Hollings	

So the conference report was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 1435

Mr. EAGLETON. Mr. President, I move that the Senate proceed to the consideration of House Concurrent Resolution 402, directing the Secretary of the Senate to make corrections in the enrollment of S. 1435.

The PRESIDING OFFICER (Mr. CLARK). The concurrent resolution will be stated.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 402) directing the Secretary of the Senate to make corrections in the enrollment of S. 1435.

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

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

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

The concurrent resolution (H. Con. Res. 420) was agreed to, as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1435), to reorganize the governmental structure of the District of Columbia, to provide a charter for local government in the District of Columbia, subject to acceptance by a majority of registered qualified electors in the District of Columbia, to delegate certain legislative powers to the local government, to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In the parenthetical phrase in section 602(a)(5) of the bill, strike out "the Act of July 16, 1974" and insert in lieu thereof "title I of the District of Columbia Income and Franchise Tax Act of 1947".

(2) At the end of section 738 of the bill, insert the following subsection:

"(h) The foregoing provisions of this section shall take effect only if agreed to in accordance with the provisions of section 703(a) of this Act."

(3) In the first sentence of section 712 of the bill, strike out "711" and insert in lieu thereof "404(a)".

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate resumed the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 2776, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE).

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Are we under controlled time at this time?

The PRESIDING OFFICER. No, there is no control of time.

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Phil McGance and Richard Grundi be permitted the privilege of the floor during the consideration of the pending measure and amendments thereto.

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

Mr. MONDALE. Mr. President, I ask unanimous consent that the Senator from Iowa (Mr. CLARK) be added as a cosponsor of amendment No. 923, as modified.

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

Mr. HUGH SCOTT. Mr. President, I yield myself 1 minute on the pending bill.

The PRESIDING OFFICER. There is no time limit on the bill.

ANNOUNCEMENT OF THE PRESIDENT'S INTENTION TO SIGN CERTAIN BILLS

Mr. HUGH SCOTT. Mr. President, I rise simply for the purpose of stating that I am informed the President will sign the District of Columbia home-rule bill when it reaches his desk. I am also informed that he intends to sign, on the assumption these bills are in the same condition they are now, the manpower bill and the health maintenance organization bill when they reach his desk.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

Mr. BUCKLEY. Mr. President, I call up my amendment to the Mondale amendment, identified as No. 928.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read amendment No. 928 as follows:

In subsection (d), after the phrase "includes crude petroleum or any refined petroleum derivative thereof," add the words "and coal and any derivative thereof";

In subsection (e)(1), after the words "crude petroleum" in the first line of said subsection, add the words "and coal";

In subsection (e)(2), after the words "refined petroleum products" in the first line of said subsection, add the words "and derivatives of coal";

The PRESIDING OFFICER. On this amendment there is a 30-minute time limit, to be equally divided.

Who yields time?

Mr. BUCKLEY. Mr. President, I yield myself such time as I shall utilize.

First of all, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, it will not take more than a minute or two to describe the purpose of this amendment. Whereas I fundamentally disagree with the amendment of the distinguished Senator from Minnesota, I do believe that, if it is destined to be adopted, it ought at least to be as effective as possible and not counterproductive.

The Senator from Minnesota is concerned over the rise in prices for crude oil and petroleum products that we have recently experienced, and would, therefore, authorize the Administrator of the new Energy Administration to set prices.

We have learned from the experience we have had with the effect of price controls on natural gas what effect that has on all other forms of energy that can be substituted for it. For example, one effect of having artificially low prices for natural gas has been to close down some coal mines, while industries and utilities turned to the cheaper fuel on a British thermal unit basis.

I believe, therefore, that if we are to have vested in one agency an overview of pricing in this country, that agency, that administrator, must necessarily be able to have an overview over all of the competing fuels we have in this country. Otherwise we will see distortions in the marketplace.

Second, this Congress has mandated the conversion of industries and utilities from natural gas to other fuels. This will create an enormous surge in demand for coal—and this I welcome; I believe we do want to move in that direction—but it raises the specter of the distortion which concerns the Senator from Minnesota.

I would, frankly, like to see no controls over petroleum products or over coal, but my amendment will bring consistency. It will make sure that what is done with re-

spect to one fuel will not have unexpected and counterproductive effects with respect to another.

I therefore urge my colleagues to adopt the amendment.

I am willing to surrender the remainder of my time if the Senator from Minnesota is willing to surrender his time after his preliminary remarks.

Mr. MONDALE. Mr. President, I yield myself 2 minutes.

I would like to comment briefly on the amendment which the Senator from New York (Mr. BUCKLEY) has offered to my amendment. The Senator would seek to add coal to the scope of my amendment, ostensibly as an "improvement." However, those in this body knowledgeable in the coal industry have uniformly told me that this would be unwise, and that it would be treating two very different industries in an unfortunate manner.

Our first concern at this time must be to protect the American consumer from rising prices and exorbitant oil company profits. Heating oil for homes and gasoline for cars have far more direct impact on the American consumer than does coal, which is primarily used as boiler fuel in industrial operations. True, the Administrator of the Federal Energy Administration does have power over coal. But my amendment merely attempts to set standards for him to use in one area—the key area of pricing crude oil and petroleum products. He has the authority over coal, and the Congress should explore whether we should enact similar types of standards to govern the Administrator in his handling of coal pricing. But we should not attempt to do both tasks in one amendment.

I am certainly willing to reduce the amount of time needed to act on this amendment. Before I do so, when the distinguished Senator from West Virginia (Mr. RANDOLPH) is prepared. I will be glad to yield to him such time as he desires on this amendment.

Finally, I would simply refer my colleagues to page 42195 of yesterday's CONGRESSIONAL RECORD, in which the distinguished Senator from Washington (Mr. JACKSON) makes it very clear that he opposes the pending amendment offered by the Senator from New York, for the reasons stated, but particularly because the oil and coal industries are different and should not be treated as comparable industries for the purpose of the subject matter before us. He said: "It would seem to me that it would make more sense to handle it as a separate matter," and that it would be manifestly unfair to attempt to put coal in the same category as oil.

This statement comes from the Senator who has done more than any other Member of this body to study and seek reforms and help the public in the midst of this energy crisis. I think that is a very strong statement that should be persuasive to the Senate.

I now yield to the Senator from West Virginia 10 minutes.

SENATOR RANDOLPH OPPOSES AMENDMENT WHICH WOULD HAMPER COAL PRODUCTION

Mr. RANDOLPH. Mr. President, I speak in opposition to the amendment offered by the able Senator from New York (Mr. BUCKLEY). His amendment would include coal, so that it would appear in all the sections, as I understand it, of the amendment of the diligent Senator from Minnesota (Mr. MONDALE).

I began by saying to my colleagues in the Senate that only this morning on the "Today Show," originating live from New York City, I heard Frank McGee interview Carl Bagge, the president of the National Coal Association. I recall that he asked Mr. Bagge: "Is it not true that the coal industry is owned by petroleum companies." That was the essence of his question. I recall distinctly that Mr. Bagge replied, "Well, that is not correct. There are approximately 4,000 separate entities, coal companies, operating in the United States of America, and less than 20 percent of the total of production comes from an affiliation of a subsidiary coal company as a part of a petroleum enterprise."

I give this as a beginning of my remarks because of the discussion on a television interview which I am sure has wide distribution and a very large listening audience.

The time is here when coal is being called on to assume a greater role in the U.S. energy supply system. In fact, I heard the Senator from New York say that in the close of his remarks just a few minutes ago. And so that need is recognized.

I think it is important that the Congress realize we cannot afford to take actions in this Chamber that will restrict the ability of this vital form of energy—a growing form of energy that we know can and will be used—as it attempts to raise the capital required to open new mines.

New mines do not open in 2 or 3 months. New mines, both deep mines and surface mines, require a period of approximately 2 years before they can be opened. The costs are very, very large in connection with the opening of these mines.

It is essential that the coal companies and the miners of this country be provided with the support necessary to meet the challenge of increased coal production.

By the suggestion that only actual costs associated with increased coal production can be passed on to the marketplace, we are also calling for reduced rates of return for coal.

Mr. President, if our objective in this legislation is to increase energy supplies, then we should be moving to insure the financial solvency of our energy supply industries. The inclusion of coal, as proposed in this amendment, would have a reverse effect. The coal industry is in financial difficulty compared to the other energy industries and other segments of our economy.

Standard & Poor has compared 425 industrial companies against the coal industry. The rate of return during 1972 on the book value for the coal industry is 2 percent less than for the 425 industries I have mentioned under the Standard & Poor survey.

Mr. President, this situation, according to the First National City Bank has existed for several years. In four out of five years between 1967 and 1971, the rate of return for the coal industry has been below that of all manufacturers in the United States.

Pointing to individual companies—a medium-sized coal company, and we have many of these coal companies in our State of West Virginia—I mention the Valley Camp Coal Co. This company in 1972—and I wish there were more Members on the floor of the Chamber to hear these figures—had total assets of $52,300,000. However, the return to that company on investments was only $1,661,000.

That represents a rate of return on total assets of between 2 and 3 percent. And I do not feel that the Senator from New York would believe that to be a fair rate of return.

Another example is the Coal Division of the Eastern Gas and Fuel which has operations throughout Appalachia. Between 1971 and 1972, this company had an increase in revenues from $149.9 million to $157.4 million. However, the disturbing fact—and it is a fact—is that the pretax income of this company actually decreased from $10,200,000 down to $5,300,000 during this same period.

This has resulted in less than a 5-percent rate of return on total assets of this company.

A third example is the Westmoreland Coal Co. which had a 4 percent rate of return on its total asset.

I think the point that we must seriously consider, Mr. President, is that our domestic coal industry is not financially secure. Yet they are being called on to increase the supplies of coal, at the same time this amendment by the Senator from New York (Mr. BUCKLEY) is pending.

I believe we must realize that if it becomes law, it would have the effect of decreasing the modest profit margins that I have mentioned.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Who yields time?

Mr. MONDALE. Mr. President, I promised that I would at this time yield 2 minutes to the junior Senator from Kentucky.

The PRESIDING OFFICER. The junior Senator from Kentucky is recognized for 2 minutes.

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Minnesota for yielding to me.

Mr. President, I have just a very brief comment. I oppose the amendment to the amendment as offered by the Senator from New York.

The differences between the petroleum and coal industries have been detailed by the distinguished senior Senator from West Virginia and the Senator from Washington.

I would like to address myself to another aspect of the amendment offered by the Senator from Minnesota.

This amendment is designed to prohibit the undue exportation of commodities in short supply which would result in undue price increases.

We must consider the difference between coal products and petroleum

products. In this regard, the nature of the marketing of coal is not such that large numbers of customers are waiting in lines leading up to the coal tipples to buy the product. However, that is the case with gasoline today.

Mr. President, most increases in coal sales are to power companies—companies that are already under State and Federal price control. So the impact on the average consumer is already mitigated to a great degree.

The PRESIDING OFFICER. The 2 minutes of the Senator has expired.

Mr. HUDDLESTON. This simply does not lend itself to price gouging or undue price increases of the nature attendant in the petroleum situation.

Coal and petroleum are vastly different at the marketing level, in the structure of the companies in the respective industries, and in their entire operations, from production to sales.

I believe that the amendment of the Senator from Minnesota, without the addition of coal, is the appropriate step forward at this time.

Mr. RANDOLPH. Mr. President, I would like to add this comment to that of my colleague from Kentucky, an important coal-producing State.

It is a fact that there is a certain uniqueness to the coal production program which is not embraced in other segments of the energy production activities.

The Senator from Kentucky will recall that Congress addressed itself in 1969 to the Coal Mine Health and Safety Act. We did that even before coming to grips with the across-the-board Occupational Health and Safety law, one year later.

The 1969 act requirements have resulted in substantial investments of capital to insure the protection of our miners—and those requirements must not and will not be relaxed. The health and safety of our miners must be the highest priority.

The PRESIDING OFFICER. All time of the Senator from Minnesota has expired. The Senator from New York has 12 minutes remaining.

Mr. BUCKLEY. Mr. President, I would like to say that I have rarely heard as eloquent a speech upon why the amendment should not be adopted as the one made by my respected friend from the State of West Virginia.

I think that if we want to get rid of shortages, whether in the field of coal or in the field of oil, we need to assure that there is the potential for profit that will stimulate the very large investments required, huge investments in each field.

We ought to understand that the two industries are not comparable, the principal difference, of course, being the very much higher risk associated with the exploration for oil and gas.

I would say, however, that whereas I hope that the Senator from West Virginia will join me in voting against adoption of the Mondale amendment, if we are going to go along the path of that philosophy, we need to have an even-handed treatment of the price in all sectors of the energy market because of the way they interact one with the other.

Now, I very much appreciate the wisdom and soundness of the statement by my friend from West Virginia to the effect that without the prospect of profits we cannot see investment, and that when we talk about profit we mean as a percentage return on investment, and that is why I am encouraged that the Mondale amendment specificially provides that the administrator may waive the restrictions on pass-throughs of cost, where that is necessary to increase investment in new domestic exploration and production.

Mr. RANDOLPH. Mr. President, I do not want to break the continuity of the remarks of my friend from New York, and I hope in perhaps a minute's time he can yield to me.

Mr. BUCKLEY. Mr. President, if the Chair will alert me when I have 5 minutes remaining, then I will be glad to yield to the Senator from West Virginia.

Mr. President, the Senator from West Virginia cited the fact that there are 4,000 independent coal producers, and that therefore the coal industry cannot be placed under the umbrella of the oil industry merely because the oil industry controls some coal fields.

I thoroughly agree, just as we cannot attribute to pipeline companies a domination over gas production, given the fact that over 5,700 independent gas producers are currently subject to FPC regulations.

The Senator from West Virginia quoted some figures from the First National City Bank of New York showing that the rate of return on coal mining is significantly lower than that for manufacturing corporations as a whole, just as the same source confirms that in 1972 the petroleum industry's return on net worth was 10.8 percent, compared to an all-manufacturing average of 12.2 percent.

I suggest, in short, that the areas of comparability far outweigh the areas of difference, and that that approach to our energy needs that is appropriate to one segment of the energy industry is appropriate to other segments of the energy industry.

We have been talking about the danger or fear of excess profit. That means profit in excess of a fair return—profit in excess of that which will assure continuing investment in the enormous expansion of all sources of energy which we require if we are to satisfy our national needs.

It is for this reason that I believe that consistency and the ability to make the machinery envisaged in the Mondale amendment work requires that we cover the entire energy front. But better still, I believe we should not invoke the measure at all.

Mr. President, I reserve the remainder of my time, and I am glad to yield 2 minutes to my friend from West Virginia.

Mr. RANDOLPH. I thank the Senator from New York.

I return now to my comments I addressed earlier to the Senator from Kentucky. I spoke of the 1969 Coal Mine Health and Safety Act. We enacted the Coal Mine Health and Safety Act because of the unique danger involved in the coal industry operation, the hazards and death and injury to coal miners. When we placed that measure in law, we added a tremendous sum to the cost of operations of coal mines in America and I know my colleague is familiar with that situation; will he not agree?

Mr. HUDDLESTON. There is no question about that, plus the imposition of a severance tax on coal in several States. In my own State of Kentucky, we have a substantial severance tax. And beyond that, I think it should be pointed out that this bill itself provides authority for the Administrator to exercise control over the coal industry as well as all energy-producing industries with regard to prices, to cost of production, and to stimulating production.

Mr. RANDOLPH. Mr. President, we know that the conference on the National Energy Emergency Act has been going on, in fact all day yesterday, and we participated until 11:30 last night, and now we are in session again.

I think it is very important for us to realize that we are thinking in terms of major energy shortages and how we can meet them. I suggest that to be a symptom also of a much deeper problem for our American society. I feel the only solution for the basic problem is increased supplies, and I sense that the Senator from New York and I are in agreement on that, at least as a basic statement.

This will require vast new amounts of capital for coal production as well as oil and gas production, as he has indicated. These moneys should be raised in the private sector, but this will require the strongest financial support.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. RANDOLPH. I reemphasize the strongest financial support for all the energy industries will be necessary if we are to solve the energy shortages.

We must be careful, in any action that we take, to minimize inflation or restrict profits, if these would have the effect of handicapping energy industries so that our Nation would be unable to raise necessary funds for adequate energy production in the years ahead.

The PRESIDING OFFICER. The Senator from New York has 3 minutes remaining.

Mr. BUCKLEY. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. I thank my distinguished colleague.

I would like to indicate once again my support for the Mondale amendment as modified by the Kennedy amendment. I think it is an excellent amendment. But I also support the modification of the amendment now pending by our distinguished colleague from New York.

It would seem odd that coal fields would run from Illinois right into Kentucky, and we all certainly have many of the same problems, as acknowledged by our friend from West Virginia, and yet we come up with different conclusions on this problem. I think it is possibly due to the interpretation the Senator from Illinois places on the amendment.

As I read the amendment, it is permissive, and not mandatory.

Also, it extends the Economic Stabilization Act's authority over energy prices for the period of this act, which would carry that authority under the FEAA administration up through June of 1975, so that the consumer can feel somewhat comforted. But it also provides this authority for the administrator: If he feels that higher costs can be justified and will stimulate increased supplies which eventually will bring down costs, then the administrator is able to authorize the increases.

It is for that reason, to give the administrator, the so-called energy "czar," that increased leeway to use the pricing mechanism as a stimulus specifically to increase production and eventually, therefore, not only meet the energy problem but also bring the cost down through price increases that would increase supplies, that I support the amendment of the Senator from New York.

The PRESIDING OFFICER. The Senator from New York has 1 minute remaining.

Mr. BUCKLEY. Mr. President, I am prepared to yield back that 1 minute, unless the Senator from Oklahoma wishes to speak, in which case I reserve the remainder of my time.

Mr. BARTLETT. Mr. President, if the Senator from West Virginia will yield, I felt that his argument was very compelling about the plight of the owners of the small coal companies, and I know he is very familiar with the independent gas producers and oil producers in West Virginia. Are not the arguments he made for coal substantially identical to the arguments we can make to substantiate the fact that this amendment of the Senator from Minnesota is not in the interest of the oil and gas producers of West Virginia as well as the coal producers?

Mr. RANDOLPH. In response, I share the concern of the Senator from Oklahoma especially as it affects the small independent producers of natural gas, petroleum, or coal.

Mr. BARTLETT. I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER (Mr. CLARK). All time has now expired on this amendment.

The question is on agreeing to the Buckley amendment to the Mondale amendment.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Massachusetts (Mr. BROOKE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Maryland (Mr. MATHIAS) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

The result was announced—yeas 30, nays 60, as follows:

[No. 598 Leg.]

YEAS—30

Aiken	Domenici	Packwood
Bartlett	Dominick	Pearson
Beall	Fannin	Percy
Bellmon	Fong	Roth
Bentsen	Goldwater	Stafford
Brock	Griffin	Stevens
Buckley	Gurney	Taft
Burdick	Hansen	Thurmond
Curtis	Hruska	Tower
Dole	McClure	Weicker

NAYS—60

Abourezk	Hatfield	Moss
Allen	Hathaway	Muskie
Baker	Helms	Nelson
Bayh	Huddleston	Nunn
Bible	Hughes	Pastore
Biden	Humphrey	Pell
Byrd, Harry F., Jr.	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Johnston	Schweiker
Chiles	Kennedy	Scott, Hugh
Clark	Long	Scott, William L.
Cook	Magnuson	Sparkman
Cranston	Mansfield	Stevenson
Eagleton	McClellan	Symington
Ervin	McGee	Talmadge
Fulbright	McGovern	Tunney
Hart	McIntyre	Williams
Hartke	Metcalf	Young
Haskell	Mondale	
	Montoya	

NOT VOTING—10

Bennett	Eastland	Saxbe
Brooke	Gravel	Stennis
Church	Hollings	
Cotton	Mathias	

So the Buckley amendment to the Mondale amendment was rejected.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. President, I ask unanimous consent that at this time, out of order, I may call up my amendment which is at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. I will explain what it is about. It is a noncontroversial amendment. It relates to an investigation we have underway in the Permanent Subcommittee on Investigations. We ran into a case in which oil was exported out of the United States and we have also received reports of petroleum products being exported, laundered oversea and brought back at a higher price.

It appears that we are not permitted, by reason of a statute that was enacted several years ago, to receive information on other such instances from the Department of Commerce, nor can that Department make public this data.

The floor leader of the bill will accept the amendment, and the ranking minority member on the Investigations Subcommittee is joining in the amendment. All the amendment would do would be to repeal the prohibition on making such export information available to the Congress and other governmental agencies, except where the President makes a finding that national security is involved.

I may say that what has gone on here is a real scandal, and we in Congress need to know about the export of all petroleum products during this period of shortage.

It will only take 3 minutes, if the Senator will defer.

Mr. MONDALE. With the understanding that we return to the pending amendment.

Mr. BUCKLEY. Mr. President——

The PRESIDING OFFICER. The Senator from New York.

Mr. BUCKLEY. I do not object.

Mr. JACKSON. It will take me about 3 minutes.

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

The amendment will be stated.

The legislative clerk read as follows:

At an appropriate point in the bill, insert a new section to read as follows:

SEC. —. (a) Notwithstanding any other provision of law, the Secretary of Commerce is authorized and directed to establish and maintain the file which shall contain information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current and shall include, but shall not be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vessel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export.

"(b) Upon request of any Committee or Subcommittee of the United States Senate and House of Representatives or the head of any Federal agency, the Secretary shall promptly provide any information maintained in the file and a report thereon to such Committee, Subcommittee, or agency head, except where the President finds such disclosure to be detrimental to national security."

Mr. JACKSON. Mr. President, the amendment I offer is cosponsored by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Illinois (Mr. PERCY).

This amendment would correct a situation in which the Department of Commerce jealously guards information received from exporters, from the public, other Government agencies, and from the Congress, causing impediments in performing its legislative responsibilities.

This rigid approach brings ludicrous results.

Consider the current controversy surrounding the export of petroleum products while the country faces an energy crisis.

To exercise its monitoring responsibilities and determine who is exporting distillate fuel oils, the Department of the Interior had to request the Secretary of Commerce to make a determination that it would be in the "national interest" for Interior to receive such figures. So even the Interior Department could not get the information. Luckily, the Secretary

of Commerce saw fit to grant such a waiver. But I can see no need for such a requirement since withholding information from other Government agencies which is necessary for them to carry out their jobs cannot serve the national interest.

When I directed the staff of Permanent Subcommittee on Investigations, which I chair, to investigate exports of petroleum products during this crisis period, they were blocked from obtaining the information necessary to examine this matter. We had to go to the ridiculous extreme of serving a subpena on a company in Texas, thought to have made such exports, when definite and precise information was available right here in Washington.

Except for the most critical national security reasons, there should be no restriction on the disclosure of information pertaining to exports by individual companies. The amendment I introduce today, however, only lifts those restrictions—found in the Export Administration Act of 1969—as they relate to exports of energy supplies.

My amendment would require intergovernmental disclosure of such information needed to carry out governmental duties and functions.

Furthermore, it would require disclosure of such information to the Congress so that it might properly perform its responsibilities.

Finally, my amendment does provide protection for the national security interests.

The amendment contains a proviso which allows the Secretary of Commerce to refuse disclosure to the Federal agency and the Congress upon a finding by the President that disclosure would be detrimental to the national security.

In summary, my amendment would insure the proper disclosure of information critically important to executive branch officials and the Congress in dealing with the energy crisis.

Mr. RIBICOFF. Mr. President, I accept the amendment.

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

Mr. JACKSON. I yield.

Mr. AIKEN. I have one question. Assuming shipments of oil are made from a country which embargoed shipments to the United States, if these are made to a third country which is on supposedly friendly terms, and then if shipped to the United States, do we have any record of such imports?

Mr. JACKSON. I assume that the Customs would have a record of imports.

Mr. AIKEN. Are they available?

Mr. JACKSON. I know of no statute that prohibits the public disclosure of that information on importing.

Mr. AIKEN. That prohibits it.

Mr. JACKSON. They are available. But what we cannot get——

Mr. AIKEN. I know, I am for the Senator's amendment as far as it goes, but I was thinking of a report.

Mr. JACKSON. I understand that the information relating to Customs records are public documents which can be obtained.

Mr. AIKEN. But it is difficult to sort it out, I suppose.

Mr. JACKSON. Yes.

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

Mr. JACKSON. I yield.

Mr. FANNIN. Do I understand this would be public information? Is that the desire of the Senator?

Mr. JACKSON. Yes, as it relates only to the energy situation and if it is deemed appropriate by the congressional committee or subcommittee. The expectation would be that it would not be made public—since Congress could not be able to obtain such information—where the President certifies it does affect the national security of the country.

Mr. FANNIN. Would the Senator think it would interfere with shipments coming to this Nation at this time?

Mr. JACKSON. Shipments out. It has nothing to do with imports. It only relates to exports. The public is up in arms. We have these rumors floating around about the export of oil. We cannot get information necessary to properly investigate these cases.

Not only that, but the Department of Commerce cannot give it to other departments of the Government, including departments directly related to the Energy Administration.

Mr. McCLURE. Mr. President, will the Senator yield for a question.

Mr. JACKSON. I yield.

Mr. McCLURE. This amendment provides that the Secretary of Commerce shall maintain files and provide information. Other statutes provide that the Secretray of Commerce has certain responsibilities with respect to the Bureau of the Census and to Census records. Statutes that govern that information provide that that information shall not be made public.

Could this amendment be read to indicate that the Secretary of Commerce shall by implication find that other laws relating to confidentiality shall not be governed by this language, so that the census records will no longer be confidential?

Mr. JACKSON. Let me make it clear. In order to export it is necessary to have an export license. This is handled by the Department of Commerce. The Bureau of the Census is within the Department of Commerce and has absolutely nothing to do with this. Laws pertaining to the Bureau of the Census relate to personal confidentiality. That is required by the Bureau of the Census within the United States. My amendment runs only to the export information relating to energy. It does not include other items not related to energy and data within the Bureau of the Census.

Mr. McCLURE. I appreciate the answer of the Senator from Washington, because I am certain that it is not his intention to repeal earlier statutes relating to confidentiality of information. I am not certain that the language of the amendment makes that clear. I hope that the language relating to the proposed law will protect the confidentiality which is so essential to privacy and the right to privacy of all our citizens.

Mr. JACKSON. I assure the Senator from Idaho that the amendment is restricted to the export area, and I emphasize that it applies only to energy products. It does not include the Bureau of the Census or anything other than what I have referred to in my statement.

Mr. McCLURE. So anyone looking at the language or interpreting it later must do so in the light of the Senator's explanation.

Mr. JACKSON. When the legislative record we have made here is read, the intent is made clear. The area to be covered is a narrow one. It deals specifically with such energy items as coal, crude oil, residual oil, or any refined petroleum product.

Mr. McCLURE. I thank the Senator for his interpretation, because I think it could be terribly important in an interpretation of the language at a later point.

Mr. HANSEN. Mr. President, will the distinguished Senator from Washington yield for a question?

Mr. JACKSON. I yield.

Mr. HANSEN. I can fully appreciate the inflammatory nature of an action that would withhold information in an area as important as this one. I share the Senator's concern in trying to take all such steps as will make public whatever information can be made public, subject, of course, to the caveat of which he spoke, that would be involved by the President if national security were an issue.

I would hope that we would not make a practice of bypassing the appropriate committees on the Senate side. It would seem to me that it might be indicated, not to refer the bill to the Committee on the Judiciary, but I would hope we might get an expression from the chairman of that committee as to the implications he might see in the amendment, in the hope we could consider the meaning of the language.

Mr. JACKSON. May I say the administration itself was flabbergasted to realize that other agencies within the executive branch cannot even get the data. We are to blame. Congress passed this law.

Mr. HANSEN. It is an old law, I understand.

Mr. JACKSON. It is in the law.

Mr. HANSEN. I say, it is an old law. Is that right?

Mr. JACKSON. Yes; one that has not been passed recently, but may I say this amendment, of course, is being offered because of the situation we ran into in the Permanent Investigations Subcommittee, which is a subcommittee of the Committee on Government Operations. I think this is an appropriate place for it. I know of no opposition on the part of the administration. I cannot conceive of anyone here objecting to it. It is a case where firms have sent petroleum products out of the United States, in this period of hardship, when we are asking all Americans to undertake added burdens. It seems to me we have a duty to act immediately to collect necessary information and I know of no opposition to this amendment.

Mr. HANSEN. Mr. President, if the chairman will yield, I will just make this one additional point of information. It is my understanding, and I would defer to my good friend from Connecticut for verification, that normally legislation dealing with international trade would be subject to purview by the Finance Committee. Am I correct?

Mr. RIBICOFF. I do not believe it is international trade. My feeling is that this would be under the jurisdiction of the Banking, Housing and Urban Affairs Committee.

Mr. HANSEN. I see.

Mr. RIBICOFF. But I do believe that the point raised by the distinguished Senator from Washington is proper at this time. We are dealing with the basic energy problem. The Permanent Investigations Subcommittee of the Committee on Government Operations is investigating the question of energy. At a time of shortages, we are trying to remedy a situation of a substantial amount of exports going out of this country in many mysterious ways, and of petrochemicals and oil going out in order to encourage a black market to bring higher prices by this circuitous trip, and depriving the American people of a necessary supply of petrochemicals and petroleum-related products.

Mr. HANSEN. Perhaps I misunderstood the Senator from Washington, but I thought the information he had prompted him to make the allegation that an American company, or at least a company based in this country——

Mr. JACKSON. Oh, it is an American company.

Mr. HANSEN. Exported the oil and, having laundered it abroad, brought it back in, at a profit. So I do not think he was making the point of a diminution of supply but, rather, that the American public was being gouged by this procedure.

Mr. JACKSON. That is correct.

Mr. HANSEN. I would say this——

Mr. JACKSON. We had to send a man all the way down to Texas to get the information in one case. We can always get it. But why should we not be able to get it right here? I think it is outrageous that this information would be treated as confidential and withheld.

Mr. HANSEN. I do not disagree with that at all, but I would hope we would keep a few things in perspective.

Number one, insofar as the Senator from Washington is concerned, he has not made an allegation that by virtue of this example there has been any diminution in supply. At least I understood him to say there had not been.

Secondly——

Mr. JACKSON. Not in this case, but I want to say to the Senator I want to look through those files and through the staff papers and find out who all is exporting abroad because they can get higher prices then if they send it back. We cannot even get those files.

What are we coming to in this country if the Congress of the United States cannot get the files? And may I say the other agencies of Government cannot get the files on exports, including Mr. Simon.

Mr. HANSEN. I do not disagree with the Senator from Washington——

Mr. JACKSON. What is the problem?

Mr. HANSEN. I am saying that there is some danger——

Mr. JACKSON. What danger? What is the danger?

Mr. HANSEN. I will be happy to say what it is if the Senator will bear with me just one moment.

Mr. JACKSON. All right.

Mr. HANSEN. I think there is some danger in coming to this body with an issue that is as inflammatory as energy is and saying we have to do something right now, because it may be that tomorrow we would have some other proposal.

My only concern is that we do not, in our haste and our enthusiasm to see to our vital needs, bypass the normal techniques that time has proven to be extremely valuable.

The PRESIDING OFFICER. The 15 minutes of the Senator have expired.

Mr. PERCY. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I should like to respond to our distinguished colleague from Wyoming. I think the concern that has been expressed is a very real one. I think there is basic merit to our regular procedures, but I am a cosponsor of this amendment and I share the frustration of the distinguished Senator from Washington in not being able to get the information——

Mr. JACKSON. Our staffs have been working on this.

Mr. PERCY. Yes.

Mr. JACKSON. The Senator from Illinois can corroborate what I have said.

Mr. PERCY. First of all, we may be able to answer a few questions by talking about trade secrets.

As I understand it, this amendment will in no way void or alter any existing law that protects industry trade secrets. Is that correct?

Mr. JACKSON. That is right. It applies only to disclosure of the information regarding the exports of the petroleum items that I have referred to—basically, coal, fuel oil, residual oil, or any refined petroleum product.

Mr. PERCY. Secondly, because it is an amendment on the FEAA bill and the authority of that bill expires on June 30, 1975, this authority, therefore, would expire on that date. So this is a temporary extension of authority, during which period we can see whether it has merit or not. Is that correct?

Mr. JACKSON. That is correct.

Mr. PERCY. May I ask a final question of the Senator? The Senator from Illinois is not familiar with whether export licenses are required for coal today. Are they necessary for coal and is that information readily determinable for coal just as it is for petroleum products?

Mr. JACKSON. It is my understanding that export licenses are required for coal.

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

Mr. JACKSON. I yield.

Mr. HANSEN. Did not the Senator earlier make the statement that in order to export anything one had to have an export license?

Mr. JACKSON. I think that is true in general.

Mr. HANSEN. Was that the Senator's statement?

Mr. JACKSON. Yes, that was my statement. I may have to modify it, because there may be some exceptions.

Mr. HANSEN. I often have to modify my statements.

Mr. JACKSON. I want to find out whether the Senator is for my amendment.

Mr. HANSEN. Yes, I am for it.

Mr. JACKSON. Mr. President, I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I do not want to get into detailed discussion on the amendment, because it has been adequately done.

I support the amendment. I do so in the context of our need to get more information. My Governor complains constantly that he finds it is impossible to get basic information as to the availability of oil, without which he cannot tell constituents what they must plan on and what programs they are to support.

I am constantly asked those questions, and I ask unanimous consent to include them in the RECORD at this point.

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

QUESTIONS FOR THE ADMINISTRATION FROM GOVERNOR CURTIS OF MAINE

1. What information does the Federal Government now have regarding the following:

A. Product inventories held domestically by all major oil companies.

B. Crude inventories held domestically by all major oil companies.

C. The volumes of untapped crude reserve in the United States.

D. Foreign product holdings of domestically owned international oil companies.

E. Foreign crude holdings.

2. If this information is available, on what basis are companies now allocating products at certain percentage levels? May we assume that each company calculated its December allocation so as to leave enough in reserve to maintain that allocation fraction throughout the season? If it is not, what does the Administration intend to do to accumulate such data?

3. To what extent will import dependent regions of the country be more adversely affected by shortages than those portions which have been traditionally supported with domestic products? How has this been determined and what steps are planned to make sure this burden is spread evenly across the country? By what criteria were these measures priced?

4. In attempting to encourage domestic oil refiners to produce more middle distillates than gasoline, was any consideration given to direct subsidies from the Federal Government in lieu of presently contemplated compensation through price adjustments.

5. Will the procedures outlined in the proposed modifications of the middle distillate program be adopted as a model for residual oil and gasoline allocations?

6. Prior to suggesting the creation of Local Boards for the implementation of the middle distillate program, did the Administration make any effort to determine the ability of State and local governments to undertake

such an effort in terms of financing and personnel? If so (or if not) on what bases was it determined that this delegation of responsibility was a reasonable manner in which to effectuate an allocation program?

Did the Administration intend that Federal financial support would be available in this effort as is suggested in the Energy Emergency Act now before the House? If so, has any budget estimate been prepared?

7. Why has the decision regarding gasoline rationing been so long forestalled? Is it the case that each State governor has in his vault gasoline rationing plates which could be immediately used to print coupons on decentralized bases?

8. In devising priorities for the allocation of scarce fuels, what consideration was given to peculiar conditions existing in various states, particularly those where home heating is major consuming sector in various product lines (in Maine, for example, 80% of the kerosene is used to heat homes and an allocation to priority users as proposed would certainly mean some homes would not receive enough oil to remain habitable. Incidentally, those homes using kerosene are trailer homes usually occupied by the people least equipped financially to cope with this problem).

Mr. MUSKIE. Mr. President, this is a list of questions the Governor might find helpful in getting answers to in undertaking to discharge his responsibilities not only under the State programs he has initiated but under the Federal programs. Without information, this program will not work.

When I get back to my State one question I get from my constituents is: "Senator, is this shortage real or is it contrived?" I would like to get information in order to respond.

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

Mr. MUSKIE. I yield.

Mr. JACKSON. Would the Senator agree there has really been a tremendous controversy in this country in the last few weeks particularly brought about by the allegation of the export of petroleum products at a time when this country is in short supply?

Would the Senator agree that it is important that Congress be able to investigate these exports, and that the only way in which we can really find out is first to check with the Department of Commerce and get a record of all exports in this area. And we cannot get it now.

Mr. MUSKIE. The story that triggered it all was a story about a month ago that reported that the exports had increased this year by 240 percent.

Everywhere that I went, in Maine and elsewhere in the country, I was asked, "Why are we exporting so much oil when we need it at home?" That may be justified, but we do not know that.

Mr. JACKSON. But how can we determine the merits and demerits of it if the Congress is prohibited from getting the basic information by an act of Congress? This does not make any sense. This is what I am trying to do here.

Mr. MUSKIE. Mr. President, I compliment the Senator from Washington on his amendment, and I support his amendment.

I hope that the Senate not only passes the legislation sponsored by the Senator from Washington and other Senators, but also secures an energy response on this appeal for information.

Mr. BARTLETT. Mr. President, will the Senator yield me 2 minutes?

Mr. RIBICOFF. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the Senator from Connecticut for yielding to me. Would the distinguished Senator from Washington yield for a question?

I am in 100 percent agreement on what the Senator is saying. I do not see that this amendment requires a collection of any information. It authorizes a file. However, it does not require those exporters of petroleum products, coal, crude oil, and so forth, to provide the Secretary of Commerce with this information to go in the file.

Mr. JACKSON. Mr. President, I point out to my good friend, the Senator from Oklahoma, that the law requires companies that are exporting petroleum products to get an export license, and they have to submit all of the basic information in the application and license.

That is what we want. We cannot get any information.

Mr. BARTLETT. This pertains to a file. It does not pertain to the file.

Mr. JACKSON. Mr. President, let me read the amendment. It reads as follows:

Notwithstanding any other provision of law, the Secretary of Commerce is authorized and directed to establish and maintain a file which shall contain information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current and shall include, but shall not be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vesel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export.

I think that we have included everything that we need to have.

Mr. McCLURE. Mr. President, would the Senator yield to me?

Mr. PERCY. Mr. President, I would be happy to yield to the Senator.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I think that there has been some implication here and in the press with the published statements of various people that ought to be put in proper context with respect to this amendment.

Certainly everyone in our country is entitled to know that the laws and the intent of the laws are being complied with. They need to know that everyone in this country is interested in this problem today and that we are all going to work together to get around the problem.

It is not a matter of whether truckers want preference or whether the airline pilots threaten to strike, because they feel that they have been dealt with unfairly.

We cannot expect that any business should profiteer from this situation at the present time. However, we cannot fall victim to the very easy charges that have been made that somehow we are losing large amounts of energy supplies through exports. Any kind of a careful analysis of the exports that have taken place will indicate a very valid reason for some of the exports. Some of the exports are waxes and things which are in surplus in our country and we are finding markets for them.

We have exchanges that take place across the border with Canada and Mexico that are necessary to benefit us in the net balances on the exchange of products.

We have light distillate oils exported so that they can be mixed with heavier surphur fuels and can be imported and burned in this country. It is a net addition to our energy supply. In our ardor to adopt the amendment, I do not think that we should go farther than the necessity of the situation dictates and imply that every one of these exports that have been made are evil exports.

I do not charge anyone with having done that. However, some people read the statements or hear the discussions in the Senate and will assume that all of the charges are true. The truth of the matter is that there are some small amounts of energy supplies perhaps being exported in violation of the spirit of the time that we have a right to know about.

I support the spirit of this amendment. However, I think it is very loosely drawn. I think it is dangerous in its implications. This does not say that the Secretary of Commerce will get information. It just says that he shall maintain a file.

I would assume from that that some people might assume that the Secretary of Commerce is required by the language of this amendment to use any information he has in the Department of Commerce, including the Bureau of the Census, to maintain the file in compliance with this amendment.

I am grateful that the Senator from Washington has indicated that that is not the purpose of the amendment. I do think there is danger in its language, the danger of a violation of the very careful protections that have been written into dozens of statutes in the past, but which might be swept away in our enthusiasm to try to plug a very minor, but unacceptable, loophole.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, would the Senator yield to me?

Mr. PERCY. Mr. President, I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I see that my good friend, the Senator from Washington, is on the floor. I would like to ask a few questions at this time in order to get the record straight.

I think the intent of the amendment is good. I think that all of us who are faced with the questions of constituents as we go home when they ask, "Is this for real, or is it staged and put on by the oil companies or somebody else," would benefit greatly if we had some places to get the information. For the life of me I cannot get two answers in a row that agree.

At this point in our legislation when we have spent quite a bit of time on the energy situation, it is difficult for me to remember anything we have done that would produce more energy. I know that we have done some things.

I would like to ask the Senator from Washington, who is a leader in this matter to enumerate, if he would, some of the positive steps we have taken that might result in more energy, and not in just more regulations.

For example, in my State of Arizona, we produce 52 percent of the copper produced in this country. And we use natural gas for smelting purposes. Have we deregulated the price of new natural gas, for example?

Mr. JACKSON. Mr. President, I must say to the distinguished Senator from Arizona that in the Committee on Interior and Insular Affairs we are in the process of completing a report in which we will make recommendations to the Commerce Committee on the piping of natural gas.

I am opposed to the existing regulation of natural gas. We are in favor of a system by which we can bring about necessary price adjustments that will more clearly reflect the market price of natural gas, I believe, with relation to competing fuel. That is my position. Yet, we make a mess of it. It has resulted in a situation in which natural gas is being improperly used today.

Over half of the gas is being burned under boilers to support utility operations and large industrial users, to the exclusion of other areas of our economy.

Mr. GOLDWATER. I thank the Senator for that. Now, what I am trying to do here——

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. GOLDWATER. Can the Senator yield some time on the bill?

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Arizona may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. One minute is not going to do me any good.

Mr. JACKSON. I will be glad to come back later, but I am right in the middle of a conference on energy.

Mr. HANSEN. They stopped for lunch.

Mr. JACKSON. They stopped for lunch? Why?

Mr. HANSEN. They are hungry. [Laughter.]

Mr. JACKSON. Go ahead. I ask unanimous consent that the Senator from Arizona may proceed for 1 minute. I wish the Senator from Wyoming had not brought that up.

Mr. GOLDWATER. If I can only proceed for 1 minute——

Mr. JACKSON. Two minutes.

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

Mr. GOLDWATER. For any Member of the Senate to spend 2 minutes on gas is insufficient.

Mr. JACKSON. Well, we will not run out of gas. Go ahead.

Mr. GOLDWATER. I will just ask these questions, and if the Senator can supply the answers, he may do so later. I am going home in a few days, and I want to have some answers.

What have we done in this body to find new oil and gas? Have we liberalized leasing policies on all Government-controlled lands, including the Outer Continental Shelf, the Santa Barbara Channel, and the Gulf of Mexico?

The Senator can read these questions and put the answers in the RECORD, inasmuch as I only have a few minutes.

Mr. JACKSON. I hope I have a good staff around here.

Mr. GOLDWATER. The Senator can read it in the RECORD.

How much have we modified environmental stipulations that impede exploration, production, transportation, and refining?

What priorities have we established favoring petroleum producers and drillers in the allocation of equipment and fuel?

And my final question: Have we actually made it attractive for people interested in drilling and exploring to go out and do it again?

Those are the questions I would like to have answered. I do not want to have to go home and say, "Yes, we have been busy for a month on energy, and we have passed a lot of rules and regulations, but I do not see any more gas and oil coming."

Mr. JACKSON. May I say, Mr. President, that I will have the information supplied for the RECORD, and I will give the Senator personally additional information on what we have done at this Congress to meet the energy crisis.

I would say to him that the most significant development has been the approval of the trans-Alaska pipeline legislation. We are doing a lot of other things, but I would make that particular observation at this time.

Mr. GOLDWATER. That is 3½ years away.

The PRESIDING OFFICER. The additional 2 minutes have expired.

Mr. JACKSON. Mr. President, earlier today the junior Senator from Arizona asked a number of questions concerning congressional action on a number of energy policy issues related to increasing energy supply. I would like at this time to respond to the Senator's questions.

First. The first question relates to leasing policy on the Outer Continental Shelf.

In connection with the Senate's adoption of S. 2589, the National Energy Emergency Act of 1973, the Senate did adopt provisions which directed the President to accelerate the leasing of public lands for oil and gas purposes, including lands on the Outer Continental Shelf.

Second. The second question relates to modifications that have been made in environmental laws governing exploration, production, transportation, and refining.

S. 2589 also has provisions providing for a variance procedure to the provisions of the Clean Air Act. These variances may be granted to permit the burning of high sulphur oil during the energy emergency and requiring the conversion of stationary electric power plant from oil to coal. In addition, S. 2589 permits waivers pursuant to specific guidelines to the provisions of the National Environmental Policy Act, which require the advance preparation of an environmental impact statement. These waiver provisions apply only to emergency actions.

Third. The third question raised by the Senator from Arizona concerns what priority has been given under the Petroleum Allocation Act to persons engaged in the production, transportation, and distribution of energy.

The Senate bill, S. 2589, granted both a priority for fuel allocation and, subject to certain guidelines, a priority allocation for other essential material products and equipment needed for the production, transportation, and distribution of energy.

Fourth. The fourth question is whether the Congress has made it attractive for persons interested in oil and gas drilling and exploration to accelerate their activities.

S. 2589 did not have a specific provision which could be cited in response to the Senator's question. The bill does, however, mandate a number of studies by the Department of the Treasury and the Cost of Living Council to determine how adjustments in the Cost of Living Council guidelines could be designed to encourage increased investment in oil and gas exploration and, therefore, elicit new supplies.

Mr. President, all four of the provisions to which I have referred were tentatively agreed to yesterday and earlier today by the members of the conference committee meeting on S. 2589, the Senate-passed bill, and the amendment of the House to S. 2589. It is my hope that this conference committee will conclude action on the conference report sometime later today and permit final action by both Houses of the Congress before Friday of this week.

Finally, Mr. President, in response to the fourth question of the Senator from Arizona, I should note that the conferees today adopted a provision to prohibit windfall profits in the energy industry. One feature of this provision is to require that the energy industries plow back or reinvest any excess profits in increased production of oil and gas and other forms of energy. This provision will, I am sure, at a time of record-high profits, result in increased investment in and development of new domestic sources of energy.

Mr. CANNON. Mr. President, will the Senator yield me 1 minute on the bill?

The PRESIDING OFFICER. He may do so only by unanimous consent.

Mr. CANNON. I ask unanimous consent that I be permitted to proceed.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. I ask unanimous consent that the pending business be put aside for 1 minute, to dispose of two noncontroversial matters.

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

MESSAGE FROM THE HOUSE

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

H.R. 2634. An act for the relief of Kevin Patrick Saunders;

H.R. 7730. An act to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip;

H.R. 10044. An act to increase the amount authorized to be expended to provide facilities along the border for the enforcement of the customs and immigration laws;

H.R. 11763. An act to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the construction of an intercity bus terminal, and for other purposes;

H.R. 11273. An act to provide for the regulation of the movement in foreign commerce of noxious weeds and potential carriers thereof; and

H.J. Res. 858. A joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The message also announced that the House had passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 2166. An act to authorize the disposal of opium from the national stockpile; and

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile.

The message further announced that the House had passed the following bill with amendments in which it requests the concurrence of the Senate:

S. 2812. An act to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

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

H.R. 2634. An act for the relief of Kevin Patrick Saunders; to the Committee on the Judiciary.

H.R. 7730. An act to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip; to the Committee on Interior and Insular Affairs.

H.R. 10044. An act to increase the amount authorized to be expended to provide facilities along the border for the enforcement of the customs and immigration laws; and

H.R. 11763. An act to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the construction of an intercity bus terminal, and for other purposes; to the Committee on Public Works.

H.R. 11273. An act to provide for the regulation of the movement in foreign commerce of noxious weeds and potential carriers thereof; to the Committee on Agriculture and Forestry.

H.J. Res. 858. A joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac; to the Committee on Rules and Administration.

DISPOSAL OF OPIUM FROM NATIONAL STOCKPILE—MESSAGE FROM THE HOUSE

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2166.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 2166) to authorize the disposal of opium from the national stockpile, which was on page 1, line 5, strike out "one hundred and forty-one thousand six hundred," and insert: "sixty-five thousand seven hundred".

Mr. CANNON. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

DISPOSAL OF COPPER FROM THE NATIONAL STOCKPILE—MESSAGE FROM THE HOUSE

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2316.

The PRESIDING OFFICER (Mr. JOHNSTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 2316) to authorize the disposal of copper from the national stockpile and the supplemental stockpile, which was on page 1, line 5, strike out "fifty," and insert: "fifty-one".

Mr. CANNON. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER (Mr. JOHNSTON). The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON). 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) and the Senator from Massachusetts (Mr. BROOKE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Arizona (Mr. FANNIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Alaska (Mr. STEVENS) are detained on official business.

The result was announced—yeas 85, nays 3, as follows:

[No. 599 Leg]

YEAS—85

Abourezk	Bartlett	Bentsen
Aiken	Bayh	Bible
Allen	Beall	Biden
Baker	Bellmon	Brock
Buckley	Hatfield	Nelson
Burdick	Hathaway	Nunn
Byrd, Harry F., Jr.	Helms	Packwood
Byrd, Robert C.	Hruska	Pastore
Cannon	Huddleston	Pearson
Case	Hughes	Pell
Chiles	Humphrey	Percy
Clark	Inouye	Proxmire
Cook	Jackson	Randolph
Cranston	Javits	Ribicoff
Curtis	Johnston	Roth
Dole	Kennedy	Schweiker
Domenici	Long	Scott, Hugh
Dominick	Magnuson	Scott, William L.
Eagleton	Mansfield	Sparkman
Ervin	McClellan	Stafford
Fong	McClure	Stevenson
Fulbright	McGee	Symington
Griffin	McGovern	Talmadge
Gurney	McIntyre	Thurmond
Hansen	Metcalf	Tunney
Hart	Mondale	Weicker
Hartke	Montoya	Williams
Haskell	Moss	Young
	Muskie	

NAYS—3

Goldwater	Taft	Tower

NOT VOTING—12

Bennett	Eastland	Mathias
Brooke	Fannin	Saxbe
Church	Gravel	Stennis
Cotton	Hollings	Stevens

So Mr. JACKSON'S amendment was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MONDALE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question is the amendment by the Senator from Minnesota.

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

Mr. MONDALE. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes, the time to be divided between the ranking Republican member of the committee, the Senator from Illinois (Mr. PERCY), and the sponsor of the amendment, the Senator from Minnesota (Mr. MONDALE).

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. I do not want to agree to a time limitation on the amendment.

Mr. MANSFIELD. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. MONDALE. Mr. President, I do not plan to use much time—no more than 5 minutes.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MONDALE. Mr. President, over the next 18 months no problem confronting this Nation will be of more importance than the fight against inflation. No problem hits more directly at the average working family, and has more to do with determining the ability of working families to live decent, productive lives.

And within the inflation problem, no area is of more concern than the astronomical rises which have already occurred and may soon accelerate in the prices of oil and oil products. Oil to heat our homes and gasoline to run our cars are vital, essential commodities. They are basic to our society. Now, we will all have

to conserve these valuable resources. But we should not be forced to conserve simply through "rationing by price," a strategy which the administration seems eager to adopt.

The amendment which I have offered will tell this administration that we do not want rationing by price. For I believe that the Congress—and the American people—will not stand for a pricing system which places the entire burden of sacrifice on the American consumer, at a time when oil company profits are up 47 percent so far this year.

Already, prices of fuel are rising sharply. In November, fuel prices rose by 19.3 percent, for a 232 percent adjusted annual rate. And many of the leading economic spokesmen for this administration have told us that we had better get used to these types of increases, since they are the only way to limit demand.

The amendment which I have offered rejects this thesis. It offers the beleaguered American consumer some hope that fuel price rises over the next 18 months will be kept within moderate bounds. In some instances, prices may have to go up, and my amendment allows exceptions to the general cost passthrough rule for the specific purpose of encouraging increased investment in domestic exploration and production.

Its basic thrust, however, is to set congressional standards for the new Administrator of the Federal Energy Administration, Mr. William Simon. It is a flexible approach, but one which seeks to restrain the Administrator by building in a variety of checks on his discretion. The General Accounting Office, under my amendment, will undertake a continuous monitoring of the Administrator's fuel pricing decisions. If he departs from the standards in the amendment, a public hearing with adequate notice must be held, and he must publicly justify in writing his reasoning for the exceptions.

We are not trying to tie the hands of the Administrator, but rather to give him standards within which to work, and to force him to justify—to the GAO, to the Congress, and to the American public—any departures from these standards.

I believe that the amendment which I have offered is vital over the months ahead. Without it, we may well witness the most blatant gouging of the American consumer in our history. And at a time of record oil company profits and sharply higher prices, we simply cannot allow this to happen. The amendment under consideration would go a long way toward moderating price increases for oil and gasoline, and would thereby aid tens of millions of Americans whose budgets are already under siege.

Mr. PERCY. Is it the intention of the Senator from Minnesota to state the congressional intent that, in general, cost passthroughs are permissible and that, in general, price increases above cost can be justified if specifically necessary to increase supply? Is this the main thrust and intention of the amendment of the distinguished Senator from Minnesota?

Mr. MONDALE. That is the purpose of this amendment—to direct that price increases for crude oil may not exceed a passthrough of cost actually incurred, except where price increases in excess of that, in the opinion of the Administrator, would effectively encourage increased domestic exploration and production of oil. In other words, where, in his judgment, it is necessary to have price increases in excess of cost passthroughs for the purpose of domestic expansion, he may do so, provided that the reasoning for this is explained in detail.

Mr. PERCY. It would be in his sole discretion, and he could make the decision based on the facts.

I thank the Senator from Minnesota. On that basis, I support the amendment.

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

Mr. MONDALE. I yield.

Mr. LONG. With regard to wells that are already producing oil—not new oil; I am talking about the wells we have now—would this permit the price of the oil to go up, or would it say that it could not go up?

Mr. MONDALE. The costs with respect to an existing well could pass through. In addition, if that well increased production, prices could be increased to include cost increases plus what the Administrator determined to be necessary to encourage the expanded production on an existing well.

Mr. LONG. Specifically, if a well is producing 20 barrels of oil a day and the well continues to produce 20 barrels of oil a day, is the price to be permitted to increase, or is the price to be frozen where it is, under the Senator's amendment?

Mr. MONDALE. If the Administrator finds that price increases in addition to just cost passthroughs are necessary in this well to increase investment in domestic exploration and production—in this case, production in that well—he could.

Mr. LONG. In that well.

Mr. MONDALE. Yes. The trigger would be the likelihood of increased investment to increase production in that well.

Mr. LONG. Suppose they should find it necessary, as I suppose the case to be generally throughout this country, that a producer needs a price increase in order to find the money to go out and drill more wells. Is that in the language?

Mr. MONDALE. He could increase prospectively the price of the new supply that would be brought about through the increased investment, and could increase the price on that prospective production more than by just a passthrough of costs, including increased profits he thought essential to bring forth increased production.

Mr. LONG. I am talking about the production that can be anticipated from the existing well. Under the Senator's amendment will the producer be entitled to a price increase on the oil one could expect to produce from that well in order that he might have enough profits to drill additional wells?

Mr. MONDALE. If he has to sink new money in that well in order to increase production, the Administrator is permitted with respect to that well to increase the price on the increased production in excess of cost in order to encourage increased production. And he retains additional flexibility under subsection (f)—subject to the procedures in that section for public input—to order additional incentives.

Mr. LONG. As I understand the Senator, he is saying if it is necessary to increase production from well A, there could be an increase in the price of a production in order to rework well A. Suppose he wants to drill well B. Under the Senator's amendment would be permitted to have a price increase in well A to go on and drill oil well B?

Mr. MONDALE. The amendment is generally limited to increasing the price of new supply, subject to the provisions of subsection (f). In other words, if a well is producing 20 barrels a day and you do not intend to increase the production in that well, the price of the oil produced in that well could not be increased by more than actual cost passthroughs. If you increase the production of that well from, say, 20 to 30 barrels a day, the Administrator could authorize a price on that new production which was greater than simply a cost passthrough for the purpose of encouraging expanded production.

If you drill an additional well, new Well B, he could authorize an increase in the price of the new production out of well B which is greater than he would be permitted in theory, on well A, in order to encourage expanded production.

Mr. LONG. That is what I wanted to know.

Mr. President, in my opinion, this is an amendment to continue the shortage of oil that we have, because anyone who has studied this industry from the point of view of those who do not want to nationalize and those who believe that free enterprise can do the job if permitted to operate, will pretty much agree with what the Chase Manhattan Bank has to say about the subject. Basically it goes like this:

In order to provide the free world with its requirements of energy between now and 1985 will require about an investment of $1.350 trillion. That is a great deal of money—$1.350 trillion of investment.

Now, it is my impression that the part which they believe would be invested in this country to provide our requirements would be about $500 billion. That is an enormous amount of money. It exceeds our national debt. That is the amount of money that would be needed between now and 1985 in this country.

Furthermore, as I understand it, and from a banker's point of view, the banks are willing to lend their share of money to do that job, and other lenders, insurance companies and others are willing to lend their share, on the condition the industry is sufficiently profitable that it would be a good loan. But no banker or lender worthy of the name is going to make a bad loan. They are not going to loan money to drill wells if the oil industry is not making enough money to pay off the loan.

I understand they would expect to loan about one-half of the money, or about $250 billion for wells in this country provided the industry had the prospect of earning the other $250 billion in profits.

Based on the performance of this industry up to this point, it is the estimate of those who have studied it that the industry is only making one-half of the profits after taxes that this industry would have to make in order to put up its $250 billion, which, in turn, would justify the lenders putting up the other $250 billion to provide our requirements of fuel in this country.

Where is the industry going to make the money to earn the profits to drill the new wells, from the point of view of the industry? That money would have to come out of existing production of oil and gas.

The Federal Power Commission has the kind of power the Senator provides in his amendment, and they are now at long last advocating a deregulation of gas. They finally have come to realize that when you hold gas far below what it is worth in a competitive market, you are not going to get the gas production needed. So they recommend, if you take them away from utility-type pricing for that gas, producers can compete with petroleum and coal for the market and increase the supply of gas.

The Senator from Minnesota wants to put the industry under the same type regulation that the people doing it now, the Federal Power Commission, would recommend we get away from. You limit the price you get for the oil and thereby deny the industry the opportunity to earn the profits to drill new wells.

I have heard a lot of talk about the profits that have been made by the oil and gas industry. There may be a lot of profits on oil produced in Saudi Arabia. I am sure there are. The last figures I saw it cost them 13 cents a barrel to produce oil over there in Saudi Arabia. They will drill a well over there and get a thousand barrels a day—and 10,000 barrels a day is not unusual. If we get 100 barrels, or 1 percent of what they would get over there we think we have a great well in the United States. So the big profits on oil have been in foreign oil.

The studies have indicated that for the last 20 years in the production of oil and gas in this country, and this is after taxes, taking the depletion and everything else, in the profits of producing oil domestically in this country are far below the average of all manufacturing industries. That is the reason that last year only half as many wells were drilled as 20 years ago.

The year before that, we had about half the number of wells drilled as we had 20 years ago. So it was the year before that. It just was not sufficiently profitable.

Mr. President, if we are going to have self-sufficiency here, we are going to have to drill just a great many more oil and gas wells. It is true that additional production of fuel can be found from coal. We can find some in oil shale. We can find some in geothermal energy, but those people who have studied the industry and the problems as they exist now in the energy field all seem to agree that in the short run, between now and 1985, the overwhelming increase in the production of fuel will necessarily have to be in oil and in gas.

So here is an amendment to say that they cannot make the money that it would take to drill these tens of thousands of new wells. This would mean they cannot make enough profits to justify the lending of money by bankers and others who would advance them the money to drill.

It is an amendment, in effect, which limits unreasonably the ability of the industry to meet the needs of the people and, in the long run, it is saying that the industry should be nationalized.

Although the Senator has not suggested that in his speech, more and more Members of this body are suggesting, in the cloakrooms and other places around the Senate, that we are certainly going to have to nationalize the oil and gas industry. Mr. President, wherever that has been tried, it has been a dismal flop, but when you fix the industry in such shape that it cannot make enough profits to justify drilling the wells or make enough profits to justify banks and other lenders lending the money in order to drill, you are setting the stage for a nationalized industry.

Here is an industry that can compete with anybody in the North Sea, in Saudi Arabia, compete with anybody on earth, and pay great taxes, which some are suggesting be liquidated by unwise administration and unwise laws, even though we have the agency administering the industry, the Federal Power Commission, saying it makes no sense and we should stop it. Now we have a proposal to extend to oil, which is in short supply, the same kind of approach, and put them under the same kind of regulation where they cannot make profits that are necessary in order to drill more wells or to borrow money to do it.

It would be a very foolish thing to do.

The sponsor of this amendment is not on the committee which recommended the bill, although some of the cosponsors of the amendment are. Here is a proposal that was not recommended by the committee. It just came out of the blue, and I might say, somewhat like that tax amendment that was not looked at by any committee that had anything to do with taxes, on which there were no hearings.

I do not know how much oil is produced in Minnesota—I am sure it is very little—but I am sure the Senator is not familiar with this problem except as he goes to the gas pump and pays higher prices for gasoline, as we all do.

But the public is going to realize that it is better to pay more for energy than not be able to get it. It is going to realize that it is better to pay more for fuel than not be able to get it.

In New England they are finding it necessary to pay more to get fuel oil that is being derived from the foreign market, because the prices of foreign oil being imported into this country are not subject to controls, and oil sells far above prices that domestic producers are permitted to charge. They are paying the higher price because they know it is better to pay the higher prices than to do without.

In my judgment, to agree to this amendment or anything of that sort would be folly.

If there are going to be some kind of price controls on the oil industry—and they are limited in the price they can charge at the pump as well as in the price of crude oil to about $4.50 per barrel—that limitation should be put on by someone who knows something about the oil and gas industry, somebody who has studied its problems.

What credentials do these gentlemen have? Mr. MONDALE, Mr. MUSKIE, Mr. PASTORE, Mr. STAFFORD, Mr. KENNEDY, Mr. MCINTYRE, Mr. HART, Mr. PROXMIRE, Mr. JAVITS. We produce in 64 parishes in Louisiana more oil than the States represented by those Senators put together. Even so, I would not feel that I have the credentials to make such a judgment without the benefit of extensive studies and hearings on the subject. No one in the entire Congress has that sort of expertise.

But be sure, beyond that, they know something about the oil industry.

Just the other day I read that the Senator from Illinois (Mr. STEVENSON) was being quoted by the Governor of Georgia—and Georgia does not produce any oil either—about the fact that there are 1,000 wells—imagine this: 1,000 wells—in the Gulf of Mexico not producing any oil. They are shut down. How horrible. The oil producers are in a conspiracy. That was on the Today program. They are in a conspiracy to create a shortage, so that they can charge more for oil. I am sure this statement was made innocently and with every good intention, but it did create a gross misconception of the facts.

Mr. President, there are 11,000 wells in the Gulf of Mexico—11,000, of which about 3,000 are gas wells. There are all kinds of problems in producing wells in the Gulf of Mexico. There are storms and almost any other kind of difficulty in producing oil.

The wells sand up; and when there is sand in the pipe, it is necessary to pull the pipe up and start over again. The paraffin must be cleaned. If they pull on the well, to try to meet the energy crisis, the structure below is filled to the top with an inexhaustible supply of salt water. So the salt water is sucked up and may even kill the well forever. If the producer is lucky and lets the well sit for a year or so, the oil may eventually displace the salt water.

So about 10 percent of the wells are shut down because water has displaced the oil, or because it is necessary to clean out the sand, or because paraffin is clogging the wells, or because storms have damaged the platforms, or for a thousand other reasons that somebody in the gas industry can understand. Unfortunately, the statement was made by the Senator from Illinois (Mr. STEVENSON), who had not been informed of the varied reasons why wells are occasionally closed down.

The case is similar to that of a man who owns a thousand trucks, a hundred of them being in the shop for repairs. So it was suggested by the Senator that those thousand wells are deliberately being kept shut down, while we are trying to make progress in the gas supply situation. Nothing could be further from the truth.

The Governor of Georgia—God bless him—in complete sincerity went on the "Today" program and said that a thousand wells are shut down in the Gulf of Mexico.

I ask that an information sheet from the American Petroleum Institute on the question of "Shut-in Production" in the gulf be printed in the RECORD in further explanation of the facts and figures in question. As I understand it, the figures used are primarily from a recent study conducted by the U.S. Geological Survey.

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

SHUT-IN PRODUCTION

1. Allegations have been made that the petroleum industry is restricting production of oil and gas by shutting-in wells on offshore leases, thereby contriving to create or intensify shortages. These assertions are unfounded; they divert attention from the true causes of the shortage; and they delay the formulation and implementation of effective energy policies. Here are the facts:

2. Some 11,000 wells in the Gulf of Mexico are producing oil and gas. Marine wells, most of which are located in the Gulf of Mexico, are now producing more than 17 percent of domestic crude oil and about 15 percent of the Nation's natural gas.

3. In a recent study, the U.S. Geological Survey refuted charges that producers are withholding gas from production in the Gulf of Mexico. According to the USGS report, in August 1973 there were 2,977 gas completions in the Gulf. Of this total, 2,034 were producing gas and 943 were shut-in.

4. The reasons for the shut-in gas completions, as listed by the USGS, are as follows:

Water problems	325
Temporarily abandoned	218
Sanded up	120
Low pressure	111
Mechanical difficulties	55
Suspended operations	45
Awaiting facilities	36
Platform maintenance or repair	33
Total	943

5. Some of the completions have been listed by the operators as shut-in since the 1950's. This is because an operator is not required to remove a well completion from the shut-in list unless it is to be abandoned permanently.

6. The USGS is charged with assuring that well completions capable of commercial production are in fact produced or requiring that the lease be relinquished. From the producer's standpoint, the large economic losses of failing to produce from commercially feasible wells rule out any gain from withholding of production.

Mr. LONG. I submit that this amendment ought to be studied. It ought to be the subject of hearings. People ought to have a chance to explain their point of view. I submit that no one who has the responsibility of recommending this would risk it.

This amendment is the work of a Senator who is, in good faith, concerned about the price of gasoline at the pump. But I submit that if Senators are worried about the supplier, they should not put something like this on the back of the gas and oil industry.

Mr. BURDICK. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. BURDICK. I was interested in the hypothetical question that the Senator from Louisiana put to the Senator from Minnesota. I would like to have the attention of the Senator from Minnesota. In that hypothetical question, the producer of well A, producing 20 barrels a day, could not increase the price of that oil. But if he drilled another well, then he could increase the price of that oil. Is that correct?

Mr. MONDALE. With respect to the hypothetical question, with respect to the 20-barrels-a-day well, there could be an increase, limited to the passthrough of costs. For new, additional production, the Administrator would be authorized to increase prices by greater than a cost passthrough—provided that such increases can be expected to increase the investment in new production. So in that sense, the new production would have a different status.

Mr. BURDICK. That is what I understood the Senator to say. Suppose that well B is a dry hole. Who pays for those costs?

Mr. LONG. Of course, the man who draws a dry hole is stuck with it. He is out his money. He does not get it. That is the size of it.

Mr. BURDICK. There still cannot be an increase in the price of oil in well A.

Mr. LONG. Not under this amendment.

Mr. MONDALE. Mr. President, the answer to that, if the Senator will yield, is that if the Administrator finds that in implementing these pricing policies, it is necessary to permit increases greater than we have discussed, he still may do it under subsection (f), provided he follows the procedures in that subsection for a public hearing and a public justification of his decision. There is flexibility for the Administrator, even in increasing the price on the oil in wells in existing production, provided the correct procedures are followed.

Mr. BURDICK. But there is no production in a dry well.

Mr. MONDALE. I do not know what to do with a dry well. I suppose that one could charge it off. I do not know how one would do it.

Mr. BURDICK. Mr. President, I believe that the Senator from Louisiana told me that he believes the ratio is about eight dry holes to one successful hole.

Mr. LONG. It is more than that. Actually, the last figures I heard indicate that if it is new oil the Senator is talking about, a wildcat well, the ratio of dry holes to successful wells is more than 8 to 1. However, there is a difference between finding an oil well and finding a well that will make one a lot of money. So, we have at least eight dry holes for every good one. When we get to where we will have to find a well in the future on the Continental Shelf in the Atlantic, the figures that I hear are that they estimate the odds to be about 30 to 1.

A well will cost $5 million perhaps to put down the platform and drill. Then the odds would be 30 to 1 that a man would not find enough oil to justify the cost of the platform and the drilling for the oil that is produced.

So, by the time they have put down the platform and done the drilling, the amount may be about $150 million on the average for a successful wildcat well. Of course, one can drill offsets once he finds a wildcat well. However, to find more oil now, one cannot find it.

Drilling just from the surface down to 5,000 feet, 25 years ago, when I came to the Senate, would often produce oil. At this time sufficient oil is not found in that manner.

If one drills 10,000 feet down, it costs 4 or 5 times the cost of drilling 5,000 down. If one hopes to find oil, he will often have to go down 15,000 or maybe 20,000 feet. That may cost today 10 times as much as the Senator's amendment would permit for a new well to make enough money to pay for the well.

Where will we find the money to pay for 9 out of 10 wells that are dry holes? We have a simple answer. We can do what has been done in Louisiana. Half of the producers in Louisiana have gone out of business.

Where can people get enough money to find an oil well that will make enough money to pay for what it produces?

The Senator has indicated that 9 out of 10 times there would be a dry hole, and even in that event only 1 out of 3 that would make a substantial amount of money. The other times they will be marginal wells.

Mr. BURDICK. Where will the money come from to pay for the dry wells?

Mr. LONG. It will come from hot air, just like in this Chamber. It will come out of the atmosphere. That is where the money would have to come from to drill the new wells. The Senator's amendment would not let it come out of the production. It costs four times as much money to drill for oil now than it used to cost. So without the money from the wells, I do not know where people will get the money. The banks are not going to lend the money to them because there is not enough production now to provide an adequate profit to justify the loan.

Anyone who knows the oil and gas business knows that a bank will not lend money for a well that one hopes to find. A man has to pledge the well that is producing in order to get the money to drill a well that one hopes to get some oil from. They will not lend money on a well that one hopes to find oil in.

If one wants to justify a loan for a new well, he will have to give up his oil well that is in production, and that is the one on which the Senator would not allow an increase in price.

Mr. BURDICK. Would it be fair to say that the Senator from Louisiana thinks that the Mondale amendment would impede the discovery of oil and the industry?

Mr. LONG. Yes. It would also nationalize all of the industry. But that matter would be self-serving, too.

Mr. BURDICK. Mr. President, I thank both Senators.

Mr. MONDALE. Mr. President, I have been utterly charmed by the argument of my friend, the Senator from Louisiana (Mr. LONG) who apparently describes an oil company as some kind of new version of the Salvation Army, an unselfish, self-effacing industry which is in an economic posture of short supply against a backdrop of an Arab boycott, which the economists tell them will permit them to double or more the price of oil products in this country.

So, all American consumers may soon be paying $1 a gallon for gasoline.

We are told the oil companies would never raise prices to the American consumers merely to increase their profits, because we are told they are a different kind of people who do not respond to the predicament in which this Nation now finds itself and about which virtually every economist has been warning.

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

Mr. MONDALE. In just a moment.

Let us take a look at this industry and how it has done recently.

In the third quarter of 1973, Amerada-Hess limited itself to only a 295-percent increase in profits. That is all they wanted. They were willing to live with that.

Exxon limited itself to a measly 81-percent increase in profits, in the national interest.

Mr. Getty, who was having trouble paying for his three meals each day, limited himself to a measly 71 percent in profits. And on it goes down the line.

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

Mr. MONDALE. I will yield later. Mr. President, for the third quarter the profits of the oil industry were greater than the combined profits of the following industries, all of them put together: Airlines, autos, beverages, containers, food, machine tool, steel, textile, tire, rubber, and trucks.

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

Mr. MONDALE. I will yield when I am through. We are now told that things are different. We are now told that the only reason that oil companies are raising their profits, so that the economists are predicting $1 a gallon for gasoline, is so that they can generate money for production.

I think the American people have a right to protect themselves in this situation against exorbitant prices and unbelievable, astronomical, unpredicted profits.

That is what my amendment does. I would say to my good friend, the Senator from North Dakota (Mr. BURDICK), that if he reads the amendment very closely, it calls upon the Administrator to recognize the necessary and reasonable costs of exploration and development and permits, a passthrough of these costs.

We do not fail to recognize that exploration for oil is a costly and expensive business. We tell the Administrator that those costs are permitted to be passed through. They will show up in higher prices.

We say further that in the development of increased exploration and production, the Administrator is permitted to increase prices greater than a passthrough of costs in order to encourage this expanded production.

The other day one of the Nation's top economists, Dr. Arthur Okun, told me that if we take the advice of the oil industry and permit oil prices and oil product prices to rise to the extent that the free market would demand in this short supply-boycott situation, it could well increase the cost to the American consumer totally by $50 billion—let me repeat that: $50 billion—and that the average family's cost of living could rise by $20 to $25 a week.

That is what we are talking about. We are talking about the most fantastic increase in the cost of living that this country has ever seen.

We want to encourage new exploration. We are not asking for a rollback in profits. We are permitting price increases through a cost passthrough. We are even permitting profit increases where they will bring about new domestic exploration and production.

In my opinion, this is a very reasonable amendment. It permits wide latitude to the Administrator, but it says that we are not going to live with the Administration's philosophy of "rationing by price," because that is the policy of this Administration. Mr. Stein, the Chairman of the Council of Economic Advisers, the other day warned that fuel costs might rise by as much as 50 percent in the month ahead, and Mr. William Simon, who will be the Administrator of the Federal Energy Administration, has recently indicated his preference for allowing fuel prices to rise to help control demand.

This is the last chance that Congress has to act. We are right on the verge of this astronomical increase in prices, some of which we have already seen. It will be too late to influence Government policy unless we act on this bill.

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

Mr. MONDALE. Yes, in just one moment. This is a necessary measure, in my opinion, to protect American consumers from the most extraordinary price increases we have ever seen in American history.

I am glad to yield to the Senator from Louisiana.

Mr. JOHNSTON. I am interested in how we would fix starting prices, because this amendment speaks only in terms of price increases and passthrough of costs.

How do you fix the beginning price? Can you fix the starting price based on the price structure which the Senator suggests has resulted in astronomical profit to the oil industry, or do you lower that price to the point where the oil companies will not make that astronomical profit?

Mr. MONDALE. This amendment, as I say, starts with the existing price structure, and that is why it is a very modest amendment. It does not anticipate price rollbacks. As a matter of fact, it anticipates some price increases, where necessary to achieve certain objectives.

Mr. JOHNSTON. Is that based on the world market, where we have crude selling for $16.80 in Iran and Nigeria?

Mr. MONDALE. The existing situation in the United States, or wherever we can buy oil, would be determinative. It includes legitimate cost passthroughs from wherever we can get oil.

Mr. JOHNSTON. Based on what starting point, though? Is it based on cost of production, or on whatever the price structure is now? If it is based on whatever the price structure is now, I would suggest to the Senator that there is a wide divergence in price structures right now, and, indeed, with stripper wells, for example, we have exempted them from price controls under the mandatory allocation bill.

Mr. MONDALE. It may be that the stripper well is a different situation. I have had the Senator from Oklahoma (Mr. BARTLETT) talk to me about that. We may modify the amendment to deal with that special problem.

Mr. JOHNSTON. Do I understand, then, that the starting price is based on present U.S. prices for crude, except for stripper wells?

Mr. MONDALE. The U.S. price, or whatever other source we have for oil, and whatever the particular price blend is.

In other words, it is very reasonable. It permits the companies in this industry to passthrough increases in prices which reflect actual increased costs of domestic or foreign operations.

Mr. JOHNSTON. I am not talking about at the distribution level.

Mr. MONDALE. At the crude oil level, correct.

Mr. JOHNSTON. Because there have been prices, believe it or not, of $16.80 for crude in Nigeria, and equal prices in Iran.

Mr. MONDALE. Yes. But what I might point out here is that domestically—I think the Senator is talking about the latest bid price in Iran——

Mr. JOHNSTON. Right.

Mr. MONDALE. Domestically, where most of our oil comes from, the price is now between $4.50 and $5. I do not know the price today, but it is substantially below the foreign price today.

In any event, let me read the language of the amendment, as to what increases may be allowed:

> For crude petroleum, no more than a passthrough of cost increases actually incurred in domestic or foreign operations, except that the Administrator may implement exceptions to such rules for the sole purpose of providing increases in the price of new supply to encourage increased domestic exploration and production of crude petroleum.

In other words, it anticipates legitimate cost passthroughs from both domestic and foreign operations.

Mr. JOHNSTON. I understand that it allows the cost passthroughs for increased costs, but I am talking about where is the starting point? If the Senator could suggest, because of the language——

Mr. MONDALE. The cost at the day of enactment. There is no rollback intended.

Mr. JOHNSTON. No rollback intended?

Mr. MONDALE. No; it is the cost at the day of enactment.

Mr. JOHNSTON. All right. I suppose that does not, then, contemplate a national price for crude; it is whatever one is charging on the day the law is enacted?

Mr. MONDALE. That is correct.

Mr. JOHNSTON. All right. Suppose you are an independent, and you want to start a new company, and you have never discovered oil before. Where do you begin your first price?

Mr. MONDALE. As indicated on page 3 of my amendment, line 7, the Administrator has broad authority for pricing policies. That would deal with the whole range of problems of the kind the Senator refers to. Under subsection (g), he would establish rules and regulations to implement fuel pricing policies, and that would be something within the discretion of the Administrator.

Mr. JOHNSTON. I would suggest to the Senator that there is no language in the amendment relative to beginning prices. There is only language about increases in prices. If there is language relative to beginning prices, I would like to know what kind of direction we are giving to the Administrator to set those initial prices.

Mr. MONDALE. He has broad authority. If the Senator will read this amendment, he will see that he has very broad authority to deal with problems of that kind, and in addition to that, under this underlying bill before us, there is additional authority that the Administrator has to deal with problems of that kind.

Mr. JOHNSTON. What is the direction and the intent of Congress as to where he should set the initial price?

Mr. MONDALE. It would be at his discretion. He would have to hold hearings to deal with classes of problems which might deal with new competitors of that kind. It would be well within his discretion.

We are not laying out rigid ground rules, but rather broad standards. It would undoubtedly be heavily influenced by the nature of the market at the time.

Mr. JOHNSTON. Is his discretion limited, and if so, by what?

Mr. MONDALE. No.

Mr. JOHNSTON. Could he, for example, pick the price of Nigerian crude, at $16.80 a barrel and even higher? And how much lower would his discretion range?

Mr. MONDALE. Well, if he tried to establish prices at that level, he would have to justify that in the course of his hearings, on the basis of the market and on the basis of what is realistic.

It is impossible, may I say to my friend from Louisiana (Mr. JOHNSTON) to shape an amendment which anticipates with particularity every possible vagary of the market. We do not intend to do that. This is not a straitjacket amendment, but a realistic one that tries to deal with the increases of prices that can be passed on to the consumer as the result of true cost increases, or increased profits that may be necessary specifically in order to encourage increased domestic production. In addition to that, under subsection (f), to which I have made reference, the Administrator has broad authority to deal with problems of the kind the Senator is discussing.

Mr. JOHNSTON. I understand the Senator's words but I still think the key—the crucial and the critical question relative to the price of crude to someone who wants to put together a venture and then go out and drill—is that there is virtually no direction in the bill, no limit on the discretion as to where the starting price will be, so that a driller will have no idea what he can get for his crude if he finds it. I would suggest that there are ways to define what that starting price should be and we could start it based on cost, or the fair market value——

Mr. MONDALE. If the Senator would defer in his questions, we have some suggested language that we should like to discuss with him.

Mr. JOHNSTON. If I may ask a few more questions on another subject, one is allowed to get greater profits for new production. Would the Senator define what is "new production" or "new supply"? Would it be a new well in an old field, or——

Mr. MONDALE. The Senator is trying—perhaps understandably so—but trying to spell out with great particularity precisely the questions the Administrator will deal with following the enactment of this legislation, following the hearings, and following the establishment of the rules and regulations. This is a very standard practice by Congress, to deal by way of general principles, and then to anticipate that the Administrator will implement them. It is clear that by this legislation we mean by "new supply," the results of increased domestic exploration and production of crude petroleum.

I do not think it is an unwarranted delegation of authority to ask the Administrator to determine how that line should be drawn with respect to existing wells, new wells, and so forth.

Mr. JOHNSTON. I share with the Senator from Minnesota a certain mistrust of some of the policies followed relative to energy. I would like to constrict and confine the discretion of the Administrator to the greatest extent possible.

I appreciate the answers of the Senator from Minnesota and would like to follow this line of questioning to a greater extent later on, particularly when we get to that language.

I thank the Senator.

Mr. MONDALE. I thank the Senator from Louisiana (Mr. JOHNSTON) very much.

Mr. LONG. Mr. President, I would point out that under the laws that exist already, the price of oil is being controlled. It can be controlled more closely if those in charge of the cost of living wish to control it more closely.

Today, any price for oil is permitted on the world markets. Some foreign oil is being purchased at $17 a barrel on the spot market and is being brought into this country. We hear of $7 a barrel, $10, $14 a barrel, which is par for the course for the foreign oil that is being sold nowadays. So the foreign oil is commanding a price twice what domestic oil is being permitted now.

As I say, in the law now, without the Mondale amendment, there is the power to control the price of domestic oil if those in charge deem it desirable. In existing law there is the power to control the price of oil.

The Senator from Minnesota leaves all sorts of things out of his calculations. He talks about the profits the oil companies are making. I can understand that anyone making 75 percent or 100 percent on foreign oil is making big profits because that is not controlled by American price controls anyway. If they can get as much as they do for the foreign oil, that is simply beyond our control. Everyone agrees it is beyond the power of this Government to control that foreign oil and that we cannot do the first thing about it. All we can do is punish the guy who is trying to provide us with our needs by trying to develop our domestic supplies. That is not what we should be doing.

The Senator from Minnesota said that great profits are being made, but he did not distinguish between the oil in Saudia Arabia, which is boycotting us and refusing to ship us any oil—along with Nigeria and all the other countries—where his amendment would not apply at all, where they are permitted two or three times the price the American oil producer is permitted to get.

Another point that is not taken into account is the distinction between money which is made by drilling for oil and that being made in shipping costs, transporting it around the world, money being made setting it at the pump, or money made by oil companies in office buildings, in real estate developments, and things of that sort. Those people have found in many instances that it is is more profitable to put their money into real estate than into oil.

For those reasons, I do not believe the amendment of the Senator from Minnesota should be agreed to. It certainly should be given more study, in view of the fact that the law permits the control of the price of oil now. It should not be added to, certainly not by those who have had no chance to conduct hearing, to obtain specific technical information and to bring the Senate facts that would support our respective arguments other than what we pick up out of newspapers and magazines.

Accordingly, Mr. President, I believe that the amendment should be tabled, and I move that the Mondale amendment be laid on the table.

Mr. MONDALE. Mr. President, the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. TOWER). The question is on agreeing to the motion to table the Mondale amendment.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), and the Senator from Massachusetts (Mr. BROOKE) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Maryland (Mr. MATHIAS), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The result was announced—yeas 47, nays 44, as follows:

[No. 600 Leg.]

YEAS—47

Allen	Dominick	Nunn
Baker	Ervin	Randolph
Bartlett	Fannin	Roth
Beall	Fong	Scott, Hugh
Bellmon	Fulbright	Scott, William L.
Bentsen	Goldwater	Sparkman
Brock	Griffin	Stennis
Buckley	Gurney	Stevens
Burdick	Hansen	Symington
Byrd, Harry F., Jr.	Helms	Taft
Byrd, Robert C.	Hruska	Talmadge
Chiles	Johnston	Thurmond
Cook	Long	Tower
Curtis	McClellan	Young
Dole	McClure	
Domenici	McGee	
	Montoya	

NAYS—44

Abourezk	Huddleston	Nelson
Aiken	Hughes	Packwood
Bayh	Humphrey	Pastore
Bible	Inouye	Pearson
Biden	Jackson	Pell
Cannon	Javits	Percy
Case	Kennedy	Proxmire
Clark	Magnuson	Ribicoff
Cranston	Mansfield	Schweiker
Eagleton	McGovern	Stafford
Hart	McIntyre	Stevenson
Hartke	Metcalf	Tunney
Haskell	Mondale	Weicker
Hatfield	Moss	Williams
Hathaway	Muskie	

NOT VOTING—9

Bennett	Cotton	Hollings
Brooke	Eastland	Mathias
Church	Gravel	Saxbe

So Mr. LONG's motion to table Mr. MONDALE's amendment was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on December 17, 1973, the President had approved and signed the enrolled bill (S. 1443) to amend the Foreign Assistance Act of 1961, and for other purposes; and that the bill (S. 2641) to confer jurisdiction upon the district court of the United States of certain civil actions brought by the Senate Select Committee on Presidential Campaign Activities, and for other purposes, became law without the signature by the President, the 10th day of consideration by the President under the Constitution having been December 17, 1973.

OUTDOOR RECREATION—A LEGACY FOR AMERICA—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, with an accompanying outdoor recreation plan, which was referred to the Committee on Interior and Insular Affairs. The message is as follows:

To the Congress of the United States:

It is with pleasure that I transmit the Nationwide Outdoor Recreation Plan, *Outdoor Recreation—A Legacy For America.* This Plan has been developed in response to Public Law 88–29.

The Plan is designed to set forth a framework for guiding the programs of the Federal Government, State and local governments, and the private sector in providing outdoor recreation opportunities in America.

RICHARD NIXON.

THE WHITE HOUSE, *December 19, 1973.*

ENROLLED BILL SIGNED

The enrolled bill (H.R. 10717) to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin as a federally recognized sovereign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians, and for other purposes, was signed today by the Vice President.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 2413. An act to authorize the disposal of aluminum from the national stockpile and the supplemental stockpile, and for other purposes;

S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile; and

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile and from the supplemental stockpile, and for other purposes.

The enrolled bills were subsequently signed by the Vice President.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER (Mr. CURTIS). The bill is open to further amendment.

Mr. BUCKLEY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The Senator will suspend. May we have order in the Senate? Senators will please take their seats or retire from the Chamber.

The Senator may proceed.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 912 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

At the end of the bill insert the following:

TITLE III—AMENDMENTS TO NATURAL GAS ACT

SEC. 301. This title may be cited as the "Natural Gas Act Amendments of 1973".

SEC. 302. Section 1(b) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: "or to the sale of natural gas delivered for the first time in interstate commerce or sold in interstate commerce upon the expiration of an existing contract on or after the effective date of the Natural Gas Act Amendments of 1973, or produced from wells commenced on or after such date".

SEC. 303. Section 2 of the Natural Gas Act is amended by adding at the end thereof the following:

"(10) 'affiliate' or another person means any person directly or indirectly controlling, controlled by, or under common control with such other person.".

SEC. 304. Section 5 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(c) In any case where a natural gas company purchases natural gas from an affiliate the Commission may disallow any portion of a rate or charge by such company which is based on the amount paid for such purchase in excess of current prices paid for comparable gas to nonaffiliates.

"(d) The Commission shall not authorize any increased rate or charge for natural gas on the basis of the renegotiation of any contract for the sale of natural gas, being carried out before the effective date of the Natural Gas Amendments of 1973, prior to the date on which performance is completed under such contract in accordance with its terms; provided that the Commission may approve such renegotiation where adjustment in contract terms is required to assure optimum production from producing reservoirs.".

The PRESIDING OFFICER. Will the Senator from New York inform us whether or not this is the amendment on which there is to be a time limitation of 2 hours on debate?

Mr. BUCKLEY. It is.

Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Senator DOMINICK, Senator THURMOND, and Senator BENTSEN.

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

Mr. BUCKLEY. Mr. President, the purpose of the amendment is simple. It is to remove FPC controls over new natural gas, by which I mean gas not currently flowing into interstate pipelines under contract. The amendment has provisions, which I shall explain in due course, to protect the consumer.

Mr. President, I point out that the bill to which I am offering the amendment is described as emergency legislation of short duration. It establishes the administrative machinery to attempt to cope with the energy crisis. We deceive ourselves if we feel we can achieve this objective without at the same time adopting measures that will certainly result in increasing domestic prices of enegry, thereby offering the American people

some hope of working themselves out of the current shortages.

The evidence presented in many months of testimony before the Committee on Interior and Insular Affairs, and other committees in Congress, leads overwhelmingly to the conclusion that the most effective single step Congress can take at this time to build up supplies is by deregulating the supply of new natural gas in the interstate market; that is, to remove FPC jurisdiction over new gas. The impact on supply would be substantial.

One-third of our total energy consumption is natural gas, and yet a major proportion of all of the natural gas found in continental United States in recent years, has been sold within the State in which it was produced. The reason for this is simple. The Federal Power Commission has required that gas sold to interstate pipelines be priced at artificially low prices. On the other hand, because the price of natural gas is not controlled on sales within the State in which it is produced, there has been active exploration where adequate intrastate markets exist. Thus intrastate customers in States like Louisiana and Oklahoma have natural gas in abundance while interstate customers are plagued with growing shortages as old reservoirs are depleted.

Deregulation of natural gas would immediately enable a consumer in New York, California, Illinois, or Massachusetts to compete with a consumer in Texas, Louisiana, and Oklahoma for uncommitted supplies; something which FPC regulations now make impossible. Thus, gas currently finding its way into intrastate sales could be diverted to the interstate market.

Of equal importance, the restoration of price incentives would result in a significant increase in exploratory drilling and in a significant expansion of proven gas reserves. This conclusion is fully supported by testimony presented last week before the Interior Committee by Prof. Paul MacAvoy of MIT.

Finally, allowing the price of natural gas to reach its proper level will assure a better allocation of our energy resources. Utilities which have been encouraged to use natural gas rather than coal because of the artificially low price on natural gas would return to using coal to fire their boilers, thus freeing additional natural gas supplies for individual consumers.

My amendment is designed to increase deliveries of natural gas to interstate pipelines in the most effective way possible. It will do this by restoring normal marketplace incentives for the discovery and development of new reserves by removing the Federal Power Commission's existing authority to regulate the wellhead or field price of new gas.

It will not permit "windfall" profits. It specifically prohibits the renegotiation of existing contracts for flowing gas.

My amendment protects the consumer against artificially high prices that could result from non-arm's-length sales between a pipeline and an affiliated producer. It does so by specifically authorizing the FPC to refuse to allow a pipeline to pass through to consumers any portion of a price paid for natural gas to an affiliated producer that cannot be justified as reflecting the competitive market price for that gas.

It should be noted that the domestic gas producing industry is, in fact, competitive. The interstate sales of more than 3,750 producers are currently regulated by the FPC. Of these, only 47 represent producers with direct pipeline and distributor affiliates. At the present time there are thousands of independent producers selling gas at unregulated prices to intrastate customers in such States as Oklahoma, Louisiana, and Texas. A free and competitive market in natural gas in fact exists.

The elimination of price regulation on new gas will not result in a sharp increase in cost to the ultimate consumer. According to a study cited in a recent Interior Committee staff memorandum—

> Even if wellhead prices reached sixty-five cents per Mcf for new gas [approximately three times current regulated prices], the *average* field price would increase only gradually (to 51.45 cents per Mcf by 1980). Under this assumption, consumer prices would rise 6.4 percent the first year, 3.8 percent the second year, 3.0 percent, 2.8 percent and 3.7 percent in succeeding years. At the 65¢ field market price, the initial effect would be an increase in the yearly gas bill of $8.30; the total projected increase by 1980 would be $33.06.

The alternative to a rapid development of new domestic reserves of natural gas are far more costly to the consumer. To quote again from the staff memorandum—

> Supplemental gas sources are already two to three times as high as conventional natural gas at the city gate. Synthetic natural gas (SNG), made from coal or made from imported liquid hydrocarbons, and imported liquefied natural gas (LNG) are priced generally at $1.00 to $1.80 and up, per Mcf.

To this must be added the cost of distributing that gas, a cost that currently accounts for well over half the price to the consumer.

The evidence to support the need for this amendment is becoming increasingly visible as the shortfall in our energy supply becomes more conspicuous. In their introduction to a recent Harvard Law Review article of April 1973, entitled "The Natural Gas Shortage and the Regulation of Natural Gas Producers," Stephen Breyer and Paul W. MacAvoy, econmists at the Brookings Institution, stated:

> Natural gas now supplies more than a third of America's energy needs and exists in the ground in sufficient quantities to forestall any danger in the foreseeable future of its extinction as a natural resource. Nevertheless, there is now, in the early 1970's, no lack of evidence that the United States is in the throes of a serious natural gas shortage. This article will show that shortage is a direct result of FPC regulation of producers' prices and that the shortage has been disproportionately borne by home consumers. Moreover, the article will show that the losses arising from the shortage have been so great that they cannot rationally be worth the pursuit of whatever valid purposes might be served by lower user prices.

My amendment provides for adequate safeguards against price increases that do not reflect ordinary supply and demand conditions in the market while providing the incentive to increase the supply to interstate consumers and a disincentive to inefficient use by many commercial, industrial, and utility users who should be using other forms of fuel.

I firmly believe that adoption of this amendment will do more to help us work our way out of our current energy shortage than any legislation thus far adopted by this Congress.

I would like to quote from a letter dated December 14, 1973, signed by the Chairman of the Federal Power Commission, Mr. John Nassikas. Among other things, Mr. Nassikas says:

> It is the Commission's view (Commissioner Smith not participating) that the Buckley amendment definition of "new" gas is entirely proper, and that it is consistent with the demarcation between "new" and "old" gas now utilized by the Commission in its regulation of producer rates. Under Commission opinions and orders now in force, we recognize as "new" gas, for rate purposes, that gas which is (a) sold for the first time to interstate pipelines, (b) sold under a new contract which is negotiated after the termination of the original contract, and (c) produced from wells commenced after the date of inception of the applicable ratemaking proceeding. The Buckley amendment follows the same definitional pattern; it is clear, therefore, that the amendment would not interfere with, nor substantially change producer rate regulation of "old" gas as presently administered by the Commission.

The letter concludes with the following paragraph:

> The Buckley amendment will enable market forces to more effectively allocate our natural resources and should encourage the development of additional domestic gas supplies consistent with the objective of optimum self-sufficient to alleviate a deepening national energy emergency.

Mr. President, contrary to what the Senator from Washington (Mr. JACKSON) suggested in a colloquy a few weeks ago, my amendment will not open the door to windfall profits. It will effectively and specifically prohibit the renegotiation of existing contracts.

Again I would like to quote from Chairman Nassikas' letter:

> The Buckley amendment will not trigger any price escalation of "old" or "flowing" gas through operation of such a "deregulation" clause, nor will the Buckley amendment permit the use of such a clause to deregulate "old" or "flowing" gas. The "deregulation clause"—despite its inclusion in many contracts—is prohibited under Sec. 154.93 of the Commission's Regulations because it is an indefinite pricing provision. As such, these clauses are in no way binding upon the Commission, nor may they be used to circumvent Commission regulation of gas sold under contracts containing such clauses. The Commission's power to prohibit the use of indefinite pricing clauses, and indeed the express language of Sec. 154.93, were expressly upheld by the Supreme Court in *F.P.C. v. Texaco*, 377 U.S. 33 (1964).

The Chairman goes on to cite court cases confirming the fact that these attempts to move outside the FPC's jurisdiction have no validity.

My amendment protects the consumer against artificially high prices—sharp

increase in cost to the ultimate consumer.

The reason for this, Mr. President, is twofold:

First of all, in the case of New York State, for example, 85 percent of the cost to the household for natural gas is represented by pipeline transportation and distribution costs. In other words, no part of the price paid to the producer of natural gas is reflected in 85 percent of present cost.

Second, because only new gas would be deregulated, there is a fold-in of the price of the new gas into the price structure of the great preponderance of the gas that is already committed under contract.

It has been estimated that if new gas were sold at 65 cents per thousand cubic feet, or about three times what the FPC currently permits, the initial effect for the consumer of this country would be an increase in the yearly gas bill of $8.30 and that the total projected increase by 1980 would be $30.86.

It is apparent that even if the initial price were sold at significantly higher than the 65 cents at the wellhead, there would not be an increase to the average householder that would be unacceptable, especially if the alternative is not to have any gas.

I would also like to point out to this Chamber the fact that we are beginning to run out of gas. In fact, we have shortfalls that have risen in just 1 year's time—curtailments of committed delivery—that have risen from 821 million cubic feet for the year ending March 1973 to an FPC estimate of 1.250 billion cubic feet for the year ending this coming March—in other words, a 50-percent increase in curtailments in the course of just 1 year—and that curve can only go up unless either we find more domestic gas under the stimulus of the price mechanism or we fill that gap by importing gas in the form of LNG—liquid natural gas—or manufactured synthetic gas.

The city of Boston, in order to meet the shortfall of committed delivery of gas, paid $1.58 per 1,000 clubic feet of LNG imported versus 69 cents it is currently paying at the city gates for gas produced in the United States.

For all these reasons, and others that are contained in my full statement—which I ask unanimous consent to have printed in the RECORD——

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

Mr. BUCKLEY. For all these reasons I urge my colleagues to adopt my amendment. The hours and hours of testimony submitted before the Interior and Insular Affairs and other committees of this Congress leave no doubt that there is no single action that can be taken by the Congress in this session that will do more to bring us out of the present energy crisis and bring us toward that day when we are no longer dependent on foreign powers for our source of energy.

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

Mr. BUCKLEY. I yield.

Mr. BURDICK. Will the Senator outline to me the mechanics or the machinery embraced in his proposition to separate the new gas and the old gas? Who makes the determination?

Mr. BUCKLEY. The FPC, in the last analysis, claims jurisdiction of gas if conceived of as "old" gas; and as I indicated in the letter I quoted from Chairman Nassikas, it is the position of the FPC that my definition and their definition of what constitutes "new" and "old" gas concur, so we would have a continuation of the policy and jurisdiction of FPC over old gas as the FPC defines it.

Mr. BURDICK. If there is a question whether it is old gas or new gas, the tribunal to make the decision would be the FPC?

Mr. BUCKLEY. I would accept that as an appropriate interpretation.

Mr. BURDICK. It has been said by some that this would permit a company, perhaps, to renegotiate old contracts and bring the old contracts within the realm of the new gas concept.

Mr. BUCKLEY. Mr. President, my amendment specifically prohibits a renegotiation of old contracts except under one set of circumstances, and that is when, with the full approval of the FPC, it becomes necessary to make adjustments in the contract in order to enable an existing reservoir to produce at optimum efficiency.

As the Senator is aware, as one starts depleting a reservoir, problems develop. They need a repressurization or perhaps they need sand fracing and other techniques which require new capital investment, which will unleash a new price on gas that would not be produced under ordinary conditions. Quite obviously, unless that cost can be recovered, that investment will not be made.

So except for that very exception, which, can only be invoked with the full approval of the consenting FPC, my amendment does not permit renegotiation.

This was confirmed by Mr. Nassikas in the letter from which I have already quoted. He makes it clear that despite the fact that existing contracts attempt to anticipate the probable deregulation of gas and thereby provide a basis for an immediate jump to some new schedule, the chairman points out that it would not be applicable in the case of my amendment because old gas is not deregulated; and the attempt to do so is specifically unlawful under existing FPC regulations, regulations which have been found in the courts to be fully valid.

Mr. BURDICK. Except for the exception referred to, the old contracts cannot be renegotiated.

Mr. BUCKLEY. Exactly.

Mr. BURDICK. And the FPC retains jurisdiction not only over those areas, but also over new gas.

Mr. BUCKLEY. The Senator is correct.

Mr. BENTSEN. Mr. President, I ask the Senator from New York if he would be agreeable to listing my name as a cosponsor of the amendment?

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the name of the Senator from Texas (Mr. BENTSEN) be listed as a cosponsor.

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

Mr. BENTSEN. Mr. President, I wish to say a few words in behalf of the amendment offered by the Senator from New York to provide for a phased deregulation of the price which interstate pipelines are allowed to pay domestic producers of natural gas.

I am in favor of removing Federal regulation from natural gas producers for the same reasons that the Washington Post and Dr. Paul MacAvoy of the Massachusetts Institute of Technology have advocated such a policy—because it would reduce the wasteful use of natural gas and increase its supply.

Mr. MacAvoy of MIT has conducted an extensive study of the natural gas industry and has concluded that the present regulation of producer prices has resulted in shortages and that consumers would be far better off if the marketplace were allowed to price natural gas.

Of these particular resources and fuels, natural gas is the only one that is regulated. We do not see the same type of regulation of oil or coal.

As the Washington Post stated in an editorial a year ago:

> Gas is in short supply because we hold the price artificially below the prices of competing fuels.

The Post went on to say:

> It illustrates the crucial importance of pricing to the future national energy policy. Deregulation is part of any reasonable attempt to match supply with a soaring demand.

It really does not make any sense to say that we will pay a price of $1.26 Mcf for Nigerian gas that is landed on our shores and say to our own domestic producers that we will pay them something on the order of 25 cents Mcf but that we will pay 4 or 5 times as much to a foreign producer. It would make just as much sense to say that in this country we would limit our own manufacturers of shoes to $10 a pair, while paying $40 a pair for shoes from Spain. Surely there is no equity in that; and obviously, in this instance, it would be a great waste of this particular fuel.

Congress has acted upon a number of energy-related measures in the last several months, but none of these measures is directed at increasing the supply of fuels within the next several years.

I was pleased to be a cosponsor of Senator Jackson's bill to increase the funding of energy research for gasification of coal, for solar energy, and for geothermal plants. However, we also need to act on solutions which will produce results within the next 3 to 5 years. I believe that removing the artificially low price ceilings which interstate pipelines are allowed to pay domestic natural gas producers will have a favorable impact within that 3- to 5-year period and beyond. I believe we would be able to get new areas drilled and keep marginal wells producing.

The Federal Power Commission has experimented with the deregulation of small producers, and the results were most favorable.

In the Texas Panhandle, the number of wells drilled has been declining from a peak of over 1,400 in 1957 to only 202 in 1971. The year after the small-producer exemption was approved by the

Federal Power Commission, there was a 50 percent increase in the wells drilled in that area. The number of natural gas wells completed jumped from 68 in 1971 to 114 in 1972. I believe this was a fairly good test of what deregulation could mean.

The Texas Panhandle is a major gas-producing area and is explored principally by independents who could take advantage of the small producers exemption. Now, as a result of the court decision holding that the Federal Power Commission exceeded its authority in granting the small producer exemption, most of the plans for new deep wells and some of the medium-depth wells have had to be cancelled due to the unavailability of outside drilling funds. Most independent producers not only expend their own funds on exploration, but they also must use a great deal of outside capital. Higher natural gas prices increase the availability of these outside funds for exploration. The court decision required a return to the lower regulated prices, and many potential investors found other places to put their money.

Mr. President, this amendment is similar to a bill I introduced earlier this year. The amendment would remove Federal Power Commission price jurisdiction over sales of new gas—natural gas not already committed under contract. This would mean that gas presently flowing under contract would be deregulated only at the end of its contract term. Since almost all flowing gas is under contract, the price impact to gas consumers would be very gradual. The Commerce Committee has been provided with a study conducted by Foster Associates which indicates that, if the current prices allowed by the Federal Power Commission tripled, the year-to-year increase for the average homeowner would be less than $9 a year. If those estimates are even close to correct, phased deregulation is a real bargain compared to the increases we have seen in the price of energy from foreign sources.

Mr. President, at a time when the unreliability of foreign energy sources has been clearly demonstrated, it makes no sense to cling to a regulatory system that allows natural gas from Algeria to be priced at six times what we allow domestic producers.

If we ever hope to achieve self-sufficiency, we must adopt policies that conform with today's needs. The present regulatory system is not only unfair to domestic producers, it is contrary to our national interest.

I urge the adoption of the pending amendment.

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

Mr. BUCKLEY. Does the Senator from Texas desire additional time?

Mr. BENTSEN. No; I thank the Senator from New York very much. I congratulate him upon the job he is doing. I think he understands the need for funding at the marketplace.

Mr. BUCKLEY. I assure the distinguished Senator from Texas that I have numerous constituents who are in urgent need of gas. One hundred and fifty companies in my State have found it necessary to cut back the production of their products. People are out of work.

Mr. President, I reserve the remainder of my time. For the information of the Senate, it is my present intention to yield back the remainder of my time. I know that many Senators are anxious to move to a vote.

Mr. RIBICOFF. Mr. President, I have received letters from the chairman of the Committee on Commerce and the chairman of the Committee on Insular Affairs, who claim that this is an attempt to short circuit the orderly legislative process. With permission of the Senate, I will read the letters into the RECORD. The first is from the Senator from Washington (Mr. JACKSON):

I understand that an amendment will be proposed to S. 2776, the Federal Energy Emergency Administration Act, which would modify the existing Federal policies regarding the regulation of prices of natural gas.

This is to advise you that the Senate Committee on Interior and Insular Affairs is concluding its study of natural gas pricing policy and will be meeting to vote upon its recommendations on December 19th. I strongly oppose any action by the Senate on this matter prior to the completion of the Interior Committee's discussions and the recommendations of the Senate Commerce Committee on legislation which is presently pending before the latter Committee.

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

Mr. RIBICOFF. I am glad to yield.

Mr. BUCKLEY. I happen to be a member of the Committee on Interior and Insular Affairs, and this happens to be December 19. The Interior Committee has not met on this matter.

Mr. RIBICOFF. I can understand that, with the Senator from New York on the floor and the Senator from Washington (Mr. JACKSON) in conference. But I assume it is the intention of Senator JACKSON to convene the committee as soon as he can, to go into this matter.

Mr. BUCKLEY. Early in the next year.

Mr. RIBICOFF. The other letter is from the chairman of the Committee on Commerce, the Senator from Washington (Mr. MAGNUSON). It reads:

Once again the Senate confronts an ill-advised and unjustified effort to short circuit the orderly legislative process. I am referring to Senator Buckley's amendment to graft on to the Energy Organization bill natural gas deregulation amendment.

As you already know the Commerce Committee has already completed seven days of hearings on the complex and enormously significant issues involved in the reform of our natural gas regulation system.

I skip a few paragraphs, and continue:

It is our intention to proceed to executive consideration of gas regulation as first priority of the Commerce Committee in the new session. My expectation is that legislation will be reported to the floor early in the session.

I am assuming he means the next session.

I am confident that through the careful refining process of Committee deliberation we will be able to report to the Senate legislation which will provide ample stimulation for the exploration and development of untapped natural gas reserves, without imposing reckless and unconscionable economic burdens upon the American people.

It has become very apparent to me, Mr. President, that on this very complex matter it behooves us to have the benefit of the decisions and the wisdom of the respective Committees on Commerce and Interior and Insular Affairs, and consequently I am opposed to the amendment, and will move to table the matter after all those who wish to speak have had an opportunity to do so, within the time limitation accorded to both of us.

The PRESIDING OFFICER. Who yields time?

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

Mr. RIBICOFF. I yield 10 minutes to the distinguished Senator from Illinois.

Mr. STEVENSON. I thank the Senator from Connecticut.

Mr. President, the Senate has now defeated the Mondale amendment, which was intended to maintain price controls in the oil and gas industry and impose some restraints on profits in that industry. Now it is proposed that the profits of the oil and gas industry be increased by as much as $8 billion—thereby adding that amount to the prices which already burdened consumers must pay.

There have been hearings held on this subject, not in the Committee on Interior and Insular Affairs, but in the Commerce Committee. I have chaired 9 days of hearings on this complicated and important matter. I have heard more testimony on this subject than any other Member of this body.

The Senator from Texas mentioned Professor MavAvoy of MIT. He has also been referred to by the Senator from New York. He testified before the Commerce Comittee during these hearings, and he did not support deregulation of natural gas prices. He supported reform of the regulatory structure, which is what I support.

It has been stated that there is ample gas in intrastate commerce. That simply is not the fact. The fact is that the curtailments of gas in intrastate commerce are running at twice the rate of the curtailments in interstate commerce even though the intrastate prices are higher. The prices of gas in intrastate commerce are now as high as 90 cents per mcf, and rising.

This amendment, Mr. President, would not increase the supply of natural gas in the country for at least 3 years. Its most ardent supporters in the Commerce Committee hearings, including the Secretary of the Interior, all admitted that it would take at least 3 to 5 years before it would have any effect whatsoever on the natural gas supply.

As far as the emergency is concerned, the Chairman of the Federal Power Commission indicated that to any extent to which deregulation might increase current supplies, the FPC already had the power to deregulate the price.

All we can be certain of is that deregulation of the price of natural gas at the wellhead would increase the revenues of the producers by as much as $8 billion, and increase the prices to overburdened consumers by a like amount. We cannot even be assured that after 3 or 5 years the supply of natural gas in the country would be increased. After all, the oil

segment of this industry is unregulated, and we face greater shortages of oil in the country than we do of natural gas.

It has been suggested that the price of natural gas should be permitted to rise to the cost of alternative sources of fuel. The Senator from Texas indicated that it was wrong to pay the producers more in north Africa for natural gas than we pay American producers. There may be something right about that, too. But if the suggestion is sound, the prices should and would rise to the prices of alternative fuels, including the prices of fuels produced abroad, as in the case of Algeria, where natural gas is produced. Then the question becomes one of who will regulate: Will it be the Government of Algeria or the Government of the United States that will regulate the price of natural gas to the American consumer? The prices of fuel, both oil and gas, in the producing countries outside the United States, are regulated. They are regulated by the governments of those countries. They are regulated also by trading companies.

Mr. President, it would be very nice if we could rely on a free market to determine a reasonable price and to allocate natural gas responsibly. But that is not one of the options available to us. There is no free market in the oil and gas industry. The large oil and gas companies, which control most of the Nation's uncommitted natural gas reserves, are heavily concentrated and vertically integrated. Their operations are characterized by joint ventures, interlocking directories, exchange agreements and, of course, they operate in a climate of short supply. Their product is vital. It is vital to every home, company, and firm in the country. In these times of short supply, that industry can charge almost any price; the desperate consumer will have to pay it.

Mr. President, the regulatory structure should change. I have little doubt that prices should rise. It may be that the independent producers who do most of the exploring, wildcatting, and discovering of oil and gas reserves should be deregulated.

In fact, that is what I have proposed. They are competitive. They do the exploratory work. They deserve the incentives. It is a complex subject. It is not a subject which should be legislated in this way without the benefit of careful study and recommendation by one of the committees of the Senate.

Even if this amendment were to be approved now, it probably would not and could not become law before the Commerce Committee has the opportunity to report a bill and the Senate an opportunity to pass it. That committee, as I have mentioned, has already held 9 days of hearings on the subject.

It is our intention to mark up and report a bill some time in February. At that point, the Senate could, with the benefit of very serious and careful study, and the advice of one of its committees, act sensibly on an extremely difficult and extremely important subject.

Mr. President, if it was right for the Senate to defeat the Mondale amendment, it would be right for the Senate to defeat this amendment. It should be tabled. If it is not tabled, I will have some further amendments to offer, including one to impose excess profits taxation on the oil and gas industry.

Mr. PERCY. Mr. President, I certainly agree with the overall objective of the amendment of the Senator from New York, in attempting to stimulate increased production. That really is the best way, ultimately, to bring down prices and provide an adequate supply. But in view of the fact that hearings are now being held by the Commerce Committee, in view of the study being given this matter intensively by the Committee on Interior and Insular Affairs, and in further view of the fact that reports are not now available from the committees on this matter, I would consider it the better part of judgment to withhold action on this particular amendment until such time as the Senate has available to it the benefit of those reports.

So, although I may concur with the objective, I do feel it would be best to wait until such time as we have this information. I, therefore, intend to vote for the motion to table the amendment.

Mr. BUCKLEY. Mr. President, first, I ask unanimous consent to have printed in the RECORD the letter written to me from the Chairman of the Federal Power Commission under date of December 14, 1973, from which I have quoted several times.

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

FEDERAL POWER COMMISSION,
Washington, D.C., December 14, 1973.

Hon. JAMES L. BUCKLEY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BUCKLEY: You have requested the views of the Federal Power Commission on two aspects of Amendment No. 767, sponsored by you and others, to S. 1283, which amendment reads:

"SEC. 301. This title may be cited as the 'Natural Gas Act Amendments of 1973'.

"SEC. 302. Section 1(b) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: 'or to the sale of natural gas delivered for the first time in interstate commerce or sold in interstate commerce upon the expiration of an existing contract on or after the effective date of the Natural Gas Act Amendments of 1973, or produced from wells commenced on or after such date.'.

"SEC. 303. Section 2 of the Natural Gas Act is amended by adding at the end thereof the following:

"(10) 'affiliate' of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person.

"SEC. 304. Section 5 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(c) In any case where a natural gas company purchases natural gas from an affiliate the Commission may disallow any portion of a rate or charge by such company which is based on the amount paid for such purchase in excess of current prices paid for comparable gas to nonaffiliates.

"(d) The Commission shall not authorize any increased rate or charge for natural gas on the basis of the renegotiation of any contract for the sale of natural gas, being carried out before the effective date of the Natural Gas Act Amendments of 1973, prior to the date on which performance is completed under such contract in accordance with its terms: *Provided*, That the Commission may approve such renegotiation where adjustment in contract terms is required to assure optimum production from producing reservoirs."

In particular you have inquired as to whether the amendment reaches only "new" gas, or whether it would also apply, to "old" gas, and the effect of the amendment upon existing contracts which contain so-called "deregulation" clauses.

1. It is the Commission's view (Commissioner Smith not participating) that the Buckley amendment definition of "new" gas is entirely proper, and that it is consistent with the demarcation between "new" and "old" gas now utilized by the Commission in its regulation of producer rates. Under Commission opinions and orders now in force, we recognize as "new" gas, for rate purposes, that gas which is (a) sold for the first time to interstate pipelines, (b) sold under a new contract which is negotiated after the termination of the original contract, and (c) produced from wells commenced after the date of inception of the applicable ratemaking proceeding. The Buckley amendment follows the same definitional pattern; it is clear, therefore, that the amendment would not interfere with, nor substantially change producer rate regulation of "old" gas as presently administered by the Commission.

I will not burden this response with a statement of the reasons why the Commission moved to the definitional base described above, for these are matters of public record stated in our various opinions and orders dealing with this subject. It might be of assistance, however, for you to review my recent Congressional testimony (Commissioner Springer concurring), and that of Vice Chairman Moody and Commissioner Brooke, which touched upon these matters, and accordingly I enclose copies of such testimony, offered to the Senate Commerce Committee in connection with S. 2408 and related legislation.

2. The so-called "deregulation clause" about which you inquired is found in about 50–75 percent of the new long-term contracts filed with the Commission in recent months. The following language is typical:

"(d) If at any time during the term of this agreement the Federal Power Commission (or any successor agency having jurisdiction over the rates charged for gas sold hereunder) ceases to have jurisdiction over such matters or ceases to exercise price control over this agreement, the price to be charged after the cessation date shall be redetermined and the redetermined price shall be the average of the three (3) highest prices then being paid for gas or substantially the same quality and quantity under comparable terms and conditions produced and sold in interstate commerce within the South Louisiana and offshore area. Furthermore, the price shall be redetermined on the same basis each four (4) years from and after the aforesaid cessation date. However, in no event shall the price to be charged for any period be lower than the higher of the applicable step-scale price or the price in effect prior to the time the price was redetermined."

The Buckley amendment will not trigger any price escalation of "old" or "flowing" gas through operation of such a "deregulation" clause, nor will the Buckley amendment permit the use of such a clause to deregulate "old" or "flowing" gas. The "deregulation clause"—despite its inclusion in many contracts—is prohibited under Sec. 154.93 of the Commission's Regulations because it is an indefinite pricing provision. As such, these clauses are in no way binding upon the Commission, nor may they be used to circumvent Commission regulation of gas sold under contracts containing such clauses. The Commission's power to prohibit the use of indefinite pricing clauses, and indeed the

express language of Sec. 154.93, were expressly upheld by the Supreme Court in *F.P.C. v. Texaco*, 377 U.S. 33 (1964). Sec. 154.93 reads, in pertinent part:

"*Provided*, That in contracts executed on or after April 3, 1961, for the sale or transportation of natural gas subject to the jurisdiction of the Commission any provision for a change of price other than the following provisions shall be inoperative and of no effect at law; the permissible provisions for a change in price are:

(a) Provisions that change a price in order to reimburse the seller for all or any part of the changes in production, severance, or gathering taxes levied upon the seller;

(b) Provisions that change a price to a specific amount at a definite date;

(b-1) Provisions that permit a change in price to the applicable just and reasonable area ceiling rate which has been, or which may be, prescribed by the Commission for the quality of the gas involved; and

(c) Provisions that, once in five-year contract periods during which there is no provision for a change in price to a specific amount (paragraph (b) of this section), change a price at a definite date by a price-redetermination based upon and not higher than a producer rate or producer rates which are subject to the jurisdiction of the Commission, are not in issue in suspension or certificate proceedings, and, are in the area of the price in question: *Provided further*, That any contract executed on or after April 2, 1962, containing price-changing provisions other than the permissible provisions set forth in the proviso next above shall be rejected."

Entirely aside from the fact that "deregulation" clauses are "inoperative and of no effect at law", it also seems clear that the clause, by its own terms, is in no manner actuated by the Buckley amendment. You will note that the clause speaks to a price redetermination "if . . . the Federal Power Commission . . . ceases to have jurisdiction over . . . or ceases to exercise price control over *this agreement*". The Buckley amendment obviously does not oust Commission jurisdiction over flowing gas contracts, and accordingly we fail to perceive how the express conditions precedent of the deregulation clause are ever fulfilled.

I trust that your specific questions have been fully answered, but if we may be of further assistance, we stand ready to make such further response as might be helpful.

The Buckley amendment will enable market forces to more effectively allocate our natural resources and should encourage the development of additional domestic gas supplies consistent with the objective of optimum self-sufficiency to alleviate a deepening national energy emergency.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

Mr. BUCKLEY. Mr. President, I would just like to comment on some of the points raised by the Senator from Connecticut and the Senator from Illinois. I am fully cognizant of the fact that hearings have and are continuing to be conducted before the Commerce Committee. But if we are to match hour for hour, that would be a useless exercise, as I would guess that over a period of the past year or more there have been more hours of testimony touching on all phases of what is required to stimulate the production of more gas and the discovery of more reserves, more testimony on whether the industry is competitive, more testimony on whether regulation impedes or helps the consumer, or impedes or helps exploration, that I would venture to guess there is at least a ratio of 2 to 1 in favor of the Interior Committee.

I really do not believe that this issue is so complicated when reduced to the essential question of whether the FPC price regulation has impeded the discovery of natural gas and the development of reserves, and whether the lifting of that authority over the pricing of new gas will stimulate the kind of vast expansion of exploration efforts required to help the country move to a position of energy independence.

The Senator from Illinois has pointed out that it is the Middle Eastern sheiks who are establishing the world price of oil. I suggest that this is not an argument in favor of continuing bankrupt policies at home in establishing the pricing of natural gas but, rather, it should be the argument to liberate ourselves from this kind of dependence on monopolistic foreign supplies by developing as soon as possible and as effectively as possible the huge remaining reserves of gas and oil which all competent geologists agree remain to be found in this country, provided the potential return justifies the very large investment.

I know that there are procedures in this Congress and I, for one, have urged they be followed more meticulously than they have been routinely in this body, especially when we are dealing with unwritten amendments.

There is no surprise about this amendment. It has been submitted in one form or another several times in recent months. I dare say there are more people in this body today acquainted with the pros and cons of my amendment than is normally the case in the situation of 90 percent of the votes we cast in this body.

I do believe that we are in an emergency, and we are dealing with emergency energy legislation. We have rushed through all kinds of bills, and in some cases, I believe, without the necessary safeguards over arbitrary administrative regulation and intervention. But we have done so because we recognize that we have to start now, we have to start today, to build that base of supply that will free us from dependence on foreign supplies.

So far in this Congress we have done nothing except approve the Alaska pipeline, which will not increase by one barrel or 1,000 cubic feet the amount of energy resources that will be made available to the American public.

The Senator from Illinois stated that his committee will be continuing hearings after we reconvene in the latter part of January, that in due course there will be a report to Congress, and that in due course there will be action. We may or may not have an equivalent feeling of urgency on the side of the House, and perhaps in June, July, or August, we will have law. He stated that the bill now under debate could not possibly become law prior to the time that the Committee on Commerce issues its report. I respectfully decline to agree.

I believe it is our objective here, in the last hours of this session, to rush this bill to completion, so that before we return home for our Christmas holidays, legislation will be on the President's desk which will provide the machinery for the administration of our emergency energy proposals; and I hope that that bill will contain one ingredient that will do something to increase the supply.

Mr. President, I am willing to relinquish the balance of my time whenever the opposition is willing to do so.

DEREGULATION OF NATURAL GAS

Mr. DOLE. Mr. President, the emergence of shortages of all forms of energy in the United States presents to the Congress and the American people issues of singular importance. Acknowledgment of the price of manageable controls and effective incentives is essential, particularly as we look to the near future to insure an adequate and dependable supply of energy.

EXPANDED DOMESTIC EXPLORATION

While simplistic solutions for an instant cure to the energy crisis do not exist, steps can be taken to prevent energy shortages from critically affecting our economy and our way of life. In legislating new actions effecting natural gas, it is necessary to accept the reality of declining volumes of flowing gas. Reestablishment of incentives to get domestic exploration moving has to be done by Congress.

Deregulation provides the best, quickest, and surest answer to the stimulation of exploration and development. If we can agree that exploration is a function of product price, tax incentives, and general economic incentives, then the removal of the Federal Power Commission's authority to regulate the wellhead or field price of new gas should be welcomed.

FACING THE FUTURE

All available indicators and projections show the growing need for natural gas. Shortages of natural gas affect not only gas users, but contribute to supply dislocations throughout the energy market. Deregulation will assure more effective utilization of gas supplies. Competitive prices will be an effective means of allocating gas to its most beneficial uses, while promoting conservation through the practice of efficient end use. Increased supplies and efficient use will help to reduce air pollution and should diminish national dependence on less secure foreign supplies while lightening the burden on the balance of international payments caused by excessive imports of oil and natural gas.

VALUE OF ENERGY

Decontrol of the wellhead gas price is the best solution to stimulating aggressive drilling. Domestic resources are available and their exploration is both technologically and environmentally within reach. Given the resources available for production maximum efficiency of allocations is a far better process than mandatory allocation in increasing the availability of heating fuel or propane gas. Having reserves of natural energy is clearly not the same as being able to deliver them to market needs. Clearly we can meet the challenge and accept the scale justified by the value of energy to our way of life.

CONSUMER EFFECTS OF DEREGULATION

A shortage of domestically produced natural gas now exists and decontrol of wellhead prices is a compromise which offers quick exploration and perhaps a return to freedom to the producer. But deregulation of natural gas has become a difficult task for Congress, due to the public suspicion of the oil and gas industry. Yet, it would best serve the consumers interest to end governmental regulation of prices at the wellhead.

Increased field prices for domestic gas would not drastically affect costs to the consumer as the field price of domestic gas represents less than 20 percent of the gas bill paid by the homeowner, with the remaining 80 percent of the gas bill for moving the gas by pipeline to homes and businesses. Given present governmental controls, consumers are not benefited by a scarcity at low prices. Consumers are best served by an adequate supply at reasonable prices. Certainly, there will be an effect on the consumer's gas bill that may be substantial, but it will not be a drastic one as suggested by some. The economy will readjust to an increase in real energy costs over a period of time without massive disruptions.

For some time there will be no room for complacency, and appropriate efforts to ease the adjustment are welcomed. Conservation will help redress the imbalance of demand and supply and these alternatives are now being given the noteworthy consideration they deserve. The possibilities of trimming the use of energy through improved insulation, improved heating and cooling systems, the renovation of the railroads, mass transportation and efficient industrial use will all offer substantial savings to our Nations energy consumption.

NATURAL GAS IN KANSAS

The energy industry is vitally important to Kansas. And Kansas energy production has likewise been important to the rest of the Nation for many years. Coal, crude oil, and natural gas have all been produced in abundance in Kansas and have contributed substantially to the State's growth and development and to that of the entire Nation as well.

Natural gas is currently an extremely important element of the Kansas energy picture as its unique properties have become so widely recognized and highly prized.

Unfortunately, the increased demand for this Kansas product has not been met by the supply-producing response which could be expected were natural gas subject to the traditional free market influences. While the wellhead price has been held at 20 cents per thousand cubic feet, the price of other, dirtier, and less secure sources of energy have steadily risen to several times that of the thermal equivalants of natural gas. Gas has become a ridiculous bargain in the energy showcase, so it has been put to many uses that simply make no sense in our energy-scarce world. The effects have been disastrous.

Nearly 8,700 gas and condensate-producing wells are operating in Kansas. In 1972 the wellhead value of this production was $127.8 million with the vast majority of it moving in interstate pipelines under regulated prices, so there was little opportunity for the unregulated market for intrastate gas to spur exploration. It is not surprising that in the same year only 26 wildcat gas wells were drilled, and the State suffered a net loss of reserves of 596 million cubic feet.

But 1972 was not an atypical year. In fact it was an improvement over 1971 when reserves declined by 789 million cubic feet. The entire trend—as the squeeze of wellhead price regulation has grown tighter and demand skyrocketed—has been exactly opposite of what our Nation required. Exploration has declined, reserves have shrunk, and the demand grows.

If this trend continues, within 3 years the State of Kansas will become a net importer of natural gas.

Of course it is impossible to stand here in the Senate and say that if gas is deregulated x amount of new reserves will be found. There is no way to tell what will be discovered through the risk-laden exploration process. But this is precisely the point. At today's prices the risk capital required to underwrite expanded exploration is not available.

Thus the impact of the deregulation amendment offered by the Senator from New York (Mr. BUCKLEY) which I am pleased to join as a cosponsor, would have a very strong effect in Kansas where almost all the gas that is produced moves in interstate commerce and is under wellhead price regulation.

With gas prices able to seek their own level in the free market, exploration activities—particularly those of the independent operators who account for the majority of new finds in Kansas and throughout the country—will be stimulated significantly and for sound business reasons.

Historically, in Kansas dry holes have accounted for 36.6 percent of all 167,000 oil and gas wells drilled. But these figures are misleading, for as initial fields have been developed and charted the percentage of dry holes has increased enormously to the point today where the risk of failure is so high that it is surprising that even 25 rotary drilling rigs were operating in Kansas in 1972.

Only 1 out of every 9 wells drilled in America today brings in any production; only 1 in 50 is considered to produce in commercial quantities; and only 1 in 1,000 is a major discovery. No wonder there is little risk capital available.

It is most unfortunate that natural gas has been caught between short-sighted regulators and the rumble of those who periodically seek to inflame the public over the real and imagined sins of the oil and gas industry. But it is getting well past the point when we can afford to tolerate the effects of these forces, and we must move to assure the public interest of having adequate quantities of the proper fuels available when needed.

Therefore, I am pleased to support this amendment in the belief that its passage will contribute significantly to the goal of energy self-sufficiency for America.

Mr. FANNIN. Mr. President, with the first snow of the winter Washingtonians are even more aware of the fact that we do have an energy shortage, and of its implications. The Senate now has the final opportunity of this session to take forceful action to increase supplies of energy available to the American consumer. I cannot urge more strongly the adoption of the amendment offered by my colleague, the Senator from New York.

Despite critics' charges to the contrary, the energy shortage was not contrived. But it could have been. Here, for example, is how a recent article by the Boston Consulting Group, an independent consulting organization specializing in corporate strategy, suggests it could have been done:

1. Set a ceiling on natural gas and keep the price down in spite of inflation. This will discourage exploration and increase use.

2. Ban the use of coal with sulfur content. Sharply restrict strip mining for environmental reasons. Then suddenly impose drastic safety rules which will substantially cut production from existing mines. Freeze prices so no one can offset cost increase from reduced output or justify further investment.

3. Delay initial nuclear construction by uncertainty about licensing requirements. Delay operation at full power after construction. Then delay start of new construction by environmentalist suits.

4. With natural gas, coal and nuclear power all severely restricted, that leaves only petroleum. First, grossly increase automotive consumption of gasoline by requiring drastic reductions in efficiency of already oversized engines because of pollution related modifications. Then ban the use of crude oil containing sulfur. Put into effect pollution objectives that make refineries far more expensive. At the same time, introduce great uncertainty into the requirements that must be met. Eliminate practically all new refinery sites by legal delaying tactics. . rther curtail refinery investment by mak. .g supplies of crude oil very uncertain. Block the use of Alaskan North Slope oil by arguments on environmental effects in uninhabited regions. Slow all offshore operations and delay development of oil shale reserves for environmental reasons.

As a clincher, make sure that the public is in the dark about what is actually happening by bringing suit against the major oil companies, charging them with being non-competitive and thereby causing the energy shortage.

Actually, every action described in this scenario already has occurred, either through legal suits, public demand or acts of environmentalists. All had laudable objectives. In aggregate, they promise to be very punishing to the nation for years to come.

A major contributor to the national energy crisis has been the dramatic shortfall of natural gas supply. Oil, largely imported oil, has been called upon to fill the gap caused by the shortage of natural gas. The Arab cutoff of oil has limited the possibility of oil continuing to fill the gas gap. The question then becomes one of finding the best means to rapidly increase the supply of natural gas so as to reduce or eliminate the present gap.

In order to find such a means one must ask, what caused the natural gas shortage? The experts—including academic economists, the Federal Power Commission, and the natural gas industry—are in near unanimous agreement that the principal cause of the gas shortage has been the wellhead price regulation of natural gas producers selling to interstate pipelines, instituted by the FPC in the early 1960's pursuant to the U.S.

Supreme Court decision in the Phillips case. Such regulation resulted in expanded consumer demand for "bargain rate" natural gas while dramatically dampening producers' efforts to find new gas supplies.

The following statistical information illustrates the results of wellhead price regulation of natural gas producers.

EXPLORATION EFFORTS TO FIND NEW GAS

The table below shows the decline of exploratory geophysical crew months worked; acres leased; and wildcat wells drilled. As can be seen, the 8,923 crew months worked in 1952 dropped to 2,760 in the succeeding 20 years. The 16,207 wildcat—exploratory—wells drilled in 1956 dropped to 7,587 by 1971.

EXPLORATION (GEOPHYSICAL CREW ACTIVITY, ACREAGE UNDER LEASE, WILDCAT WELLS DRILLED)

Year	Crew months worked	Total acres leased Jan. 1 (thousands)	Wildcat wells: Total	Wildcat wells: Dry	Wildcat wells: Percent dry
1952	3,923	273,067	12,425	10,090	81.2
1953	3,675	(1)	13,313	10,633	79.9
1954	7,969	315,568	13,100	10,389	79.3
1955	8,240	(1)	14,942	11,832	79.2
1956	7,857	383,863	16,207	13,118	80.9
1957	7,242	(1)	14,714	11,904	80.9
1958	5,751	371,146	13,199	10,632	80.5
1959	5,096	382,807	13,191	10,577	80.2
1960	5,207	424,251	11,704	9,515	81.3
1961	5,024	416,871	10,392	9,022	82.1
1962	4,231	408,870	10,797	8,815	81.6
1963	4,174	387,457	10,664	8,686	81.5
1964	4,406	372,468	10,747	8,951	83.3
1965	4,471	375,506	3,466	8,005	84.6
1966	3,835	350,895	10,313	8,705	81.4
1967	3,496	333,858	8,878	7,860	81.9
1968	3,390	325,106	8,806	7,489	81.5
1969	3,259	332,005	9,701	8,001	82.5
1970	2,521	343,213	7,893	6,422	83.5
1971	2,780	332,647	6,922	5,834	84.3
1972	(1)	350,725	7,587	6,293	32.9

[1] Not available.

The result of the declining search for new gas is illustrated by the fact that in 1966 24.3 trillion cubic feet of new gas reserves were discovered while in 1969 the new discoveries dropped to 8.5 trillion cubic feet.

CONSUMPTION OF NATURAL GAS RELATIVE TO RESERVES

Following the Phillips decision the relationship of reserves to production—consumption—changed noticeably for the worse and has been getting worse nearly every year since then. In 1953 23.1 times as much gas reserves existed as was produced and consumed. In 1972, for example, natural gas reserves to production ratio had dropped to 11.5.

By analogy, we are drawing gas out of our bank account at a much faster rate than we are adding to it.

The table below illustrates this trend.

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

Jan. 1	Liquid hydrocarbons (million barrels): Crude oil	Liquid hydrocarbons (million barrels): Gas liquids	Liquid hydrocarbons (million barrels): Total liquids	Natural gas (trillion cubic feet)	Reserve/production ratio: Crude oil	Reserve/production ratio: Total liquid	Reserve/production ratio: Natural gas
1953	27,961	4,997	32,958	198.6	12.4	13.1	23.1
1954	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1955	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1956	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1957	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1958	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1959	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1960	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1961	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1962	31,726	7,049	38,835	266.8	12.6	13.0	19.9
1963	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1964	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1965	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1966	31,352	8,024	39,376	286.5	11.7	12.1	17.6
1967	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1968	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1969	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1970	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1971 [1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1972 [1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5

[1] Excludes 9,600,000,000 barrels of crude oil and 26,000,000,000,000 cubic feet of natural gas added for Alaskan North Slope.

The Federal Power Commission conducted a study which projects the natural gas shortfall if present trends continue. The FPC's demand-and-supply projections indicate that such shortages will increase in volume and become more widespread. The FPC's Bureau of Natural Gas projects that demand for gas will exceed supply by 3.6 Tcf in 1973, 9.5, 13.7, and 17.1 Tcf in 1980, 1985, and 1990, respectively, despite the addition of gas supplements (22 Tcf is presently consumed nationwide). The FPC's projections are based on more moderate growth rates than were experienced in previous years.

To close this gap, an annual "finding rate"—annual additions to reserves—of approximately 37 Tcf would be required starting in 1973. This level of development represents a sustained level of annual new additions to reserves equal to that attained in 1970 when 26 Tcf of Alaskan gas were added to the reserve inventory. Put another way, the annual finding rate would have to equal one and one-half times the alltime record for annual U.S.-non-Alaskan-reserve additions that was reached in 1956 of 24.7 Tcf, at the same time that supplemental sources are developed.

A graphic representation of this analysis follows:

TABLE 1.—U.S. GAS SUPPLY DEMAND BALANCE ACTUAL 1966–70; PROJECTED 1971–90

[All volumes in trillions of cubic feet at 14.73 lb/in² and 60° Fahenheit]

Year	Annual demand [1]	Net pipeline imports	LNG imports	Gas from coal	Gas from Alaska	Gas from liquid hydrocarbons	Domestic production	Annual consumption	Unsatisfied demand	Reserve	Year-end reserves	R/P ratio
1966	17.9	0.4					17.5	17.9	0	19.2	286.4	16.4
1967	18.8	.5					18.4	18.3	0	21.1	289.3	15.8
1968	19.9	.6	[2]				19.3	19.9	0	12.0	282.1	14.6
1969	21.3	.7	[2]				20.6	21.3	0	3.3	269.9	13.1
1970	22.6	.8	[2]				21.8	22.6	0	11.1	259.6	11.9
1971	24.6	.9	[2]				22.8	23.7	.9	12.0	248.8	10.4
1972	26.1	1.0	[2]				23.8	24.8	.3	13.6	233.0	10.0
1973	27.7	1.1	[2]			[3]	24.7	26.3	1.9	24.6	223.3	9.2
1974	28.3	1.1	[2]			[3]	24.8	25.9	2.9	15.6	219.6	8.3
1970	29.8	1.2	0.3			[3]	24.7	26.2	3.6	16.0	303.7	8.4
1980	34.5	1.6	2.0	0.3	0.7	[3]	20.4	26.0	9.5	17.0	186.1	9.1
1985	39.3	1.9	3.0	1.4	1.3	[3]	18.5	26.1	13.7	17.0	175.4	9.6
1990	46.4	1.0	4.0	3.3	2.3	[3]	17.6	29.3	17.1	17.0	170.4	9.6
1971 to 1990 total	7 7.6	31.1	38.0	17.3	20.6	[3]	414.2	526.2	186.4	325.0		

[1] Consignees 48 States.
[2] Very small volume.
[3] Insufficient data for quantitative projection. Unsatisfied demand will be reduced by the amount of gas produced.

The "unsatisfied demand" has been filled largely by oil. Inasmuch as domestic oil production has leveled out at approximately 11 million barrels a day and total U.S. consumption is in excess of 17 million barrels a day, the difference has been made up by imports. The imports have been used to satisfy normal increases in demand for oil as well as increases in demand attributable to filling the unsatisfied demand in natural gas. The committee staff paper, prepared by Miss Starratt, contains estimates that unsatisfied natural gas demand by 1975 in oil equivalent will range from 2.3 to 5.5 million barrels a day.

U.S. oil imports in 1970 of crude and product averaged 3.4 million barrels a day. By the first quarter of 1973 oil imports had nearly doubled to 6.2 million barrels a day of crude and product, or 35 percent of total U.S. oil supply.

The Arab oil cutoff of crude and product, according to a November 15 National Petroleum Council report, amounts to 2 million barrels a day of crude and product, and the cutoff will be increased to 3 million barrels a day. The report states that—

> On a conservative basis, the effect of a 2-million-barrel-per-day cutoff has been estimated to cause an annual loss of 48 billion dollars to the U.S. economy as measured by the Gross National Product. This slowdown in the economy would cause unemployment to increase from the current 4.5 to 5.0 percent level to over 6 percent. The projected 3-million-barrel-per-day cutoff would have an even greater impact and could push unemployment up to the 7.5 to 8.0 range.

IMPLICATIONS FOR NATURAL GAS SUPPLY

The upshot of the above detailed developments is that efforts must be made as soon as possible to encourage the development of domestic supplies of energy, particularly natural gas.

Thus, the question is what is the best means to rapidly increase the supply of natural gas.

Only deregulation of new gas only, is unsusceptible to reasonable criticisms.

It is also the option which is most favored by qualified academic economists who have no personal financial stake in its implementation.

It is the option preferred by Federal agencies responsible for energy policy.

It is the option which has precedent which has succeeded.

It is the only option which would eliminate uncertainty and regulatory delays.

It is an option likely to achieve a balance of supply and demand.

It is an option which can—based upon actual precedent—guarantee a significant increase of supply while affecting residential and commercial consumers with only gradual increases in gas bills.

It is an option which can promote an effective and workable industrial switch to other fuels than gas.

In conclusion, let me repeat that this amendment providing for the deregulation of new natural gas supplies constitutes the last opportunity of this session to induce significant increases in the supply of energy for the near term. It is the best alternative the Congress has to relieve the shortages Americans now face. I urge my colleagues to give this amendment their favorable consideration. The consequences of their decisions will be major indeed.

Mr. RIBICOFF. Mr. President, if no one else wishes to speak, I yield back the remainder of my time; and I move that the Buckley amendment now pending be tabled.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut (putting the question).

Mr. BUCKLEY. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. BUCKLEY. 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. RIBICOFF. 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. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut. 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Maryland (Mr. MATHIAS) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from New Hampshire (Mr. COTTON) and the Senator from Ohio (Mr. TAFT) would each vote "nay."

The result was announced—yeas 45, nays 43, as follows:

[No. 601 Leg.]

YEAS—45

Abourezk	Ervin	Magnuson
Aiken	Hart	Mansfield
Bayh	Hartke	McIntyre
Bible	Haskell	Mondale
Biden	Hathaway	Moss
Byrd, Robert C.	Huddleston	Muskie
Cannon	Hughes	Nelson
Case	Humphrey	Nunn
Chiles	Inouye	Pastore
Clark	Jackson	Pell
Cranston	Javits	Percy
Eagleton	Kennedy	Proxmire
Ribicoff	Stafford	Talmadge
Schweiker	Stevenson	Tunney
Sparkman	Symington	Williams

NAYS—43

Allen	Fannin	Metcalf
Baker	Fong	Montoya
Bartlett	Fulbright	Packwood
Beall	Goldwater	Pearson
Bellmon	Griffin	Randolph
Bentsen	Gurney	Roth
Buckley	Hansen	Scott, Hugh
Burdick	Hatfield	Scott, William L.
Byrd, Harry F., Jr.	Helms	Stennis
Cook	Hruska	Stevens
Curtis	Johnston	Thurmond
Dole	Long	Tower
Domenici	McClellan	Weicker
Dominick	McClure	Young
	McGee	

NOT VOTING—12

Bennett	Cotton	Mathias
Brock	Eastland	McGovern
Brooke	Gravel	Saxbe
Church	Hollings	Taft

So the motion to table Mr. BUCKLEY'S amendment was agreed to.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the motion to lay on the table the Buckley amendment was agreed to.

The PRESIDING OFFICER. Is there a motion to table?

Mr. MANSFIELD. Mr. President, no motion.

Mr. BUCKLEY and several other Senators requested the yeas and nays.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider.

Mr. HANSEN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Maryland (Mr. MATHIAS) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from New Hampshire (Mr. COTTON) and the Senator from Ohio (Mr. TAFT) would each vote "nay."

The result was announced—yeas 47, nays 41, as follows:

[No. 602 Leg.]

YEAS—47

Abourezk	Bayh	Biden
Aiken	Bible	Byrd, Robert C.

Cannon	Inouye	Pastore
Case	Jackson	Pell
Chiles	Javits	Percy
Clark	Kennedy	Proxmire
Cranston	Long	Ribicoff
Eagleton	Magnuson	Schweiker
Ervin	Mansfield	Sparkman
Hart	McGovern	Stafford
Hartke	McIntyre	Stevenson
Haskell	Mondale	Symington
Hathaway	Moss	Talmadge
Huddleston	Muskie	Tunney
Hughes	Nelson	Williams
Humphrey	Nunn	

NAYS—41

Allen	Fannin	Packwood
Baker	Fong	Pearson
Bartlett	Fulbright	Randolph
Beall	Goldwater	Roth
Bellmon	Griffin	Scott, Hugh
Bentsen	Gurney	Scott,
Buckley	Hansen	William L.
Burdick	Hatfield	Stennis
Byrd,	Helms	Stevens
Harry F., Jr.	Hruska	Thurmond
Cook	Johnston	Tower
Curtis	McClellan	Weicker
Dole	McClure	Young
Domenici	McGee	
Dominick	Montoya	

NOT VOTING—12

Bennett	Cotton	Mathias
Brock	Eastland	Metcalf
Brooke	Gravel	Saxbe
Church	Hollings	Taft

So Mr. MANSFIELD's motion to lay on the table Mr. STEVENSON's motion to reconsider was agreed to.

Mr. DOMENICI. Mr. President, this bill represents one of the truly significant steps in this Nation's movement toward energy independence. It establishes a focal point in the Federal Government for all the Federal Government's operational activities required to insure that adequate provision is made to meet the energy needs of the Nation for the foreseeable future. Specifically, it provides that the agency it creates, the Federal Energy Administration, will plan, direct, and conduct programs related to the production, conservation, use, control, distribution, and allocation of all forms of energy.

For those purposes, the bill provides for the transfer of many important energy related functions now charged to various Federal agencies. While some may feel that this is an excessive concentration of power and authority, I am of the opinion that any less comprehensive approach would be insufficient to meet the commitment required.

We must have the capacity, which this bill would provide, for the machinery of the Federal Government in its totality to be devoted to the goal of energy independence we have set for ourselves, a goal we have established only after the frightening consequences of our previous haphazard course had been so vividly revealed to us by the Arab oil embargo. Perhaps, as many of my constituents point out in correspondence with me, that embargo will turn out to be a blessing in disguise, being as it was the catalyst that has galvanized us into action with a new purpose, with an identifiable goal.

So, Mr. President, I intend to support this bill as I have other emergency measures passed by this body and still pending before it. It provides that focus of leadership and emphasis so necessary to any difficult undertaking and without which our initial efforts are likely to fail. I will support legislation which will make this arrangement of government capacity more permanent and more adaptable to longer term situations.

Mr. President, in addition to the focal point for Federal energy activity this bill provides, I find other points I endorse. One of these is a provision which addresses a subject to which I have devoted much time and attention. In consideration of all energy conservation measures, I have consistently stressed the need for flexibility—that is, the recognition that there will surely exist unique or unusual circumstances and conditions justifying different approaches than might be implemented otherwise. As difficult as it is to achieve, I am convinced that the principles of fairness and equity, which must be the basis of all government action, require flexibility in our conservation programs.

The flexibility I have referred to thus far, Mr. President, is in the conception and implementation of energy conservation programs, while the provision of this bill which I feel maintains that theme of fairness and equity is section 121, the section creating the Office of Private Grievances and Redress.

This office would serve the extremely desirable purpose of providing a separate and identifiable place within the administration to which any person could apply for relief or redress. This is necessary, even with the flexibility in conception and implementation I mentioned earlier, because there is no way, in a society as complex as ours, to determine in advance just how each new measure may affect each and every segment of the economy. It is essential that a means be provided in advance by which private grievances may be heard and dealt with according to their merits and in order to avoid a disproportionate burden on any individual or group.

Mr. President, I am a firm believer in the American people and their unselfish willingness to endure hardships and discomforts in the national interest. I am convinced that if the American people know that there is flexibility in the design of national programs and relief in the event of undue hardship, they will support the Government's efforts to conserve energy while we find more, all toward the objective we can all support—true energy independence.

Mr. President, I commend the Committee on Government Operations and urge my colleagues to support this bill and make known its unique provision for redress of private grievances.

Mr. MUSKIE. Mr. President, I am pleased to rise in support of S. 2776, the urgently needed legislation to establish a new Federal Energy Emergency Administration.

This legislation was given careful and expeditious handling by the Committee on Government Operations during the past 10 days. I wish particularly to commend the distinguished chairman of the Committee on Government Operations (Mr. ERVIN) and the distinguished senior Senator from Connecticut (Mr. RIBICOFF) for their outstanding leadership in the development of this legislation.

Mr. President, like all Americans, I welcome the administration's effort to bring some order out of the administrative chaos which presently pervades the Federal Government's efforts to deal with the energy crisis. But as a Senator representing a State whose residents may be cruelly affected by fuel shortages this winter, I also recognize that no mode of organization, or reorganization, will alone solve so complex a problem.

As we learned during the energy-scarce years of World War II, programs of this kind worked only with full public support. And for the people to support efforts to combat the energy crisis, they must be told the whole truth about the nature of that crisis. They must be assured that the Government in its effort to deal with the crisis, will treat everyone equally.

Mr. President, in its consideration of S. 2776, the Committee on Government Operations approved several safeguards to assure that the impact of the energy crisis and Government efforts to combat it will be better known and more fair. Supplied by the administration with a reorganization bill which would have granted considerable powers beyond those necessary to deal with the energy emergency to a new Federal Energy Administration, the committee undertook to tailor this legislation to meet the crisis that is at hand.

First, the committee rewrote this legislation to create a Federal Energy Emergency Administration—A Federal agency to deal specifically with the energy emergency during the next 18 months.

Second, the committee took specific steps to prohibit the President from transferring to the new FEEA programs now operated by other Federal agencies unless both Houses of Congress approve. As originally proposed by the administration, this legislation would have granted the President unprecedented authority to transfer existing programs to the FEEA. The committee's action to curb that power represents an important step in the reassertion of congressional prerogative to determine national energy policy.

Third, the committee gave the Administrator of the FEEA subpena powers if necessary to obtain full and complete information as he deems it necessary from the oil companies. And it further provided for public disclosure of significant information that does not involve the trade secrets of the oil companies. There is nothing more essential to our efforts to combat the energy crisis than the power to obtain from the oil companies information about the severity of the emergency—information those companies have thus far refused to supply. The information and disclosure amendments added by the committee are an important step toward obtaining that vital information and provide an important safeguard to assure that the public will be well informed about the state of the crisis and efforts to deal with it.

Fourth, the committee added amendments to insure that State and local governments, which bear major responsibility in implementing emergency energy policies—are involved in a decisionmak-

ing process from which those policies emanate. The committee also added provisions to assure that the FEEA supplies the States and localities with relevant information it possesses and to afford technical assistance to State and local governments in need of help to combat emergency energy problems.

Fifth, the committee required the Administrator of the FEEA to make regular reports about the economic impact of the decisions he makes.

Sixth, the committee granted the chairman and Director of the Cost of Living Council a veto over policies promulgated by the Administrator of the FEEA which would cause a rise in the cost of energy.

All of these amendments added by the Committee on Government Operations provide important public protections in the process by which the Federal Government combats the energy emergency. To be sure, in some areas, we need even further safeguards to protect the American people from emergency energy policies that would benefit the few at the expense of the many. That is why I have joined Senator MONDALE in an amendment to place price controls on petroleum products.

Mr. President, S. 2776, as reported by the Committee on Government Operations, is a well-thought-out and necessary measure. It will allow, for the first time, the Administration to concentrate its resources on combating the energy emergency, but, at the same time, it includes necessary safeguards to protect the American people from unwise or secret government actions. It deserves prompt and favorable consideration by the Senate.

Mr. METCALF. Mr. President, the Government Operations Committee has acted responsibly and promptly in bringing this legislation to the floor, with the unanimous support of all of its members, 2 weeks after the administration requested legislation.

The committee has made several significant changes in the bill which reflect, I believe, the attitude of a strong, bipartisan majority in the Congress.

First, we have clearly limited authority under the act so that the Administrator of this new emergency agency cannot assume statutory authority which resides in other officials. For example, the Administrator will not be able to take over the coal leasing and Outer Continental Shelf leasing programs over which the Secretary of the Interior has statutory authority.

Second, we provided for a veto, by the head of the Cost of Living Council, of energy price increases proposed by the Administrator. The administration has so far been too much inclined to let energy prices skyrocket, on the highly questionable grounds that those price increases lead to larger supplies. Our constituents need to have the Cost of Living Council in there with veto power for price protection.

Third, the bill will help open up some of the committees which provide high-level information and policy guidance for the Government. Six companies now each have membership on more than 20 such advisory and action committees. These producer representatives, under this bill, will be joined by user representatives, and representatives of State and local governments.

Fourth, the bill will place responsibility for any exemption from conflict-of-interest statutes in a specified official at the top of the agency. Furthermore, every exemption from the conflict-of-interest statute must be a matter of public record, including detailed reasons and justifications for each exemption.

During World War II, when Ed Falck was brought in from Consolidated Edison to run the Office of War Utilities, he had to resign from Con Ed, and go on the Government payroll.

Similarly, all top policy determining jobs were held by Government employees on Government payroll.

No dollar-a-year man could make any important policy decision.

Today we have to be especially on guard to prevent industry takeover of energy administration.

We have several hundred "executive reservists" from big oil companies—the emergency petroleum and gas administration shadow government—already partially mobilized.

Eight of the big oil companies dominate this executive reserve, each having from 10 to 24 officials in this organization.

We have this revolving door syndrome down in the Interior Department—especially in the Office of Oil and Gas which under this bill is being transferred to FEA.

The Director of Interior's Office of Oil and Gas went to Lone Star Gas Co. He was succeeded by a Conoco man.

An attorney for Pennzoil replaced the Assistant Secretary of Interior for Mineral Resources, who retired to an Atlantic Richfield affiliate.

The intent of S. 2776 is to limit and publicize any such potential conflicts of interest within this program.

Fifth, this bill gives both the Administrator and the Congress power to obtain information which it needs from energy industries. As my colleague from Montana (Mr. MANSFIELD) has pointed out, the Government and the people have a right to see the books of oil companies. This legislation provides that authority and more. It prohibits the Office of Management and Budget from impeding the Administrator's requests for company data. The General Accounting Office will have full access to energy information. And the Administrator is obligated to publicize and tabulate energy company information and data so it is of maximum value to other Federal agencies and the public.

Mr. President, I want to provide Members with information about some of the important energy committees which have been operating outside the law, and which would be required to operate in a lawful manner under S. 2776.

The Subcommittee on Budgeting, Management, and Expenditures has been closely monitoring the activities of the National Petroleum Council, its committees, and subcommittees. It has collected a great deal of information on the NPC, some of which was included in the advisory committee record compiled by the Government Operations Subcommittees on Intergovernmental Relations and Budgeting, Management, and Expenditures.

On December 17, 1973, the National Petroleum Council's Committee on Emergency Preparedness met in the Treasury Department. The National Petroleum Council, according to the President's first annual report on advisory committees, is an advisory committee. The Emergency Preparedness Committee is a committee of the National Petroleum Council, which prepares recommendations for both the full council and the Government. I ask unanimous consent that a copy of the preparedness committee membership list be printed in the RECORD.

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

EXHIBIT A

NATIONAL PETROLEUM COUNCIL COMMITTEE ON EMERGENCY PREPAREDNESS

Chairman: Carroll M. Bennett, Chairman of the Board, Texas Pacific Oil Company, Inc., 1700 One Main Place, Dallas, Texas 75250.

Vice Chairman: M. A. Wright, Chairman and Chief Executive Officer, Exxon Company, U.S.A., Post Office Box 2180, Houston, Texas 77001.

Ex officio: H. R. True, Jr., Chairman, National Petroleum Council, c/o True Oil Company, Post Office Drawer 2360, Casper, Wyoming 82601.

Cochairman: Hon. Stephen A. Wakefield, Assistant Secretary for Energy and Minerals, U.S. Department of the Interior, Washington, D.C. 20240.

Secretary: Vincent M. Brown, Executive Director, National Petroleum Council, 1625 K Street, NW., Washington, D.C. 20006.

Ex officio: Robert G. Dunlop, Vice Chairman, National Petroleum Council, c/o Sun Oil Company, 240 Radnor-Chester Road, St. Davids, Pennsylvania 19087.

Special assistant to the chairman: Harry Green, General Manager, Administrative Services, Texas Pacific Oil Company, Inc., 1700 One Main Place, Dallas, Texas 75250.

Orin E. Atkins, Chairman and Chief Executive Officer, Ashland Oil, Inc., Post Office Box 391, Ashland, Kentucky 41101.

H. Bridges, President, Shell Oil Company, One Shell Plaza, Houston, Texas 77002.

B. R. Dorsey, Chairman of the Board, Gulf Oil Corporation, Gulf Building, Pittsburgh, Pennsylvania 15230.

Richard J. Gonzalez, 48 Tiel Way, Houston, Texas 77019.

B. D. Goodrich, Chairman of the Board, Texas Eastern Transmission Corp., Post Office Box 2521, Houston, Texas 77001.

Maurice F. Granville, Chairman of the Board, Texaco Inc., 135 East 42nd Street, New York, New York 10017.

Jake L. Hamon, Oil and Gas Producer, Post Office Box 663, Dallas, Texas 75221.

John A. Kaneb, President, Northeast Petroleum Industries, Inc., 295 Eastern Avenue, Chelsea, Massachusetts 02150.

W. F. Martin, President, Phillips Petroleum Company, Phillips Building, Bartlesville, Oklahoma 74003.

William A. Lockwood, Senior Vice President, First National City Bank of New York, 399 Park Avenue, New York, New York 10022.

Harold M. McClure, Jr., President, McClure Oil Company, Post Office Box 147, Alma, Michigan 48801.

C. B. McCoy, Chairman of the Board, E. I. duPont de Nemours & Company, Inc., Wilmington, Delaware 19898.

D. A. McGee, Chairman, Kerr-McGee Corporation, Kerr-McGee Center, Oklahoma City, Oklahoma 73102.

E. Clyde McGraw, Chairman of the Board,

Transcontinental Gas Pipe Line Corp., Post Office Box 1396, Houston, Texas 77001.

Tom B. Medders, Jr., Immediate Past President, Independent Petroleum Association of America, c/o Medders Petroleum Corporation, 414 City National Building, Wichita Falls, Texas 76301.

O. N. Miller, Chairman of the Board, Standard Oil Company of California, 225 Bush Street, San Francisco, California 94104.

Robert V. Sellers, Chairman of the Board, Cities Service Company, 60 Wall Tower, New York, New York 10005.

John E. Swearingen, Chairman of the Board, Standard Oil Company (Indiana), 200 East Randolph Drive, Chicago, Illinois 60601.

Rawleigh Warner, Jr., Chairman of the Board, Mobil Oil Corporation, 150 East 42nd Street, New York, New York 10017.

Mr. METCALF. Mr. President, the National Petroleum Council's stated purpose is to advise the Secretary of the Interior and/or the Director of Interior's Office of Oil and Gas—which is being transferred to FEEA under S. 2776—on any matter relating to petroleum or the petroleum industry. On December 11, 1973, Mr. Vincent M. Brown, executive director of the National Petroleum Council, wrote to Stephen Wakefield, Assistant Secretary of the Department of Interior for Energy and Minerals. In his letter, Mr. Brown requested approval for a meeting of the NPC's Committee on Emergency Preparedness, to be scheduled for Monday, December 17, 1973. The location was not agreed upon at that time. The letter (exhibit B) also indicated a tentative agenda. I ask unanimous consent that the letter appear at this point in the RECORD.

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

NATIONAL PETROLEUM COUNCIL,
December 11, 1973.

HON. STEPHEN A. WAKEFIELD,
Assistant Secretary for Energy and Minerals, U.S. Department of the Interior, Washington, D.C.

DEAR MR. WAKEFIELD: Mr. Carrol M. Bennett, Chairman of the NPC Committee on Emergency Preparedness, wishes to hold a meeting of his group on Monday, December 17, 1973 in Washington, D.C., starting at 1:00 p.m. The exact location has yet to be agreed upon between members of the staffs of the National Petroleum Council and the Office of Oil and Gas.

Pursuant to Article 14 of the Articles of Organization of the Council, your approval is requested for the holding of this meeting, as well as for the following agenda for this session:

1. Opening Remarks—Carrol M. Bennett, Chairman.
2. Remarks by William E. Simon, Administrator, Federal Energy Office.
3. Review and Discuss November 30, 1973 Letter from Secretary Rogers C. B. Morton.
4. Discuss Timetable for Completion of Committee's Assignment.
5. Discuss Any Other Matters Pertinent to the Overall Assignment of the Committee.

Sincerely,

VINCENT M. BROWN.

Mr. METCALF. Mr. President, the Subcommittee on Budgeting, Management, and Expenditures has collected a great deal of information on the Council and its activities, pursuant to its oversight responsibility for advisory committees. The letter was one of the items made available to the subcommittee on Friday, December 14.

That Friday, a call to the NPC revealed that the meeting place had been agreed upon—room 4426 Main Treasury. A staff member of the NPC was informed that a professional staff member of the subcommittee would attend. No problem was anticipated in having the committee staff member attend.

On Monday, December 17, the Federal Register carried a notice of the meeting. (Exhibit C) It was signed on Thursday, December 13, submitted to the Federal Register on December 14, and published on December 17, the day of the meeting. I ask unanimous consent that the notice appear at this point in the RECORD.

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

EXHIBIT C

COMMITTEE ON EMERGENCY PREPAREDNESS, NATIONAL PETROLEUM COUNCIL

NOTICE OF MEETING

Pursuant to Executive Order 11686, notice is hereby given of the following meeting:

The Committee on Emergency Preparedness of the National Petroleum Council will meet at 1:00 p.m. on Monday, December 17, 1973. The exact location of this meeting has not yet been determined but inquiries may be directed to the Director of Information, the National Petroleum Council, Washington, D.C., telephone 393-6100. The proposed agenda includes remarks by the Chairman of the Committee, the Honorable William E. Simon, Administrator, Federal Energy Office, discussion of a work schedule to carry out the study requested by the Secretary of Interior on November 30, 1973, and other pertinent matters.

The purpose of the National Petroleum Council is solely to advise, inform and make recommendations to the Secretary of the Interior on any matter relating to petroleum or the petroleum industry. The meeting is open to the public to the extent that the determined facilities will permit.

BEN TAFOYA,
Industrial Specialist.

DECEMBER 13, 1973.

[FR Doc. 73-26716 Filed 12-14-73, 8:45 am]

Mr. METCALF. Mr. President, the notice itself, when viewed against an ideal notice under the Federal Advisory Committee Act, has several deficiencies:

First, the notice is issued pursuant to Executive Order 11686. This Executive order, designed to delegate responsibilities of the President under the Federal Advisory Committee Act, does not have any provision for such notice. On the other hand, section 10(a)(2) of the Federal Advisory Committee Act does have a notice requirement.

Second, the OMB guidelines require that, except in certain rare instances, a minimum of 7 days notice in the Federal Register should be given. Certainly, a notice in the Register on the same day of the meeting does not meet the requirements.

Third, the Federal Register notice is signed by "Ben Tafoya, Industrial Specialist." Mr. Tafoya is with the Office of Oil and Gas, and serves as secretary to several of the Office of Oil and Gas advisory committees.

Fourth, although the agenda is included in the notice, it appears that William Simon is chairman of the committee. This is erroneous. The cochairmen are Carrol M. Bennett, board chairman of Texas Pacific Oil Co., and Assistant Secretary of the Interior, Stephen A. Wakefield.

THE MEETING

Chairman Carrol Bennett called the meeting to order. After some opening remarks, item 2—remarks by Mr. Simon—was delayed.

Agenda item No. 3 was listed as a review and discussion of a November 30, 1973, letter from Secretary Morton to NPC Chairman H. A. True.

Although no copy of the letter was available, after discussion with the NPC staff, Mr. Chvotkin of my subcommittee staff found that the letter requested the NPC to establish a new subcommittee, entitled the Emergency Industry/Government Cooperation Subcommittee, to help Interior plan, organize, and staff the Office of Petroleum Allocation. Under S. 2776, OPA will be transferred to the FEEA.

An unidentified industry speaker, discussing the Morton letter, indicated that the number and types of positions had already been decided. Additionally, each position had a job description which was "sufficiently flexible" to allow latitude on behalf of the Government. These industry people could then participate in the Office of Petroleum Allocation, providing the Office of Oil and Gas could get the legal clearance. Once this clearance was obtained, the NPC could be used to assign these slots to the various companies.

Assistant Secretary of the Interior Stephen Wakefield indicated that the various antitrust and conflict of interest provisions currently in the various energy bills before the Congress were not acceptable for bringing these individuals into the Government.

Vince Brown, of NPC, indicated that the original structure of the Office of Petroleum Allocation was devised by Admiral Reich. It was a type of national, regional, and State organization that could be used if the energy crisis reached the allocation stage. In that case, if drafting of industry people was found desirable, NPC could be "helpful in filling positions" by recommending key personnel, but again reiterated the need for protection from conflicts of interest. There was unanimous agreement from the committee on this point.

After some discussion, Mr. Brown said that it took approximately 4 years for the NPC to develop the structural model of the Emergency Petroleum and Gas Administration (EPGA), and only a little was needed to bring that model into line with the current needs. My comments about EPGA and its domination by large oil companies appear in the November 27 CONGRESSIONAL RECORD beginning on page 38142

After some brief remarks from Chairman Bennett, Administrator Simon joined the meeting. After a few introductory words, he proceeded to questions. Some of his brief remarks bear noting.

He expressed his frustration and disgust at the current status of energy bills in the Congress, and indicated that if any one of approximately 20 amendments appeared in the final legislation, he would recommend a Presidential veto.

He felt he had sufficient power to

operate now without legislation, with cooperation from industry and the American people.

After a question, Mr. Simon indicated that conflict-of-interest provisions were not in any of the legislation.

He indicated that if he tried to bring in 250 oil people, labor would "go through the roof." He recognized that such a draft of industry people would not "fly politically." He would have to see if he could devise another way to utilize the oil industry, including advisory committees.

A question was raised about the NPC. "The NPC is in a state of confusion," the unidentified individual stated. The NPC bylaws provide that the NPC advise the Secretary of the Interior and the Director of the Office of Oil and Gas. "What is the NPC position now?" he asked. Mr. Simon replied that when the Office of Oil and Gas moves to FEEA, NPC will go too. In the meantime, Secretary Morton would designate the National Petroleum Council to coordinate with Simon. Legally, Simon saw no problem with the reassignment.

After additional conversation, including remarks about the legislation, Mr. Simon left. Some additional points were discussed with Bill Johnson, head of the Policy Analysis section of the Federal Energy Office.

After some questions were asked by committee members, the meeting was adjourned at 2:35 p.m.

Mr. President, the details regarding the meeting this week of the National Petroleum Council Subcommittee, and the list of the members of that committee—all from industry—may help show why the Committee on Government Operations, in approving S. 2776, has required that these committees diversify their membership and operate openly, and why the committee wants exemptions from conflict-of-interest statutes justified publicly.

Other important energy committees have been meeting lately in closed sessions with high administration officials. I refer to the Emergency Petroleum Supply Committee and its subcommittees. One met on short notice in Exxon headquarters in New York. These committees—like the National Petroleum Council and its subcommittees and coordinating committees—are also exclusively composed of officials of large oil companies.

These are typical of the kind of committees which the Government Operations Committee said, in approving S. 2776, that it wants broadened out and opened up.

Mr. President, I ask unanimous consent to insert at this point in the RECORD the membership, as of this month, of the Emergency Petroleum Supply Committee and its subcommittees.

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

EMERGENCY PETROLEUM SUPPLY COMMITTEE
MEMBERSHIP LIST OF COMPANY MEMBER, REPRESENTATIVE, AND ALTERNATE

American Independent, 50 Rockefeller Plaza, New York, New York; J. B. Sunderland; Howard L. Clark.

Arabian American Oil Co., 1345 Avenue of the Americas, New York, New York; J. J. Johnston; Samuel C. Harper.

Ashland Oil, Inc., P.O. Box 391, Ashland, Kentucky; Robert E. Yancey; William E. Perrine.

Atlantic Richfield Company, 515 South Flower St., Los Angeles, California; B. E. Milner; Norton M. Smirlock.

Caltex Oil Products Company, 380 Madison Avenue, New York, New York; J. M. Voss; W. E. Tucker.

Cities Service Company, Inc., 60 Wall Tower, New York, New York; John E. Meyer; R. H. Chitwood, Cities Service Oil Co., Box 300, Tulsa, Okla.

Continental Oil Company, High Ridge Park, Stamford, Conn.; John L. Kelly, Continental Oil Co., Western Hemisphere Pet., Box 2197, Houston, Texas; C. S. Nicandros.

Exxon Corporation, 1251 Avenue of the Americas, New York, New York; D. M. Cox; Charles O. Peyton.

Getty Oil Company, 3810 Wilshire Boulevard, Los Angeles, California; B. E. Williams; W. C. Godfrey.

Crown Central Petroleum Corp., Henry A. Rosenberg, Jr., A. J. Morris.[1]

Gulf Oil Corporation, Gulf Building, Pittsburgh, Pa.; Zane Q. Johnson; J. N. McGarvey.

Marathon Oil Company, 539 South Main Street, Findlay, Ohio; R. M. Churchwell; A. D. Lodge.

Mobil Oil Corporation, 150 East 42nd Street, New York, New York; Herman J. Schmidt; Walter A. Bork.

Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas; Charles E. Cowger; Paul C. Bilger.

Phillips Petroleum Company, 344 Phillips Building, Annex, Bartlesville, Oklahoma; John E. Harris, Jr.; C. M. McCormick.

Signal Oil and Gas Co., Golden Gate Center, 2800 North Loop West, Houston, Texas; Walter R. Ballard; W. H. Thompson, Jr.

Standard Oil Co. of California, 225 Bush Street, San Francisco, Calif.; George T. Ballou; W. Jones McQuinn.

Standard Oil Co. (Indiana), 910 South Michigan Avenue, Chicago, Illinois; George V. Myers; W. A. Kirkpatrick.

Standard Oil Co. (Ohio), Midland Building, Cleveland, Ohio; Frank E. Mosier; S. S. Myer.

Shell Oil Co., Stan G. Stiles; Charles L. Blackburn*.

Sun Oil Company, 1608 Walnut Street, Philadelphia, Pa.; Warren E. Burch; J. Van Dyck Fear.

Texaco, Inc., 135 East 42nd Street, New York, New York; R. Howard Wilson; L. W. Folmar.

Union Oil Co. of Calif., Union Oil Center, Los Angeles, Calif.; M. S. Thomson; Howard K. Said.

Total Participating Companies—23.

OBSERVER COMPANY, REPRESENTATIVE, ALTERNATE

Asiatic Petroleum Corp., One Rockefeller Plaza, New York, New York; J. D. Ritchie, President; M. J. Paulli, One Rockefeller Plaza, New York, N.Y.

BP North America, Inc., 620 Fifth Avenue, New York, New York; P. G. Cazalet; Michael J. Bowers.

INDUSTRY COUNSEL

Cleary, Gottlieb, Steen & Hamilton, 1250 Connecticut Avenue, N.W., Washington, D.C.; Robert Krause, Fowler Hamilton, John K. Mallory, Jr., Michael Duncan, William Fenwick, New York, all representatives.

GOVERNMENT CHAIRMAN

Duke R. Ligon and Vice Chairman, Robert L. Presley, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C.

SECRETARY

Ben Tafoya, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C.

[1] In process.

MEMBERSHIP LIST OF SUPPLY AND DISTRIBUTION SUBCOMMITTEE OF EMERGENCY PETROLEUM SUPPLY COMMITTEE

COMPANY MEMBER, REPRESENTATIVE, AND ALTERNATE

Atlantic Richfield Co., 515 South Flower St., Los Angeles, Calif.; R. M. Burton; N. M. Smirlock.

Caltex Oil Products Co., 380 Madison Ave., New York, New York; Seymour S. Miller, Chairman; Ernest F. Krug, Jr.

Continental Oil Co.,[1] High Ridge Park, Stamford, Conn.; H. Kent Bowden[1]; W. S. Fenton.[1]

Exxon Corporation, 1251 Avenue of the Americas, New York, New York; R. E. Wilhelm; R. J. Seastream.

Gulf Oil Corporation, Gulf Building, Pittsburgh, Pa.; B. C. Barnes; J. N. Deakin.

Marathon Oil Company, 539 South Main Street, Findlay, Ohio; R. T. Coates; A. D. Lodge.

Mobil Oil Corporation; 150 East 42d Street, New York, New York; T. C. Cory; E. P. Traiteler.

Phillips Petroleum Company, Phillips Building, Bartlesville, Oklahoma; Charles M. McCormick; Walter I. Weed.

Standard Oil Co. of Calif., 225 Bush Street, San Francisco, Calif.; Houston M. Kimbrough; L. L. Knudsen.

Standard Oil Company[1] (Ohio), William P. Mahar.

Sun Oil Company, 1608 Walnut Street, Philadelphia, Pa.; J. Van Dyck Fear; John C. S. Wood.

Texaco Inc., 135 East 42d Street, New York, New York; H. C. Tenny; A. G. Hubert.

Union Oil Co. of Calif., Union Oil Center, Los Angeles, Calif.; H. K. Said; L. R. Williams, Union Oil Company, 200 East Golf Road, Palatine, Ill.

GOVERNMENT COCHAIRMAN

David R. Oliver, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C.

COMPANY OBSERVER, REPRESENTATIVE, ALTERNATE

Asiatic Petroleum Corp.; One Rockefeller Plaza, New York, New York; J. D. Ritchie, President; M. J. Paulli, One Rockefeller Plaza, New York, N.Y.

BP North America, Inc., 620 Fifth Avenue, New York, New York; P. G. Gazalet, President; Michael J. Bowers.

MEMBERSHIP LIST OF TRANSPORTATION SUBCOMMITTEE OF THE EMERGENCY PETROLEUM SUPPLY COMMITTEE

COMPANY MEMBER, REPRESENTATIVE, ALTERNATE

Arabian American Oil Co., 1345 Avenue of the Americas, New York, New York; Thomas J. Laney; William F. Todd.

Atlantic Richfield Company, Box 2679, T. A., Los Angeles, California; C. M. Lynch; R. B. Hastie, ARCO Pipe Line Co., ARCO Building, Independence, Kansas.

Exxon Corporation, 1251 Avenue of the Americas, New York, New York; C. J. Carven (Chairman); R. C. Baker.

Getty Oil Company, Getty-Union Bank Bldg. 3810 Wilshire Boulevard, Los Angeles, Calif.; W. W. Mitchell; S. P. Carney.

Gulf Oil Corporation, Gulf Building, Pittsburgh, Pa.; James N. Brown; R. F. Cooke.

Marathon Oil Company, 539 South Main Street, Findlay, Ohio; J. E. Pellaton; L. C. Mihaly.

Mobil Oil Corporation, 150 East 42nd Street, New York, New York; H. A. Steyn, Jr.; G. D. Treichler.

Phillips Petroleum Company, Phillips Buiding Annex, Bartlesville, Oklhoma; Walter I. Weed, Forrest F. Okerman.

Standard Oil Co. of California, 225 Bush Street, San Francisco, Cal.; T. S. Wyman, Chevron Shipping Co., 555 Market Street, San Francisco, Cal.; A. G. Parker, Chevron Intl. Oil Co., 30 Rockefeller Plaza, Suite 3131, New York, N.Y.

Standard Oil Co. (Indiana), 910 South

Michigan Avenue, Chicago, Illinois; Capt. C. D. Phillips, Amoco Internat'l Oil Co., 200 East Randolph Street, Chicago, Ill.; Joseph C. Weaver, Jr., Amoco Internat'l Oil Co., 200 East Randolph Street, Chicago, Ill.

Sun Oil Company, 1608 Walnut Street, Philadelphia, Pa.; Jack A. Collins; Malcolm J. Prevot.

Texaco, Inc., 135 East 42nd Street, New York, N.Y.; M. D. Annetta, J. J. Bartell.[1]

Total participating companies—12.

GOVERNMENT CO-CHAIRMAN

Earl G. Ellerbrake, Office of Oil and Gas, U.S. Department of the Interior, Washington, D.C.

OBSERVER COMPANY, REPRESENTATIVE, ALTERNATE

Asiatic Petroleum Corp., One Rockefeller Plaza, New York, N.Y.; J. D. Ritchie (President); G. H. Bye, One Rockefeller Plaza, New York, N.Y.

BP North America, Inc., 620 Fifth Avenue, New York, N.Y.; P. G. Gazalet (President).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H.J. Res. 736) to provide for a feasibility study and to accept a gift from the United States Capitol Historical Society.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5874) to establish a Federal Financing Bank, to provide for coordinated and more efficient financing of Federal and federally assisted borrowings from the public, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. ROSTENKOWSKI, Mr. SCHNEEBELI, Mr. COLLIER, and Mr. BROYHILL of Virginia were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

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

H.R. 655. An act to provide for the naming of the lake to be created by the Buchanan Dam, Chowchilla River, Calif.; and

S. 1945. An act to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, so as to authorize certain grapefruit marketing orders which provide for an assessment against handlers for the purpose of financing a marketing promotion program to also provide for a credit against such assessment in the case of handlers who expend directly for marketing promotion.

The enrolled bills were subsequently signed by the Vice President.

NEW RECORDHOLDER IN ATTENDANCE AT SUCCESSFUL ROLLCALL VOTES

Mr. ROBERT C. BYRD. Mr. President, it has long been an accepted maxim in the world of athletics that records are made to be broken, and while athletes are at a premium in this Chamber, we have one distinguished Member who has today broken the record, indeed, some days ago he broke the then existing record, and he has now reached an enviable plateau.

It is most fitting that the senior Senator from Wisconsin should be the recordbreaker as his distinction as a Senator is almost equalled by his reputation as an athlete.

Despite the fact that his training routine has on more than one occasion been interrupted by extraneous influences, he has broken the record several days ago which our former colleague, former Senator Margaret Chase Smith of Maine, held in answering 2,941 successive rollcall votes.

Several days ago, as I say, Senator PROXMIRE exceeded that record. Today Senator PROXMIRE answered his 3,002d successive rollcall vote and he is the new alltime recordholder.

It would be surprising if this figure is not substantially increased in the years to come, as Senator PROXMIRE's outstanding capabilities are matched only by his robust good health.

Today, as all Senators may see, Senator PROXMIRE carries the scars of this battle.

I offer my congratulations to the distinguished vice chairman of the Joint Economic Committee, and I express the hope that he will long continue his excellent example of conscientiousness, industriousness, and high skill.

A quote from the Confucian Analects seems to fit Senator PROXMIRE:

The superior man is modest in his speech, but exceeds in his actions.

While it may be said, in jest, that the senior Senator from Wisconsin is not always modest in his speech, he most surely always exceeds in his actions.

I ask unanimous consent that the Senate now stand in recess for 2 minutes so that Senators may shake the left hand of Senator PROXMIRE. [Laughter.]

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

Thereupon, at 3:46 p.m., the Senate took a recess for 2 minutes.

The Senate reassembled at 3:48 p.m., when called to order by the Presiding Officer (Mr. STAFFORD).

Mr. NELSON. Mr. President, if I may be permitted to make a brief statement, I join in the remarks made by the distinguished majority whip, the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. President, I had not been following the count as closely as Senator BYRD of West Virginia. I just realized that as of now my distinguished senior colleague has exceeded the record formerly held by former Senator Margaret Chase Smith.

I want to say for the record that I, too, have a remarkably good attendance record which would receive much more notice if it were not for the record of my distinguished senior colleague.

I, too, have a distinguished record as an athlete which would also receive much more attention if it were not for the reputation of my distinguished senior colleague.

I join in the congratulations and promise that I will make no effort to exceed the record established by my senior colleague from Wisconsin.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

ORDER FOR TIME LIMITATION ON AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a limitation of a half-hour on all amendments remaining, the time to be equally divided between the sponsors and the managers of the bill; and 1 hour on the Weicker amendment, the same time allocation to be made, and that the unanimous consent agreement be in the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Jeff Baker of my staff be accorded the privilege of the floor during the remainder of the debate on the energy bill.

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

Mr. NELSON. Mr. President, I send to the desk an amendment cosponsored by Mr. MONDALE and Mr. PROXMIRE and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with, and I will explain it.

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

The amendment is as follows:

On page 33, immediately after line 24, insert the following new paragraph:

"(e) Notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner which does not unduly discriminate against any industry or any region of the United States; and further that, notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner designed to insure that, to the greatest extent possible, the costs and burdens of meeting the en-

ergy crisis shall be borne equally by every sector and segment of the country."

Mr. NELSON. Mr. President, I shall not take more than 3 minutes on the amendment. I understand that the manager of the bill is prepared to accept it.

This amendment reads as follows:

Notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner which does not unduly discriminate against any industry or any region of the United States; and further that, notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner designed to insure that, to the greatest extent possible, the costs and burdens of meeting the energy crisis shall be borne equally by every sector and segment of the country.

Mr. President, my specific reason for introducing the amendment at this time is that a story in Newsweek magazine on the energy crisis stated:

Furthermore, Simon and other energy authorities are considering a ban on the use of snowmobiles and pleasure boats.

Mr. President, I am sure everyone agrees that there are various activities that have a special priority in terms of their critical necessity, and I think everyone would agree that those activities requiring fuel for the production of food would rank in the highest priority, and those activities for the heating of homes, for example, would rank in the very highest priority.

However, there are many, many other activities in this country which rate a high priority, even though they rank below those activities of producing food and heating homes. I think it ought to be well understood that recreation is a fundamental activity, and should be fairly treated, with other activities of that ranking and priority of importance.

I would point out very briefly that tourism is one of the largest industries in America. A congressional study by the National Tourism Resources Review Commission stated that recreation is a $61 billion a year industry, which employs over 4 million people.

The sole purpose of this amendment is to insure that such activities as recreation not be unduly discriminated against.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Kay McKrogh may have the privilege of the floor during the further consideration of the bill.

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

Mr. RIBICOFF. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. PERCY) and myself, we will gladly accept the amendment of the distinguished Senator from Wisconsin (Mr. NELSON).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

TRIBUTE TO MEMBERS OF ARMED FORCES MISSING IN ACTION IN INDOCHINA

Mr. BARTLETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from the further consideration of Senate Resolution 217 and that the Senate proceed to its immediate consideration.

The ranking Republican member of the committee is in the Chamber, and the chairman, I understand, is on his way to the Chamber. They have no objection to the consideration of the resolution.

The PRESIDING OFFICER. Will the Senator from Oklahoma please repeat his request?

Mr. BARTLETT. The request is that the Committee on Foreign Relations be discharged from the further consideration of Senate Resolution 217 and that the Senate proceed to the immediate consideration of the resolution.

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

The second assistant legislative clerk read the title as follows:

To pay tribute to members of the Armed Forces missing in Indochina.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution.

Mr. FULBRIGHT. Mr. President, I have consulted with the distinguished Senator from Oklahoma about the resolution. As I understand, the distinguished senior Senator from Vermont (Mr. AIKEN) is about to explain its purpose. I think this is proper procedure, and the committee is glad to go along with the request of the Senator from Oklahoma. The committee will not have time to hold another meeting, since only 1 or 2 days of the session remain.

Mr. AIKEN. Mr. President, the failure to account for all of the men missing in action during the years the U.S. forces were in Indochina is a source of great distress in this country.

I think the least we can do now is to adopt the resolution which the Senator from Oklahoma (Mr. BARTLETT) offers. I have discussed the proposal with our chairman and with other members of the committee. We have no objection to the adoption of the resolution.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the United States recognizes its responsibility as well as its gratitude to the one thousand one hundred and sixty-three members of the Armed Forces who are currently listed as missing in action in Indochina; and

Whereas the families of these missing men are entitled to an accounting of their fate; and

Whereas the North Vietnamese have disregarded the Paris Peace Agreement which provides in section 8b:

"The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate exhumation and repatriation of the remains, and to take any other such measures as may be required to get information about these still considered missing in action."

Whereas it is in the interest of basic humanity and justice for North Vietnam to allow the United States, or a neutral nation or third party such as the Red Cross to search for the location of missing in action throughout Indochina: Now, therefore, be it

Resolved, That the United States Senate urge the President to continue to use every diplomatic avenue, including North Vietnam's allies and the United Nations to assist in obtaining the necessary cooperation and information concerning our missing men; and

That, during this Christmas season, the grateful people of our Nation give a special remembrance through our thoughts and our prayers for those brave men and their loyal families who have given so much for each of us.

FORTHCOMING RETIREMENT OF SENATOR ERVIN

Mr. HELMS. Mr. President, the news that my distinguished senior colleague (Mr. ERVIN) has today advised the Senate that he will not seek reelection next year is bound to sadden all Members of this body, past, and present, who have had the privilege of serving with this great North Carolinian, and American.

Mr. President, my own friendship with Senator ERVIN dates back at least a quarter of a century. I have observed him and supported him in his vigorous battles through the years to hold back a flood of unwise pieces of legislation which, despite Senator ERVIN's warnings, were enacted, and which have since frustrated the lives of literally millions of Americans.

He endured caustic criticism aimed at him by some of the Nation's major news media. He did so unflinchingly and courageously and, in the process, easily won reelection to the Senate time after time as a recognized conservative. During that period, he grew steadily in the favor and affection of the people of North Carolina.

It is, of course, one of the ironies of our time that some of the same major news media that once so harshly mocked and ridiculed Senator ERVIN, today look with favor upon him. Whereas he was virtually denied coverage in those days—except for criticism and ridicule—when he pleaded against the enactment of unwise "social legislation" which he contended was unconstitutional, he now is praised and revered by the major news media of the country.

Senator ERVIN will leave the Senate, Mr. President, with the best personal wishes of his colleagues. He has become a legend in his own time, and he has chosen to retire at a time when he is recognized throughout the land as a man who has made his mark on history.

Senator ERVIN is my friend. I am his. Though we no longer belong to the same political party, I shall always remember and be grateful for his valiant battles of years gone by. I shared his principles then; I cling to those principles now; and like the majority of my fellow North Carolinians, I am grateful that he was willing to stand up and be counted.

To him and his dear wife, Mrs. Helms and I reiterate our respect and affection. We wish "Senator SAM" and Mrs. Ervin every happiness and joy.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide

for the effective and efficient management of the Nation's energy policies and programs.

Mr. HARTKE. Mr. President, I have at the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, after line 5, insert the following new section and redesignate succeeding sections accordingly:

STOCKPILING PROHIBITED

SEC. 112. The Administrator shall prepare and submit to the Senate and the House of Representatives within 60 days of enactment of this bill, a report which shall include but not be limited to the following:

(A) Assessing the degree to which any person, partnership, corporation, or other organization is stockpiling in addition to ordinary and necessary requirements more fuels, of all types, than he requires to meet his reasonable needs;

(B) Specifying what actions the Administrator has taken to prevent the undue stockpiling of fuels;

(C) Setting forth all rules, regulations, and policies governing stockpiling adopted by the Administration; and

(D) Detailing any additional statutory authority needed by the Administrator to control and prevent the stockpiling in addition of fuels to ordinary and necessary requirements by producers, wholesalers, distributors, and consumers.

Mr. HARTKE. Mr. President, this amendment is in the nature of a substitute for my amendment No. 919.

My amendment to the Federal Energy Emergency Administration Act would force the Administrator of this new energy agency to initiate a task force study of the stockpiling and hoarding of fuels. He would have to submit his report to the Congress within 60 days of the effective date of this act.

The President has called on the American people to conserve energy by asking millions to suffer inconvenience and possible economic distress in order to conserve fuel resources. Our thermostats are turned down, our cars must be driven at 50 miles per hour, and our schools and factories may be forced to operate shorter hours.

These conservation methods and programs have resulted in energy savings but the worst shortages are yet to come. Some regions of the Nation face the prospect of up to 40 percent energy shortages if weather turns severe and alternative supplies are not found. Already consumers are suffering serious hardships as a result of shortages, price increases, and restrictions on the availability of petroleum fuels. Shortages and hardships will be made much more severe if individuals and corporations stockpile energy supplies and hoard them to the detriment of other consumers.

The information I am asking the Administrator to ferret out and disclose to the American public is vital. Sources close to the oil industry tell us some suppliers are holding back fuel until prices go up. We have all heard the charge that the oil industry has used the crisis to prevent independents from obtaining sufficient supplies to stay in business.

This study is necessary. I think the facts have to be made known. After ascertaining this information, we will be able to properly determine whether or not there is a real oil shortage crisis. We all know that we cannot get enough fuel and that the price has increased on gasoline and heating oil, but we do not know if this is a legitimate crisis. This study should answer this question.

This amendment deals with the same situation I had last night. I have discussed this matter with the manager of the bill and the ranking member. We have cleared up all the difficulties. It calls for a report on unnecessary stockpiling and hoarding.

Mr. RIBICOFF. On behalf of the Senator from Illinois and myself, we are pleased to accept the amendment.

Mr. HARTKE. I thank my distinguished colleagues from Connecticut and Illinois.

Mr. PERCY. Mr. President, I want to indicate my complete concurrence with the amendment and to commend the Senator from Indiana (Mr. HARTKE) for his foresight in preparing it.

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

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

The PRESIDING OFFICER (Mr. GOLDWATER). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE).

The amendment was agreed to.

Mr. STEVENSON. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

S. 2776

On page 53, line 2, insert "(a)" after "SEC. 204." and before "There".

On page 53, between lines 18 and 19, insert the following:

"(b) The Administrator of the interim Federal Energy Emergency Administration established by Title I of this Act, may, if appointed to the Council pursuant to (a) and if designated by the President, serve as Chairman of the Council in order to coordinate the functions of that Administration with those of the Council and to assure necessary continuity subsequent to the termination of Title I as provided by Section 125 of this Act."

Mr. STEVENSON. Mr. President, I have discussed this amendment with the manager of the bill. I believe it is acceptable to him. I have also mentioned it to my distinguished colleague, Mr. PERCY.

The amendment would permit the President to appoint a Federal Energy Emergency Administration administrator to the chairmanship of the Council on Energy Policy. At present, the law provides that the Council shall be chaired by a fulltime chairman, which could have the effect of disqualifying the Federal Energy Administrator, Mr. Simon. This would make it possible for the President to appoint Mr. Simon to both offices.

Mr. RIRICOFF. Mr. President, this is a good amendment and I accept it.

Mr. PERCY. Mr. President, the reason I have strongly objected to title II—the three-member Council on Energy Policy—is that we would have had an administrator with operational responsibilities who would have been separated from the policy coordination function created in the White House by title II. This amendment enables the President to tie together policy and the administration of the ongoing program, if he so chooses, by appointing the Administrator as Chairman of the Council. It is a good amendment and provides some measure of needed flexibility. I accept the amendment.

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

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

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

The amendment was agreed to.

Mr. HART. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

S. 2776

On page 48, line 15, insert the following: In Section 124 (a) (5), delete the word "technology." and insert instead the following:

"Technology; *Provided*, That the Comptroller General, pursuant to Section 118 of this Title, shall monitor and review said analysis and provide his comments to the Congress and the Administrator,"

Mr. HART. Mr. President, this amendment is offered to insure that the Comptroller General will have the duty to oversee the development of the independent analysis of oil and gas reserves. The figures on the amount and location of these reserves are among the most closely guarded secrets of the industry. Yet, public access to these figures is absolutely essential for the development of any fair national energy policy.

All reports required from the Federal Energy Emergency Administration would be subject to review by the Comptroller General under the provisions of this bill. The amendment simply makes clear that the one report which may prove most controversial also will receive the objective and forthright analysis of a group of experts directly responsible to Congress. It is my hope that the Comptroller General, in performing this function, will consult widely with other agencies within the Government and draw on all sources of expertise to make sure that our energy policy is based on strong, verified information.

Mr. President, I would hope that the manager of the bill and the ranking member would agree to this amendment.

Mr. RIBICOFF. Mr. President, on behalf of the committee I accept the amendment offered by the distinguished Senator from Michigan.

Mr. PERCY. Mr. President, I should like to ask, for purposes of clarification, as I have not had the necessary time to study the amendment, what new authority does this give to the GAO?

Mr. HART. It makes it explicit, if I could respond, that the charge to the Comptroller General be that he review the report called for—I think it is the seventh subsection of this section of the

bill—as some would hold that even without this language the Comptroller General could play a role in the analysis of the reserves. Even if this is true, at least we put him on notice of our interest and desire that he in fact participate in this specific report and review.

I must confess that earlier in the day I had hoped very much that we could have that independent review assigned to the Federal Trade Commission. I realize, after speaking with a number of those directly concerned with the bill, that this effort would have been a failure. The votes were not there. So this is a fallback position.

Mr. PERCY. With that explanation, I fully accept the amendment.

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

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Michigan (Mr. HART).

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 39, after line 26, insert the following:

"*Provided that,* notwithstanding any other part of this subsection, the Administrator shall disclose upon identifiable request, and at reasonable cost, any information or data of the type which could not be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a single product, unless such information or data concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of a business enterprise."

Mr. HATHAWAY. Mr. President, this amendment applies to section 116(b), concerning public disclosure of information. My amendment applies a standard established by the Congress in Public Law 93–28, Economic Stabilization Act Amendments of 1973, for public disclosure of financial information, as supplied in that case to the Cost of Living Council. The amendment employs the language of section 205(b)(3) of that act, modified to conform to the provisions of S. 2776.

This amendment clarifies the fact that the public disclosure provisions of the Economic Stabilization Act, as amended, continue to apply to information currently collected by the Cost of Living Council in its Energy Division which will, upon the enactment of this legislation, be collected by the Federal Energy Emergency Administration, under the transfer of authority provided in section 105.

Furthermore, the amendment extends the standard employed in the Economic Stabilization Act for public disclosure of financial information to information or data collected under other provisions of S. 2776.

Mr. President, I have discussed this amendment with the Senator from Connecticut and I understand there is no objection to it.

Mr. RIBICOFF. Mr. President, I accept the amendment and the Senator from Illinois also accepts it.

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

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine (Mr. HATHAWAY).

The amendment was agreed to.

Mr. RIBICOFF. Mr. President, there are two more amendments, I understand.

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

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

The bill is open to further amendment.

AMENDMENT NO. 929

Mr. WEICKER. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 48, beginning in line 21, strike out "This title shall terminate June 30, 1975." and insert in lieu thereof "This title shall terminate June 30, 1974.".

On page 49, beginning in line 1, strike out "1974, and $200,000,000 annually for each of the fiscal years 1975 and 1976 to carry out the purposes of this title." and insert in lieu thereof "1974.".

On page 49, beginning in line 5, strike out "and $75,000,000 annually for each of the fiscal years 1975 and 1976".

Mr. WEICKER. Mr. President, first, let me compliment the distinguished senior Senator from Connecticut (Mr. RIBICOFF) and the distinguished Senator from Illinois (Mr. PERCY) on the work they have done with respect to this act which would establish the Federal Energy Emergency Administration. I have great confidence in their work product, and my amendment in no wise indicates anything but the fullest confidence in them and the work of the Committee on Government Operations.

However, I think it is necessary to point out that we are once again engaged in an unprecedented turning over of congressional power into the hands of the Executive, and it is being done in a time of "emergency." Congress does not go ahead and give up its power in normal times. This happens always under emergency conditions, and I think we all agree that an energy crisis is upon us. But I think it is also necessary to retain, in some way, congressional authority to review the policies of this Nation.

Under this act, for a year and a half there would be no effective check on the policymaking power of the energy czar and/or his staff. I agree that in the bill are sections which require reports to Congress. There is a section which requires the President, in June of 1974, to make his recommendations as to a permanent organizational structure for Federal emergency energy policymaking. But there is nothing in the way of teeth, whereby this body can act should it effectively review the actions taken by the Administrator or those around him under the powers granted under this bill.

It is interesting to note that, obviously, change is contemplated; because if we turn to section 123 of the bill, it sets forth the following:

The President shall submit to the Congress not later than June 30, 1974, a report setting forth his recommendations for a permanent Federal organizational arrangement for the management and development of policy for energy and natural resources.

That is proper. I think we should have those recommendations. But what about our recommendations? What about any flaws we might discover? Where is our chance to enter the scene and correct any wrongs? Every decision this man makes is going to be a tough decision. The subject matter of this legislation—excuse the pun—is exceedingly volatile. There will be many times when many people will react against FEEA policies. I think we ought to stand in there with the FEEA Administrator, taking responsibility for policymaking and the policies themselves, since they will affect all Americans.

But it is also possible, as we have seen in other instances, that the granting of such sweeping powers can come back to haunt us. This is basically what crossed my mind as I looked over the proposed legislation and tried to find some way—without interfering with the day-to-day operation of the agency—by which we could exert some sort of congressional check.

Certainly, I do not want the FEEA Administrator coming to Congress or to the committees every day on every decision he has to make. That, for all practical intents and purposes, would completely dismember the authority and the decisionmaking power he should have in this emergency situation.

Do I think it unreasonable to have this act expire on June 30, 1974, so that it has to be reauthorized by Congress? No, I do not. That is a fair check. That date is clearly recognized as a time when review is in order—recognized in respect to the President and the powers he is given under the bill, whereby he is to make his recommendations on improving the legislation by June 30, 1974.

Mr. President, as far as the energy emergency legislation that has been approved in conference, I saw this morning where the emphasis is on how Congress has given up its power to the President in the area of gas rationing. The RECORD will show I voted for gas rationing. I am perfectly willing to take the responsibility for the tough decisions on my shoulders, as do others. But again, the emphasis in the public mind is on how

we have given up our authority in emergency conditions rather than having the guts to hang in there and share the responsibility as well as the credit for actions taken.

Once this act is passed there is no way that we can say that we share part of the responsibility for the decisions that are made by the energy czar. This body has given to that individual the power enjoyed by each one of us as a Senator. In essence, we are saying, "Do what you want to do and come back to us in a year and a half." Some will say, "Fine; go ahead; the decisions are all his."

No, I say, not in this day and age when the public has been alerted on the whole issue of the abdication of power by Congress to the President.

It is only his responsibility when we have given him our power. That is the clearcut issue before the Senate. It was the issue we mulled over as to how we could provide some sort of check so that we could not be accused of ducking our responsibility.

I understand the position of the administration is that they have to recruit people for a long period of time and that they could not get them without long-term employment prospects. I think the energy crisis will be with us for more than a month, more than a year, and much longer. If it is not, fine; let us fold up the act. I think we will renew this legislation come June of 1974, but I want to retain that power in this body. I do not want to say a year from now or a year and a quarter from now, "My gosh, what have we done?" and start pointing the finger at the executive branch. We will be stuck with our decisions, good or bad. All the reports can be written, but there is no substitute for the power to legislate, and for the power we have to pass upon the policies of this Nation.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WEICKER. 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. WEICKER. 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. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. RIBICOFF. Mr. President, there is no Member of this body for whom I have higher respect than I do for my colleague from the State of Connecticut. I well understand how his experience has led him to be concerned over excessive power in the executive branch.

The committee itself has been concerned with this problem and we have made many substantial changes in the administration bill to avoiding granting the Administrator excessive power. Added to that, I believe the conference committee on the emergency energy bill shares the same concern. While it has not completed its conference, it has agreed on the following safeguards with regard to the powers vested in the President by the emergency energy bill:

Any conservation measure proposed by the Administrator between now and March 1 may go into effect, but either the House or the Senate may veto it by majority vote within 15 days. Here we have a definite check by Congress on the actions of the Administrator.

Furthermore, there is a provision that any conservation measure proposed between March 1 and June 30 will not take effect for 15 days so Congress can study it. Either the House or the Senate could veto it by majority vote.

There is a third agreement that after June 30, any conservation measure will require affirmative congressional approval just like any other bill.

The fourth agreement between the conferees provides that any fees or taxes which are part of a fuel rationing program must be approved by Congress.

The Senator is correct that the conferees have given the President authority to put into effect a rationing program without congressional approval.

Now, it has been our experience that it will require about 60 days to set up an agency like the Federal Emergency Energy Administration and to get it running. If the bill were to become law before January 1, the act would give the administration just 4 months of life before it expired. It seems to us that this is too short a time to give the agency a fair trial. The bill gives the FEEA a life of 18 months instead of the 2 years requested by the administration. This is the minimum time allowable to give Mr. Simon's leadership and the administration a fair trial.

Also it is possible that the House may not act on this bill before the Christmas recess. In that case the chance for the bill becoming law before February 1 is slim. Under the Senator's amendment this would only give the agency some 3 months in which to operate.

The bill is tightly drafted to limit the authority of the Administrator. It gives him authority over only four units from the Interior Department, as well as the Energy Division of the Cost of Living Council. Any other transfers must be affirmatively approved by Congress.

The numerous detailed reporting requirements and oversight provisions assure that there will be constant congressional monitoring of the Administrator's actions.

Let me list a few:

Every 30 days an economic impact report.

A comprehensive energy plan 120 days after enactment.

Every 6 months a comprehensive report to Congress. A grant of authority to GAO to monitor the administration's actions.

Furthermore, at the suggestion of the distinguished Senator from Delaware (Mr. ROTH), an ombudsman provision was put into the bill, setting up an office of private grievances and redress authorizing persons throughout the United States, such as individual end-users or small businessmen to go to the office of private grievances with a complaint and ask for relief.

So we have included a series of procedural safeguards. With all these safeguards, we feel that Mr. Simon must have more than 3 or 4 months to do a job.

I recognize that no man in the job of administrator will win any popularity contest. It is a tough job. No matter what he does, toes are going to be stepped upon. But I do feel the administrator chosen by the President is a man of outstanding ability, courage, and capacity. The only way the Administration is going to do an effective job is if such a man is leading it.

While I have the highest respect for my colleague, I cannot conceive how an agency can be set up, staffed, and operated for a period of only 4 months. Consequently, I oppose the amendment of my colleague from the State of Connecticut.

I am pleased to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I share the very strong feelings of my distinguished colleague from Connecticut about his colleague from Connecticut, and in this question of granting excessive power I know that the distinguished Senator from Connecticut knows how strongly I spoke against the power granted in the energy emergency powers bill. In fact, I spoke on the floor of the Senate against it, objected seriously to those kinds of power being granted, and felt that we might rue the day that we created and delegated that much power.

But I would respectfully point out to my colleague that I do not feel that strongly about the powers being granted in the FEEA bill under consideration now. This bill is, essentially, not a grant of power bill, but an organization bill. The power has already been, or will likely be, granted in the energy emergency bill.

My second reason for evidencing concern includes some of the reasons mentioned by the able floor manager of the bill (Mr. RIBICOFF). It would clearly be administratively and extremely difficult to set up an energy administration for only 6 months. It would be extremely difficult to hire people. It might imply a sort of swinging-door approach to Government organization. It might even imply the emergency period is only for a period of 6 months. I cannot imagine the kind of talent we would want to attract—impartial, objective, experienced—would want to come into this administration for such a short period of time.

I can imagine industry lending people for that short period of time, but the very thing we have been trying to get away from, having it dominated by any one particular industry, would probably be frustrated by providing the FEEA such a short life.

Furthermore, I should point out that the administration did ask for a 2-year authority, and very much in line with the principle expressed by the distinguished Senator from Connecticut (Mr.

WEICKER), we felt that was too long a period of time and we cut it down to 18 months. So, in a sense, we shared a common desire not to have an emergency agency for too long. On the other hand, we felt it to be unrealistic to look on it as an emergency with a shorter duration than an 18-month period.

Many safeguards have been built into the bill, as the Senator from Connecticut (Mr. RIBICOFF) has mentioned.

Mr. President, rather than take the time of the Senate, I ask unanimous consent that a memorandum on this subject be printed at this point in the RECORD.

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

I oppose the amendment for the following reasons:

1. Administratively unworkable.—It would be highly undesirable from an administrative standpoint to establish a statutory agency, transfer major energy functions to it from other agencies, hire a staff of about 2000, set up field offices, and then shut down the whole structure after only 6 months. This swinging-door approach to Government organization would be chaotic and would make it impossible to run an efficient agency. Perhaps more importantly, for only a 6-month stay the agency would be unable to attract the high-powered talent necessary to run an effective energy emergency program.

2. Safeguards in the bill.—The Committee has already written into S. 2776 a large number of safeguards against abuse of the authority of the Administrator, and has already limited the FEEA's life to 18 months from the 2 years requested by the Administration. Moreover, the Committee bill requires the President to submit to Congress his recommendations for a permanent Federal energy and natural resources organization by June 30, 1974. (sec. 123)

Some of the safeguards built into the bill are as follows:

Functions of the Administrator are strictly limited to those transferred to him or delegated to him pursuant to law (sec. 104).

Administrator must submit a comprehensive energy plan within 4 months (sec. 122).

Administrator must carefully analyze the impact of his actions on the economy (sec. 112).

Mathias amendment adopted last night strengthens administrative procedures to protect the public.

Adminstrator must coordinate all programs and policies with State and local governments (sec. 114).

Administrator must keep the public fully and currently informed of the energy emergency situation and actions being taken to minimize its impacts (sec. 116).

The Roth amendment wisely established an Office of Private Grievances and Redress within the FEEA to grant relief in hardship cases (sec. 121).

Numerous periodic reports to Congress are required (sec. 124, passim.).

Mr. PERCY. The memorandum sets out the reasons why we feel the bill puts necessary restraints on the Administrator and that we did not delegate to him excessive powers under this bill. Nevertheless, I share the concern of my distinguished colleague from Connecticut if he refers to the excessive powers granted in the energy emergency bill S. 2589, which has already passed the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, I yield myself such time as I may need.

Let us understand one thing—that the energy emergency bill which is referred to may be coming out of conference, but it has not been signed by the President. As a matter of fact, the rumor has been floating around that he may very well veto it. So there is no point in referring to this piece of legislation that is not yet law. It may very well be that this is the only act we will end up with, especially if the veto comes about and that veto is sustained.

One thing I want to say: I find it very awkward to argue on this point against the distinguished senior Senator from Connecticut and the distinguished senior Senator from Illinois, because I know their own feelings on the general principle, and there is no argument among us.

The fact is that we are stuck with any action which he takes. And I have found something. It has nothing to do with the administration downtown, but any administration. When it comes to the executive and the legislative branches, you can talk all you want to, but if you do not have the votes, that is exactly what you are going to end up doing—talking. Having the votes, I mean, provides us with the teeth to enforce our wishes. It is very clear that in this legislation we do not have the teeth to do anything for a year and a half.

My comments do not reflect on Bill Simon, whom I find to be a very, very able man—highly able—but the fact is that executive branches of Government are notoriously slow with reports and with responding to congressional prodding unless the congressional prodding is accompanied by some form of congressional power.

So I have noticed that, no matter all the intentions set down here, they all add up to talk, and I am sure the executive branch will allow us here to keep on talking and talking and talking. That does not mean they are going to listen. They are going to listen only if we still have the power to back it up.

This amendment will in no way interfere with this act one iota. It provides that the FEEA be established upon enactment of this bill. But what it does say is that, come June 30, Congress should review FEEA. If there are modifications to be made, so be it.

I am saying that we ought to have an opportunity to go ahead and make any necessary changes. However, we do not have that power under this bill. Under the emergency bill, if it became law, we would have more teeth in that measure, yes. But we have no guarantee of that. I do not have any guarantee of that. And in fact the rumor is to the contrary. The rumor may be wrong. However, what I have heard on the Hill today is that there is a possibility of a Presidential veto.

If that happens, we are stuck with this piece of legislation, and the actions of this administrator become our actions.

That is the point that I am trying to make. As far as improvement is concerned, believe me, I believe that the crisis is going to be with us for a long time. And any man with good sense knows that this agency will go here for a good, long time. However, once congressional power goes, it is gone insofar as we are concerned. We can wait and see how they listen. And I repeat I do not intend this to be in any way a personal criticism of Bill Simon or of this administration. God knows, history should teach us what happens when we give our power to the executive branch of the Government. It is extremely difficult to get back. However, it is not impossible.

Mr. President, every Senator on this floor fully understands that this amendment will not interfere with the day-by-day operations of the energy czar. And it enables us to stand up to the American people and say, "We have not ignored our emergency." If we try to solve the problem by dumping it into the laps of the executive branch, I think the American people will be unsympathetic if things go wrong and we try to use the argument, "We gave the power to the President." We are definitely involved in his decisions and the decisions of his czar. Nobody has gained anything so far as our helping the American people or our election chances are concerned.

I cannot see any delay whatsoever as we approach the June 30, 1974, deadline. I think this legislation will just rollover. However, at least we have a talking point to the American people which we do not have at the present time.

What we are retaining is the power to talk, and whether it is at the convention or on the floor of the United States Senate, I would much prefer to have the votes rather than the ability to go ahead and talk.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I shall be very brief, indeed, and I believe that we can then yield back the remainder of our time.

We have been very concerned about the powers granted under this act.

I wish to assure my colleague that all he has said about the bill that was sent over to the Senate would have been very broad, indeed, and subject to great interpretation.

The purpose of the Government Operations Committee in working on the hearings was to be specific about this.

On page 18 of the bill, we are very limited as to what powers are granted in this particular act.

I am not talking about the emergency act.

But, Mr. President, in this case, we simply transfer to the Administrator and give him the powers that are transferred or vested in him pursuant to the following title. And those are the powers that already exist in the executive branch of the Government.

Then, such powers as are delegated to him by the President within the authority vested in the President by other law—and again there is no additional power or authority—and third, otherwise vested in the Administrator by the Congress.

So again there is no power not granted by the Congress of the United States.

I feel that in the oversight of this situation, the concerns of the Senator from Connecticut will be watched very carefully. Having talked with Mr. Simon, I share the high respect which the Senator has for him. He is a man that knows how to use responsibility and will assume such responsibility as the Congress gives to him and the President, and will act with great restraint in the matter of taxation and other matters.

Mr. RIBICOFF. Mr. President, I would like to point out to my colleague from Connecticut that on page 45, section 122, we specifically require the administrator within 120 days to develop and report to the Congress, for referral to the Committees on Government Operations and Interior and Insular Affairs of the Senate and House of Representatives, a comprehensive plan designed to alleviate the energy shortage. It is specified that this plan must give the Congress all the facts and analyze them. It must include estimates on the energy savings produced by everything he has done, the estimates of any windfall gains experienced by corporations, estimates of the effect of the Administrator's actions on individual citizens grouped by socio-economic class, estimates of the impact on the supply and consumption of energy forms of price changes. Finally, the report must include a description of possible alternative actions and a discussion of the desirability of adopting such alternative actions.

In other words, what we require the Administrator to do 2 months before June 30, 1974, is to present to both committees, the Government Operations Committee and the Interior and Insular Affairs Committee of both Houses, a comprehensive report describing and analyzing the complete energy program adopted by FEEA. This would give us an opportunity to have committee hearings and to come up with alternative proposals or even legislation to eliminate the FEEA, such a measure could be brought to the floor long before June 30, 1974, if the FEEA was doing a bad job or the plan was not working.

I do believe that the committee was deeply concerned with the problems that may arise as the agency begins to function. We hope to be able to exercise our oversight functions, and even better than that, to come up with amendments and alternate suggestions.

The Senator is correct. This administration is going to be in existence long beyond June 30, 1975. But creation of FEEA is only an interim step. We are going to have to have a Department of Energy and Natural Resources. We will have to fold at least some of these different functions the administration will exercise under this bill into such a new department, for the energy problems will be with us for the next two or three decades.

I would hope that the President and each of the administrations we are creating to deal with the energy problem will get about their business, and start to deal with the problems of the world in the field of energy.

I am deeply concerned about trying to establish an agency and expecting it to work effectively in a period of 6 months. It just will not work. And any of us who have been involved with any part of government—State, local, or Federal—realize that we cannot create an agency with the power that this agency will have with a budget eventually of $200 million, and have it operate for only 6 months. It just will not work.

While I am sympathetic with the approach and the concerns of my colleague, I cannot see how he can propose making this agency an effective one if he gives it a life of just 6-months' duration.

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. WEICKER. I ask the Senator, why do you think that you have heard of the potential of a Presidential veto on the Energy Emergency Act? Why? I know why. Because there are checks in there, congressional checks on Presidential action. That is why the legislation is susceptible to veto.

I am not, thank heaven, a tactician in the White House on these matters. But I suspect that there might be the idea that they would go ahead and veto the Energy Emergency Act, and just allow this act to stand as the energy legislation on the books.

If that happens, then there are no effective congressional checks. The powers which my distinguished colleague from Connecticut read to me as being transmitted or turned over to the administrator are sweeping. Those powers that the President has under the various laws of the land can be turned over to the administrator, and believe me, knowing the way power is interpreted down there, that means almost anything.

So I cannot agree. I think we are on notice.

We are on notice, as far as I am concerned, that what sticks in the craw downtown is the potential of a congressional check on this agency. We are on notice, and if we choose to ignore it, then, as I said, we are stuck with the results.

There is all the great language in the world here, and the Energy Administrator has to come and report to the various committees as to what is going on, but there is nothing to say he is going to relinquish one bit of the power we give him today, in the event this bill is approved.

Mr. RIBICOFF. Mr. President, let me note that in the event of a veto of the President's energy bill, then the FEEA bill we are now considering clearly confines the authority of the administrator. He will have only the authority which we give him in this bill, and that will be merely to exercise the functions bestowed by the other acts on four units of Interior, plus the Energy Division of the Cost of Living Council. So the administrator will not have a blank check. He will really acquire authority only if Congress passes the conference report on the emergency bill and the President signs the bill.

My staff informs me, after calling the House of Representatives, that a similar bill in the House has been reported out of committee, with 3 days given to file additional or minority views, which will take it to Friday. Then it has to go to the Rules Committee, as I understand it, and it has to lay over 3 days, and any Member of that body can object; and consequently we may find ourselves without an emergency bill or an FEEA bill. I hope neither event takes place, because the country has problems; we are in the middle of a crisis, and I would like to see some action. But that action is going to require the cooperation of Congress and the President of the United States.

Mr. WEICKER. Mr. President, I yield myself such time as I may require.

I think one thing should be made very clear: That if my amendment were adopted, it would in no wise slow down the passage of this legislation through Congress. The House has not acted; it is perfectly possible to go ahead and amend it on the floor of the House.

But I want to point out again, that the section which gives to the Administrator his power transfers to or vests in him by or pursuant to this title. Of course, we have limited it, but the provision for authority "delegated to him by the President of the authority vested in the President by other law"—that to me is a wide open and extraordinary invitation to any conceivable action or policy on the part of FEEA.

I have to take issue with my esteemed colleague on this point. The President could very well veto the Emergency Energy Act, and we would end up with this measure on the books, and have a far more breachable system, because it does not subject itself to any sort of congressional check, as the conference report does. It is as simple as that.

And let me say this also: If the principle of enticing able people for Washington requires me to give up powers vested in me by the people of Connecticut, they will have to do something else to entice people down here. This is not a 6-month deal. We are well aware that this agency will be around here for a long time to come. But I think it especially important at the outset that we make it subject to some sort of congressional review, and there will be no effective review with this act alone. Whatever review is required will come through the Energy Emergency Act.

So, before I yield back the remainder of my time, I would point out that I am trying to warn of the difficulties before they occur, and that nobody is going to be able to hide behind the fact that that is the President's business. It is not the President's business, it is our business, except that we have given up any power to affect the result, and I do not think that will be received in very kindly fashion by the American people if things go wrong.

So, having issued the warning, there seems to be nothing else that I think I can add to the debate, and I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I yield 3 minutes to the Senator from Nebraska.

VIETNAM VETERANS DAY

Mr. HRUSKA. Mr. President, I rise for the purpose of making a unanimous consent request in regard to House Joint

Resolution 865, a joint resolution authorizing and directing the President to issue a proclamation designating March 29, 1974, as "Vietnam Veterans Day."

Before I make that request, I want to say that the matter has been cleared with the leadership on both sides of the aisle, with the chairman and the ranking minority member of the Veterans Affairs Committee, and with the chairman of the Judiciary Committee, the Senator from Mississippi (Mr. EASTLAND).

The request is this: I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the joint resolution, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER (Mr. GOLDWATER). The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (House Joint Resolution 865) authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day."

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Indiana. The Chair hears none, and it is so ordered.

Accordingly, the joint resolution was considered, ordered to a third reading, was read the third time, and passed.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

The PRESIDING OFFICER. Who yields time?

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

Mr. WEICKER. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GOLDWATER). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 929) of the Senator from Connecticut (Mr. WEICKER). 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. SAXBE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 11, nays 77, as follows:

[No. 603 Leg.]

YEAS—11

Baker	Buckley	Helms
Beall	Cook	Packwood
Bellmon	Goldwater	Weicker
Biden	Griffin	

NAYS—77

Abourezk	Hart	Nelson
Aiken	Hartke	Nunn
Allen	Haskell	Pastore
Bartlett	Hatfield	Pearson
Bayh	Hathaway	Pell
Bentsen	Hruska	Percy
Bible	Huddleston	Proxmire
Burdick	Hughes	Randolph
Byrd, Harry F., Jr.	Humphrey	Ribicoff
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Schweiker
Case	Javits	Scott, Hugh
Chiles	Johnston	Scott, William L.
Clark	Kennedy	Sparkman
Cranston	Long	Stafford
Curtis	Magnuson	Stennis
Dole	Mansfield	Stevens
Domenici	Mathias	Stevenson
Dominick	McClellan	Symington
Eagleton	McGee	Talmadge
Ervin	McGovern	Thurmond
Fannin	McIntyre	Tunney
Fong	Metcalf	Williams
Fulbright	Mondale	Young
Gurney	Montoya	
Hansen	Moss	
	Muskie	

NOT VOTING—12

Bennett	Cotton	McClure
Brock	Eastland	Saxbe
Brooke	Gravel	Taft
Church	Hollings	Tower

So Mr. WEICKER's amendment was rejected.

FEDERAL FINANCING BANK

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on H.R. 5874, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HUDDLESTON). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5874) to establish a Federal Financing Bank, to provide for coordinated and more efficient financing of Federal and federally assisted borrowings from the public, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

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

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 5, 1973, at pp. 39740–39741.)

Mr. SPARKMAN. Mr. President, on December 4, 1973, the House and Senate conferees met and agreed to what I believe is a good version of H.R. 5874, a bill to establish a Federal Financing Bank.

The Senate version of the bill required prior approval by the Secretary of the Treasury of financing plans for obligations issued, sold, or guaranteed by any Federal agency. The House version required Treasury approval for obligations issued or sold by any Federal agency but did not require prior approval for obligations guaranteed by any Federal agency. The conference committee adopted the House version.

The Senate version of the bill exempted from the prior approval requirement the obligations of the Farmers Home Administration. The House version did not contain this provision. The conference committee adopted the Senate version.

The House version of the bill provided that the Secretary of the Treasury shall not withhold approval of Federal agency financing plans for more than 120 days unless within that period he submits to Congress a detailed explanation of his reasons for so doing. The Senate version provided that the Secretary may withhold approval for only 60 days without submitting to Congress a detailed explanation of the reasons for so doing and also that in any case the Secretary may not withhold approval for more than 120 days. The conference committee adopted the Senate version.

The conference committee also adopted a Senate provision not in the House version which provides that to the maximum extent practicable withholdings of approval are to be made in a manner which is not disproportionately detrimental to the functioning of any particular type of Federal program.

The House version of the bill contained a provision that nothing in the bill was to be construed as authorizing an increase in the amount of obligations issued sold or guaranteed by any Federal agency which issues, sells, or guarantees obligations purchased by the bank. The Senate version did not contain this provision. The conference committee adopted the House language.

The Senate version of the bill contained a provision declaring it to be the sense of the Congress that the United States should take the necessary measures to enable it to sell gold from its gold stocks to licensed domestic users. The House version did not contain this language. The conference committee agreed not to include this language in the conference version.

Mr. President, I urge the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

The Senate continued with the consideration of the bill (S. 2776) to provide for the effective and efficient management of the Nation's energy policies and programs.

Mr. HANSEN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At page 48, after line 17, insert a new subsection (c) to read as follows:

"(c) The Administrator shall within 30 days of the date of this Act, review the provisions of section 206 of the National Energy Emergency Act regarding expedited procedures for compliance with the National Environmental Policy Act of 1969 (83 Stat.

856) and shall recommend to the Congress such additional actions under the Administrator's authority which may require similar procedures."

Mr. HANSEN. Mr. President, I ask the distinguished floor manager of the bill and his counterpart if they would be willing to accept this amendment.

Mr. RIBICOFF. Mr. President, I accept the amendment of the Senator from Wyoming.

Mr. PERCY. Mr. President, I accept with pleasure the amendment of the Senator from Wyoming.

Mr. HANSEN. I thank my colleagues. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, after Sec. 112(a)(6) insert the following new paragraph and number other paragraphs accordingly:

"(7) on low and middle income families as defined by the Bureau of Labor Statistics."

Mr. JAVITS. Mr. President, I submit this amendment for myself, Senator KENNEDY, and Senator PERCY. This is Senator KENNEDY's amendment. I am in sympathy with it and support it, and I urge it upon the Senate. Senator PERCY has joined me in this.

All the amendment would do would be to insert, as one of the criteria for considering the economic impact of regulatory and other actions on the American economy, the consideration of the effect on low- and middle-income families as defined by the Bureau of Labor Statistics. I hope the amendment will be accepted.

Mr. RIBICOFF. Mr. President, on behalf of the committee, I accept the amendment.

Mr. PERCY. I accept the amendment.

Mr. JAVITS. I yield back the remainder of my time.

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, the bill before the Senate requires that the actions contemplated by the new Federal Energy Emergency Administration be analyzed in terms of their impact on a variety of groups and organizations.

I have no argument with the list contained within section 112(a).

However, I would urge that this amendment be adopted to provide one additional item covering low- and middle-income families.

My concern is that in the mounting shortage and in the spiraling prices affecting home heating oil, gasoline and other products, the consumers, particularly the poor and the workers, does not now appear to be of more than passing concern.

The impact on their ability to economically survive, for example, appears to be lacking in the pressure now on for a "sky's-the-limit" price policy for all forms of energy.

I do not think that we should forget that our first concern is with people and with the impact of our policies on people.

In that regard, I would hope that any proposal that promotes the use of high prices as a means of damping down consumer demand for energy really means placing the heaviest burden of the current shortage on the backs of the poor and on the backs of working men and women.

I, therefore, suggest this amendment as an appropriate addition to the list now contained within the bill and urge its adoption.

Mr. DOLE. Mr. President, the Federal Energy Emergency Administration Act is a highly significant item in the catalog of legislation designed to meet and solve the energy crisis.

It differs, however, in a basic respect from the other bills we have dealt with recently. These other measures—the Emergency Energy Act, the mandatory allocation bill, research and development, and daylight saving time, for example—were concerned with specific plans and programs to attack our energy problems and lead to solutions.

DIRECTED TOWARD MANAGEMENT

The bill before us today, however, does not deal with specific programs; rather, it is directed toward establishing the means to manage our energy crisis policies and programs with the utmost degree of efficiency and effectiveness.

This aspect is no less important than the individual programs, and indeed it is essential to their success. For without a sound organizational approach to managing these many complex, controversial, and powerful programs, we could expect only hopeless confusion, growing frustration and ultimate failure in the drive to weather our present emergency and reach the goal of energy self-sufficiency for America.

One of the great difficulties with Government in recent years has been the fragmentation of policy leadership and dispersion of administrative authority throughout the many levels and divisions of the executive branch. In part this factor has contributed to today's energy difficulties. No one agency or department has had the authority, information, staffing, or mandate to deal with the entire range of energy issues, and elimination of this obstacle is a primary objective behind the proposed establishment of a cabinet-level Department of Energy and Natural Resources. For a number of reasons, this proposal has not been implemented, but with growing public awareness of energy issues, perhaps it will receive additional attention in the coming months.

In any event the Federal Energy Emergency Act takes a major step toward consolidating at least the crisis aspects of our energy policy in one place. And I believe this is a basic requirement for today's situation and a good first step toward establishing a better national energy policy mechanism for the future.

POWERFUL ADMINISTRATOR

Turning to the specifics of the bill, I believe there should be clear recognition that the post of FEEA Administrator will be one of the most powerful in the Government. The bill's language specifically transfers the current broad energy policy authority of the Secretary of the Interior and the Chairman of the Cost of Living Council to the Administrator. It also authorizes the President, subject to congressional approval, to bestow upon the Administrator any other authority of the executive branch of Government which would further the purposes of this act.

When this language is viewed in light of the extremely strong provisions of recent energy legislation—particularly the rationing and conservation features of the Emergency Energy Act—it is obvious that we are creating a position of power without precedent in our recent history. This Administrator will be empowered to touch the life of every American and can be fully expected to do so in the exercise of these wideranging powers with an initial estimated staff of 3,000 and an annual budget of at least $200 million.

BASIC FEATURES

So with that point in mind, we can view the other provisions of the bill with greater clarity and appreciation for their importance.

Organizationally, the bill pulls together a number of existing Federal offices from the Interior Department and the Cost of Living Council under the FEEA's roof. It sets up the administrative structure and sets down the basic rules for bureaucratic housekeeping which apply to any Federal instrumentality. The Administrator will have a deputy, a general counsel, six assistant administrators, and so on down the list.

In carrying out its functions the FEEA will be subject to a number of requirements to enhance the openness and fairness of its operations. These include disclosure requirements for information related to its actions; requirements that advisory committees assure affected sectors of the economy and private citizens an input as the decisionmaking process unfolds; and establishment of a special mechanism—the office of private grievances and redress—to see that the little guy—the private citizen and the small businessman—is not squeezed between major policies directed toward giant elements of the economy. Emphasis is also given to the importance of involving State and local governments is these programs and providing them with ample support for coordination and technical assistance.

CONFIDENCE REQUIRED

While all of these provisions are important, I believe particular mention should be given to the requirement that regular disclosure of pertinent information be made and that advisory committees broadly represent those whose concerns will be affected by the outcome of particular policy deliberations.

To be fully effective our emergency energy programs must have the confidence of the country. Not only must Government officials have confidence in their decisions and the mandate under which they operate, but the business community, industry, labor organizations, and the average citizen must be confident that our energy emergency policies are being pursued with the utmost fairness to everyone concerned. There is no question that sacrifices will be required to deal with our energy problems. Inconvenience will be unavoidable; economic loss is likely. The process of solving these difficulties will not be easy or pleasant, but it must be done. And if we can maintain the confidence and trust of this country as we go down this difficult road, much of the battle will be won. So installing every possible safeguard and strengthening every available mechanism to create an open and fair-on-its-face operation will be well worth the effort and will pay substantial dividends as we move ahead.

No segment of any industry—particularly the energy industries—should be put in the position of feeling that another segment is being favored, having its voice heeded to the exclusion of others or dominating a particular forum. In this regard I would note my amendment to the Senate's Emergency Energy Act which requires that independent segments of the petroleum industry be represented on the National Energy Emergency Advisory Committee. The independent sectors of the energy industry—producers, refiners, transporters, and wholesale and retail marketers are highly important—to the future of our country. Admittedly, these segments have different points of view from the major integrated oil companies which receive the majority of public attention in discussion of energy issues. Thus it was recognized that assurance should be provided that the independent of the energy industry would be represented on the National Energy Emergency Advisory Committee.

This same principle applies to other industries, other interests, and other advisory committees, and I am pleased to see it receive such clear recognition and general application in this bill. I believe it represents a unique attempt to construct the administration of a program in such a way as to head off a crisis in confidence before it develops and to see that the program actually works to increase that vital element of public response.

A GOOD START

In conclusion let me say that all signs to date point to this energy policy management agency being launched on the right foot and on a positive note.

The President has established the foundation for the FEEA by creation of a Federal Energy Office in the White House. He has named Deputy Treasury Secretary William Simon to be its Director and has announced that Mr. Simon will be his nominee for the post of FEEA Administrator. Mr. Simon, during his relatively brief tenure at Treasury and involvement in energy matters as head of the Oil Policy Committee, has won wide respect in and out of Government as a most competent and effective individual.

He is already at work on the problems of the energy crisis and the policies which will soon be his responsibility under the bill we are considering.

The Congress has responded to the administration's request for legislative establishment of the FEEA with unusual dispatch and, I might add, with some constructive additions and improvements on the bill as originally outlined.

Therefore, I believe full congressional approval of the bill to establish the FEEA will launch this unique and powerful agency in an appropriate atmosphere of cooperation and joint recognition that solutions to energy crisis require the utmost in coordinated, constructive efforts by every American.

The PRESIDING OFFICER. The bill is open to further amendment.

The question is on agreeing to the committee amendments in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. GOLDWATER. Mr. President, will the Senator from Illinois yield me 1 minute?

Mr. PERCY. I yield.

Mr. GOLDWATER. Mr. President, I have not yet determined whether I will vote for this measure. My lack of determination is based solely on the fact that we have spent almost a month debating and arguing about energy; and with the exception of the Alaska pipeline, I cannot remember a single thing we have done to give the American people more fuel.

We have passed a lot of regulations; we have made penalties; we have done this and have done that; but I think it is time we got down to the business of drilling some holes in the ground and finding oil and gas, finding something to help the American people, other than penalties to say what is going to happen to them if they violate this or that.

I am very disappointed in what we failed to achieve so far. While I do not know how I am going to vote I have a hunch I am going to vote against the bill.

Mr. HELMS. Mr. President, I desire to associate myself with the remarks of the distinguished Senator from Arizona (Mr. GOLDWATER). Like his, my vote against this measure will be a vote of protest—a protest against the failure of this Congress to recognize the only—the only, Mr. President—real solution to our energy crisis. And that solution, Mr. President, must be an increase in production.

Nothing else is going to bring relief to the people, Mr. President, and until we face up to that truth, we are kidding ourselves and deceiving the people.

Therefore, Mr. President, I shall vote against this measure.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Dr. Caper may have permission to be on the floor during the vote.

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

The bill having been read the third time, the question is, Shall the bill pass? 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 87, nays 2, as follows:

[No. 604 Leg.]

YEAS—87

Abourezk	Fulbright	Muskie
Aiken	Griffin	Nelson
Allen	Gurney	Nunn
Baker	Hansen	Packwood
Bartlett	Hart	Pastore
Bayh	Hartke	Pearson
Beall	Haskell	Pell
Bellmon	Hatfield	Percy
Bentsen	Hathaway	Proxmire
Bible	Hruska	Randolph
Biden	Huddleston	Ribicoff
Buckley	Hughes	Roth
Burdick	Humphrey	Saxbe
Byrd, Harry F., Jr.	Inouye	Schweiker
Byrd, Robert C.	Jackson	Scott, Hugh
Cannon	Javits	Scott, William L.
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Clark	Long	Stennis
Cook	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Curtis	Mathias	Symington
Dole	McClellan	Talmadge
Domenici	McGee	Thurmond
Dominick	McGovern	Tunney
Eagleton	McIntyre	Weicker
Ervin	Metcalf	Williams
Fannin	Mondale	Young
Fong	Montoya	
	Moss	

NAYS—2

Goldwater	Helms

NOT VOTING—11

Bennett	Cotton	McClure
Brock	Eastland	Taft
Brooke	Gravel	Tower
Church	Hollings	

So the bill (S. 2776) was passed, as follows:

S. 2776

An act to provide for the effective and efficient management of the Nation's energy policies and programs for the duration of the existing energy emergency, and for other purposes

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

TITLE I—FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

SEC. 101. This title may be cited as the "Federal Energy Administration Act".

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

SEC. 102. (a) The Congress hereby finds that—

(1) shortages of crude oil, residual fuel oil, and refined petroleum products, as well as shortages of other forms of energy, have resulted in severe economic dislocations and hardships, curtailment of vital public services, interruptions in the normal flow of interstate and foreign commerce, and threatens the public health, safety, welfare, and security;

(2) the shortages in the supply of available forms of energy have created an energy emergency which requires emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for the equitable distribution of available supplies to all Americans;

(3) such emergency measures can be most effective in averting or minimizing shortages or dislocations if they are implemented promptly by the executive branch of Government; and

(4) in order for the Government to deal as effectively and efficiently as possible with the energy emergency specific portions of the executive branch must be reorganized on an interim basis to assure that there exists the organization, the personnel, and the other resources needed to implement the functions relating to the energy emergency vested in the executive branch by this and by other laws.

(b) The sole purpose of this title is to create an administration in the executive branch, called the Federal Energy Emergency Administration, to invest the Administration with certain functions as specified in the title, and to transfer, or to permit the transfer to such Administration, of certain functions vested in the executive branch by other laws where such transfer is necessary to deal on an interim basis with the energy emergency.

ESTABLISHMENT OF FEDERAL ENERGY EMERGENCY ADMINISTRATION

SEC. 103. (a) There is hereby established an independent executive agency to be known as the Federal Energy Emergency Administration (hereinafter referred to as the "Administration"). The Administration shall be headed by an Administrator and Deputy Administrator each of whom shall be appointed by the President by and with the advice and consent of the Senate.

(b)(1) The functions and powers of the Administration shall be vested in and exercised by the Administrator.

(2) The Administrator may from time to time, and to the extent permitted by law, consistent with the purposes of this title, delegate such of his functions as he deems appropriate.

(c) The Administration is authorized to have six Assistant Administrators, each of whom shall be appointed by the President by and with the advice and consent of the Senate.

(d) The Administration shall have a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Administration.

(e) The Assistant Administrators and the General Counsel shall perform such functions and duties as the Administrator may prescribe.

(f) The Administrator shall designate the order in which the Deputy Administrator and other officials shall act for and perform the functions of the Administrator during his absence or disability or in the event of a vacancy in his office.

FUNCTIONS AND PURPOSES OF THE FEDERAL ENERGY EMERGENCY ADMINISTRATION

SEC. 104. Subject to the provisions and procedures set forth in this title, the Administrator shall be responsible for such actions as are taken to assure that adequate provision is made to meet the emergency energy needs of the Nation. To that end, he shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing, and allocation of all forms of energy as are appropriate under those authorities—

(1) transferred to or vested in him by or pursuant to this title;

(2) delegated to him by the President within the authority vested in the President by other law; and

(3) otherwise vested in the Administrator by the Congress.

TRANSFERS

SEC. 105. (a) There are hereby transferred to and vested in the Administrator all functions of the Secretary of the Interior, the Department of the Interior, and officers and components of that Department—

(1) as relate to or are utilized by the Office of Petroleum Allocation;

(2) as relate to or are utilized by the Office of Energy Conservation;

(3) as relate to or are utilized by the Office of Energy Data and Analysis; and

(4) as relate to or are utilized by the Office of Oil and Gas.

(b) There are hereby transferred to and vested in the Administrator all functions of the Chairman of the Cost of Living Council, the Executive Director of the Cost of Living Council, and the Cost of Living Council, and officers and components thereof as relate to or are utilized by the Energy Division of the Cost of Living Council.

(c)(1) Notwithstanding any other provision of law, the President may, subject to the provisions of this subsection, transfer to the Administrator any function of any other executive agency (as defined in section 105 of title 5, United States Code) if he determines that such transfer would further the accomplishment of the intent and purposes of this title.

(2) The President shall notify the Senate and the House of Representatives, by special message, of each transfer proposed to be made under paragraph (1). The President may transfer a function proposed in a special message upon the adoption by the Senate and the House of Representatives of a concurrent resolution approving such transfer.

(3) No function may be transferred under this subsection which would have an effect inconsistent with the provisions of section 905(a) of title 5, United States Code.

(4) The provisions of sections 910 through 913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and the House of Representatives in the exercise of their respective responsibilities with respect to special messages under paragraph (2) of this subsection in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans, except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for purposes of this subsection to refer to a concurrent resolution of approval under paragraph (2) of this subsection.

(d) Each function that is transferred to the Administration pursuant to the provisions of this title shall revert to the executive agency from which it was transferred upon the expiration of this title or upon such earlier date as the President may prescribe pursuant to the procedures prescribed by subsection (c) of this section.

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) The Administrator of the Federal Energy Emergency Administration may—

(1) appoint, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in him, and prescribe their authority and duties. In addition to the number of positions which may be placed in GS–16, 17 and 18, under section 5108 of title 5, United States Code, not to exceed one hundred positions may be placed in GS–16, 17, and 18, to carry out the functions under this title, and that of such one hundred officers and employees, twenty-five may, under this provision, be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service; however, the authority under this subsection shall be subject to the procedures prescribed under section 5103 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this Act;

(2) employ experts, expert witnesses, and consultants in accordance with section 3109 of title 5 of the United States Code, and compensate such persons at rates not in excess of the maximum daily rate prescribed for GS–18 under section 5332 of title 5 of the United States Code for persons in Government service employed intermittently;

(3) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him: *Provided*, That:

(A) The Administrator shall, before promulgating proposed rules, regulations, or policies relating to the cost or price of energy, provide a period of not less than five days from receipt of the proposed action during which the Chairman and the Executive Director of the Cost of Living Council shall approve or disapprove such rules, regulations, or policies, and if the Chairman or the Executive Director of the Cost of Living Council disapproves such rules, regulations, or policies they shall not go into effect. The Chairman and the Executive Director of the Cost of Living Council shall have not less than five days in which to act, otherwise approval shall be automatic.

(B) The Administrator shall, before promulgating rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five days from receipt of the proposed action during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

Such comments shall be published along with the proposed action. The review required by section 106(a)(3)(A) and (B) may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires immediate action;

(4) utilize, with their consent, the services, personnel, equipment, and facilities of Federal, State, regional, and local instrumentalities, with or without reimbursement therefor, and transfer funds made available pursuant to this title to Federal, State, regional, and local instrumentalities as reimbursement for utilization of such services, personnel, equipment, and facilities;

(5) adopt an official seal, which shall be judicially noticed, and the provisions of section 709 of title 18 of the United States Code shall apply to the use of the seal, after its adoption and publication in the Federal Register, except as provided by regulations prescribed by the Administrator;

(6) accept unconditional gifts or donations of money or property, real, personal, or mixed, tangible or intangible;

(7) subject to appropriation acts, enter

into and perform contracts, leases, cooperative agreements, or other transactions with any public agency or instrumentality or with any person, firm, association, corporation, or institution; and

(8) perform such other activities as may be necessary for the effective fulfillment of his administrative duties and functions.

(b) Any determination pursuant to subsection (b) of section 208 of title 18 of the United States Code that an exemption shall be granted to any employee shall be a nondelegable responsibility of the Administrator, Deputy Administrator, or General Counsel and in all instances shall be made a matter of public record, setting forth the detailed reasons and justifications for such exemption.

COMPENSATION

SEC. 107. (a) Without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service—

(1) the Administrator shall receive compensation at the rate now or hereafter prescribed for positions at level II of the Executive Schedule (5 U.S.C. 5313);

(2) the Deputy Administrator shall receive compensation at the rate now or hereafter prescribed at level III of the Executive Schedule (5 U.S.C. 5314);

(3) each Assistant Administrator and the General Counsel of the Administration shall receive compensation at the rate now or hereafter prescribed for positions at level IV of the Executive Schedule (5 U.S.C. 5315); and

(4) there shall be in the Administration not more than nine additional officers appointed by the Administrator who shall receive compensation at the rate now or hereafter prescribed for positions at level V of the Executive Schedule (5 U.S.C. 5316).

(b) Any person (other than the Administrator, Deputy Administrator, or Assistant Administrators) directly responsible for or in direct charge of any bureau, office, division, or other organization which administers any of the specific programs set forth in subsection (c) hereof shall be compensated at the rate provided for, and occupy one of the positions provided for in subsection (a)(4) of this section. Any officer acting pursuant to the provisions of this subsection may act not longer than sixty days prior to the date upon which his appointment is submitted by the President to the United States Senate for its advice and consent.

(c) The specific programs to which subsection (b) shall apply are as follows:

(1) Allocation of petroleum products;

(2) Rationing of petroleum products;

(3) Analysis of the impact of emergency programs on sectors of the economy, employment, and regional and local economic viability;

(4) Coordination of Federal, State, and local conservation programs; and

(5) Pricing of petroleum products.

TRANSITIONAL AND SAVING PROVISIONS

SEC. 108. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this title shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this title; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this title had not been enacted.

(c) Except as provided in subsection (e)—

(1) the provisions of this title shall not affect suits commenced prior to the date this title takes effect, and

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

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

(e) If, before the date on which this title takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this title any function of such department, agency, or officer is transferred to the Administrator, or any other official, then such suit shall be continued as if this title had not been enacted, with the Administrator, or other official as the case may be, substituted.

(f) Final orders and actions of any official or component in the performance of functions transferred by this title shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this title. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred or delegated by this title shall apply to the performance of those functions by the Administrator, or any officer or component.

(g) With respect to any function transferred by this title and performed after the effective date of this title, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administrator or other officials in which this title vests such functions.

(h) Nothing contained in this title shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this title; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegations of functions.

(i) The Administrator shall exercise only the functions which the President or other Government officials lawfully exercised immediately before the effective date of this title, or which shall herein or hereafter be specifically conferred by law upon the President or the Administrator.

(j) Any reference in this title to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) The provisions of this section shall apply to functions transferred to the Administration pursuant to section 105(c) of this title, except that reference in this section to the effective date of this title shall be deemed to be references to the date of the transfer of the functions involved.

INCIDENTAL TRANSFERS

SEC. 109. The Director of the Office of Management and Budget is authorized and directed to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with functions transferred by this title, as the Director deems necessary and appropriate to accomplish the intent and purpose of this title.

DEFINITIONS

SEC. 110. As used in this title—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

INTERIM APPOINTMENT

SEC. 111. (a) Any of the officers provided for in sections 103 and 106 of this title shall be nominated and appointed, as provided for in those sections. Funds available to any department or agency (or any official or component thereof), and lawfully authorized for any of the specific functions, which are transferred to the Administrator by this title, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this title to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this title, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this title, or any officer who was performing essentially the same functions immediately prior to the effective date of this title, to act in such office until the office is filled as provided in this title: *Provided*, That any officer acting pursuant to the provisions of this subsection may act no longer than sixty days prior to the date upon which his appointment is submitted to the Senate for its advice and consent.

(c) Transfer of nontemporary personnel pursuant to this title shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer.

(d) Any person who, on the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 of the United States Code, and who, without a break in service, is appointed in the Administration to a position having duties comparable to those performed immediately preceding his appointment shall continue to be

compensated in his new position at not less than the rate provided for his previous position.

STOCKPILING PROHIBITED

SEC. 112. The Administrator shall prepare and submit to the Senate and the House of Representatives within sixty days of enactment of this title, a report which shall include but not be limited to the following:

(A) Assessing the degree to which any person, partnership, corporation, or other organization is stockpiling in addition to ordinary and necessary requirements, more fuels of all types, than he requires to meet his reasonable needs;

(B) Specifying what actions the Administrator has taken to prevent the undue stockpiling of fuels;

(C) Setting forth all rules, regulations, and policies governing stockpiling adopted by the Administration; and

(D) Detailing any additional statutory authority needed by the Administrator to control and prevent the stockpiling in addition to ordinary and necessary requirements of fuels by producers, wholesalers, distributors and consumers.

ECONOMIC ANALYSIS OF PROPOSED ACTIONS

SEC. 113. (a) In carrying out the provisions of this title, the Administrator shall, to the greatest extent practicable, insure that the potential economic impacts of proposed regulatory and other actions are evaluated and considered including but not limited to an analysis of the effect of such actions on—

(1) the fiscal integrity of State and local government;

(2) vital industrial sectors of the economy;

(3) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(4) the economic vitality of regional, State, and local areas;

(5) the availability and price of consumer goods and services;

(6) the gross national product;

(7) low and middle income families as defined by the Bureau of Labor Statistics;

(8) competition in all sectors of industry; and

(9) small business.

(b) The Administrator shall develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry.

(c) Such analysis shall, wherever possible, be made explicit and to the extent possible other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies are authorized and directed to cooperate with the Administrator in preparing such analyses: *Provided*, That the Administrator's actions pursuant to this section shall not create any right of review or cause of action except as would otherwise exist under other provisions of law.

(d) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy. Such reports shall contain recommendations as to whether additional Federal programs of employment and economic assistance should be put into effect to minimize the impact of the energy shortage and any emergency actions taken.

(e) Notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner which does not unduly discriminate against any industry or any region of the United States; and further that, notwithstanding any other provision of this Act, the Administrator shall formulate and implement such regulatory and other actions in a manner designed to insure that, to the greatest extent possible, the costs and burdens of meeting the energy crisis shall be borne equally by every sector and segment of the country.

MANAGEMENT OVERSIGHT REVIEW

SEC. 114. The Administrator may, for a period not to exceed thirty days in any one calendar year, provide for the exercise or performance of a management oversight review with respect to the conduct of any Federal or State (with consent of the Governor) energy emergency program. Such review may be conducted by contract or by any Federal department or agency. A written report shall be submitted to the Administrator concerning the findings of the review.

COORDINATION WITH AND TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

SEC. 115. (a) The Administrator shall—

(1) coordinate Federal energy emergency programs and policies with such programs and policies of State and local governments—

(A) Within fifteen days of the enactment of this title, the Administrator shall provide the Congress and State and local governments with a report on the manner in which he has organized the Administration based upon the functions delegated by the President or assigned to the Administrator by this title or under the authority of other Acts.

(B) Within thirty days of the date of enactment of this title, the Administrator shall provide the public, State, and local governments, and all Members of the Congress with a report in laymen's language which—

(1) describes the functions performed by the Administration;

(2) sets forth in detail the organization of the Administration, the location of its offices (including regional, State, and local offices), the names and phone numbers of Administration officials, and other appropriate information concerning the operation of the Administration;

(3) delineates the role that State, local, and Federal governments will or may perform in achieving the purposes of this title; and

(4) provides the public with a clear understanding of their duties and obligations, rights, and responsibilities under any of the energy emergency programs or functions assigned to the Administrator.

(2) before promulgating any rules, regulations, or policies, and before establishing any programs under the authority granted him in this title, provide, where practicable, a reasonable period in which State and local governments may provide written comments if such rules, regulations, policies, or programs substantially affect the authority or responsibility of such State or local governments;

(3) provide, in accordance with the provisions of this title, upon request, to State and local governments all relevant information he possesses concerning the status and impact of energy shortages, the extent and location of available supplies and shortages of crude oil, petroleum products, natural gas, and coal, within the distribution area serving that particular State or local government; and

(4) provide for a central clearinghouse for Federal, State, and local governments seeking energy information and assistance from the Federal Government.

(b) Pursuant to his responsibility under this section, the Administrator shall—

(1) provide technical assistance—including advice and consultation relating to State and local programs, and, where necessary, the use of task forces of public officials and private persons assigned to work with State and local governments—to assist State and local governments in dealing with energy problems and shortages and their impact and in the development of plans, programs, and policies to meet the problems and shortages so identified;

(2) convene conferences of State, local, and Federal officials, and such other persons as the Administrator designates, to promote the purposes of this title, and the Administrator is authorized to pay reasonable expenses incurred in the participation of individuals in such conferences;

(3) draft and make available to State and local governments model legislation with respect to State and local energy programs and policies; and

(4) promote the promulgation of uniform criteria, procedures, and forms for grant or contract applications for energy proposals submitted by State and local governments.

INFORMATION GATHERING

SEC. 116. (a) Any person, partnership, corporation, or other organization made subject to any order, rule, or regulation of the Administrator shall maintain and make available to the Administrator such periodic reports, records, documents, and other information relating to the purposes of this title as the Administrator may prescribe by regulation or order as necessary or appropriate for the proper exercise of the functions granted the Administrator by section 104 or by any provision of this title.

(b) The Administrator may require, by general or special orders, any person, partnership, corporation, or other organization made subject to any order, rule, or regulation of the Administrator to file with the Administrator in such form as he may prescribe, reports or answers in writing to specific questions, furnishing such information as may be necessary to enable the Administrator to carry out the functions granted him by section 104 or by any other provision of this title. Such reports and answers shall be made under oath, or otherwise, as the Administrator may prescribe, and shall be filed with the Administrator within such reasonable period as he may prescribe.

(c) The Administrator shall have the authority, when he determines it is necessary in order to carry out his responsibilities under section 104 or any other provision of this title, to make any investigation, and in connection therewith he may, at reasonable times, enter places of business and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto.

(d) (1) The Administrator, or any of his duly authorized agent or agents, shall have the power to require by subpena the production of all information, documents, papers, and other data pursuant to subsection (a) of this section; all reports and answers required pursuant to subsection (b) of this section; all records, accounts, and other documentary evidence in connection with an investigation pursuant to subsection (c) of this section; and the attendance and testimony of witnesses in connection therewith.

(2) Any appropriate United States district court may, in the case of contumacy or refusal to obey a subpena issued pursuant to this section, issue an order requiring the party to whom such subpena is directed to appear before the Administration and to give testimony touching on the matter in question, or to produce any such information, documents, papers, data, records, reports, accounts, or other documentary evidence, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) The Administrator shall conduct a comprehensive review of foreign ownership of, influence on, and control of domestic energy sources and supplies. Such review shall

draw upon existing information, where available, and any independent investigation necessary by the Administration. The Administrator shall, on or before the expiration of the one hundred and eighty day period following the effective date of this title, report to the Congress in sufficient detail so as to apprise the Congress as to the extent and forms of such foreign ownership of, influence on and control of domestic energy sources and supplies, and shall thereafter continue to monitor such ownership, influence and control.

PUBLIC DISCLOSURE OF INFORMATION

SEC. 117. (a) The Administrator shall make public, on a continuing basis, any statistical and economic analysis, data, information, and whatever reports and summaries necessary to keep the public fully and currently informed as to the nature, extent, and projected duration of shortages of energy supplies, the impact of such shortages, and the steps being taken to minimize such impacts.

(b) Copies of any books, documents, papers, statistics, data, information, records, and reports received by the Administrator pursuant to this title shall be made available to the public upon identifiable request, and at reasonable cost, except that the Administrator may not disclose to the public any information obtained under the provisions of this title which could not be disclosed to the public under section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act: *Provided*, That notwithstanding any other part of this subsection, the Administrator shall disclose, upon identifiable request, and at reasonable cost, any information or data of the type which could not be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a single product, unless such information or data concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of a business enterprise.

ADVISORY COMMITTEES

SEC. 118. (a) Whenever the Administrator shall establish or utilize any board, task force, commission, committee, or similar group, not composed entirely of full-time Government employees, to advise with respect to, or to formulate or carry out, any agreement or plan of action affecting any industry or segment thereof, the Administrator shall insure that each such group is reasonably representative of the various points of view and functions of the industry and users affected, including those of residential, commercial, and industrial consumers, and shall include representation from both State and local governments, and from representatives of State regulatory utility commissions, selected after consultation with the respective national associations.

(b) Each meeting of such board, task force, commission, committee, or similar group, shall be open to the public, and interested persons shall be permitted to attend, appear before, and file statements with such group, except that the Administrator may determine that such meeting shall be closed in the interest of national security. Such determination shall be in writing, shall contain a detailed explanation of reasons in justification of the determination, and shall be made available to the public.

(c) All records, reports, transcripts, memoranda, and other documents, which were prepared for or by such group, shall be available for public inspection and copying at a single location in the offices of the Administration.

(d) Advisory committees established or utilized pursuant to this title shall be governed in full by the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), except as inconsistent with this section.

MONITORING OF ENERGY STATISTICS AND ANALYSIS

SEC. 119. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Administration including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) conduct studies of existing statutes and regulations governing the Administration's programs; (2) review the policies and practices of the Administration; (3) review and evaluate the procedures followed by the Administrator in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, supplies, demand, industry structure, and environmental impacts; and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this title and shall report to the Congress at such times as he deems appropriate with respect to the Administration's programs, including his recommendations for modifications in existing laws, regulations, procedures, and practices.

(b) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, industry structure, and environmental impacts. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(c) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section.

(d) In case of disobedience to a subpena issued under subsection (c) of this section, the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (b) of this section. Any district court of the United States within the jurisdiction in which the private organization is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the private organization to produce the statistics, data, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

(e) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public under other provisions of Federal law.

FEDERAL REPORTS ACT

SEC. 120. The Administration, in connection with the exercise of the authority granted pursuant to section 104 or by any other provision of this title, shall be considered an independent Federal regulatory agency as provided for in sections 3502 and 3512 of title 44 of the United States Code, as amended.

ADMINISTRATIVE PROCEDURE IN ORDER TO INSURE ACCOUNTABILITY AND DUE PROCESS

SEC. 121. (a) The functions transferred to the Administrator pursuant to section 105 (a)(1) and section 105(b) of this title and exercised by him pursuant to this title are excluded from the operation of subchapter 2 of chapter 5, and chapter 7 of title V, United States Code, except as to the requirements of sections 552, 555 (c) and (e), and 702 and except as to the requirements of section 553 as modified by subsection (b) of this section.

(b) All rules, regulations, or orders promulgated pursuant to the exercise of such functions shall be subject to the provisions of section 553 of title V of the United States Code except that all such rules, regulations, or orders so promulgated must provide for the following:

(1) Notice and opportunity to comment which shall be achieved by publication of all such proposed general rules, regulations, or orders so issued pursuant to the exercise of such functions in the Federal Register. In each case, a minimum of five days following such publication shall be provided for opportunity to comment.

(2) The Administrator, in issuing such rules, regulations, or orders shall hold public hearings on those rules, regulations, or orders which the Administrator determines in his discretion are likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses. To the maximum extent practicable, such hearing shall be held prior to the implementation of such rule, regulation, or order, but in all cases, such public hearings shall be held no later than sixty days after the implementation of any such rule, regulation, or order, which would have a substantial effect upon the Nation's economy or on large numbers of individuals or businesses.

The Administrator, with respect to such rules, regulations, or orders, may not waive any of the requirements set forth in this subsection except that the requirements set forth in subsection (b)(1) as to time of notice and opportunity to comment may be waived where strict compliance is found to cause grievous injury to the operation of the program and such finds are set out in detail in the rules, regulations, or orders.

(c)(1) In addition to the requirements of section 552 of title V of the United States Code, the Administrator, in issuing such rules, regulations, or orders, shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any such rule, regulation, or order with such modifications as are necessary to insure confidentiality protected under the provisions of section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act. The Administrator shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from such rules, regulations, or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under the provisions of section 552 of title 5 of the United States Code, commonly referred to as the Freedom of Information Act.

(2) The Administrator, in issuing such rules, regulations, or orders under this title shall provide for the making of such adjustments, consistent with the other purposes of this title, as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall, in regulations prescribed by the Administrator,

establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recision of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the Administrator. The Administrator shall, in regulations prescribed by him establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

JUDICIAL REVIEW

SEC. 122. (a) Judicial review of administrative rulemaking of general and national applicability relating to functions transferred to the Administrator pursuant to section 105 (a)(1) and section 105(b) of this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability relating to such functions may be obtained only by filing a petition for review in the United States court of appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuity being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(b) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising out of the exercise of such functions or under regulations or orders issued pursuant thereto, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by the Administrator in connection with the exercise of such functions). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of any such action, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

REVIEW OF ADMINISTRATIVE PROCEDURES

SEC. 123. Within sixty days of the date of enactment of this title, the Attorney General shall transmit to the Congress a report on the administrative law procedures which will apply to the various functions of the Administrator together with the Attorney General's recommendations regarding the desirability of the enactment of a comprehensive or different administrative law procedure applicable to said functions.

OFFICE OF PRIVATE GRIEVANCES AND REDRESS

SEC. 124. (a) There is established within the Administration an Office of Private Grievances and Redress, which shall be headed by a Director. The Administrator shall appoint and fix the compensation of the Director.

(b) Any person adversely affected by any order, rule, or regulation issued by the Administrator in carrying out the functions assigned to him under this title may petition the Office of Private Grievances and Redress for special redress, relief, or other extraordinary assistance.

(c) The Director of the Office of Private Grievances and Redress shall grant such petitions for special relief, redress, or other extraordinary assistance under such conditions and in such manner as the Administrator may in his discretion provide.

(d) The Director may, from time to time, make recommendations to the Administrator with respect to short-term and long-term measures (involving administrative or legislative action) which might be taken to provide assistance to persons who are adversely affected by the energy emergency and measures and other actions taken to combat such emergency.

(e) The Director shall, on a monthly basis, report to the Congress concerning his activities under this section. Each such report shall contain, among other matters, the number and nature of grievances which have been filed pursuant to this section during the period not covered by any such prior report, including action taken and relief provided pursuant thereto.

(f) The Director shall, from time to time, report to the Congress his views and recommendations, including recommendations for administrative or legislative action, with respect to actions which might be taken to provide for a more equitable distribution of burdens resulting from measures or other actions adopted or taken by the Administrator and for the relief of persons adversely affected by such measures or actions.

COMPREHENSIVE ENERGY PLAN

SEC. 125. (a) Pursuant and subject to the provisions and procedures set forth in this title, the Administrator shall, within one hundred and twenty days following the date of the enactment of this title, develop and report to the Congress (for referral to the Committees on Government Operations and Interior and Insular Affairs of the Senate and House of Representatives) a comprehensive plan designed to alleviate the energy shortage, for the time period covered by this title, and satisfying the objectives and priorities stated in section 127(a). Such plan shall be accompanied by full analytical justification for the actions proposed therein. Such analysis shall include, but not be limited to—

(1) estimates of the energy savings of each action and of the program as a whole;

(2) estimates of any windfall losses and gains to be experienced by corporations, industries, and citizens grouped by socio-economic class;

(3) estimates of the impact on supplies and consumption of energy forms consequent to such price changes as are or may be proposed; and

(4) a description of alternative actions together with a rationale in explanation of the rejection of any such alternatives in preference to the measures actually proposed.

(b) The Administrator may, from time to time, modify or otherwise alter any such plan, except that, upon request of an appropriate committee of the Congress, the Administrator shall supply analytical justifications for any such alterations.

(c) The Administrator shall be responsible for monitoring any such plans as are implemented with respect to their effectiveness in achieving the anticipated benefits.

ENERGY AND NATURAL RESOURCE ORGANIZATIONAL REPORT

SEC. 126. The President shall submit to the Congress not later than June 30, 1974, a report setting forth his recommendations for a permanent Federal organizational arrangement for the management and development of policy for energy and natural resources.

REPORTS TO CONGRESS

SEC. 127. (a) The Administrator shall prepare and submit directly to the Congress and the President every six months after date of enactment of this title a report which shall include—

(1) a review and analysis of the major actions taken by the Administrator;

(2) an analysis of the impact these actions have had on the Nation's civilian requirements for energy supplies for materials and commodities;

(3) a projection of the energy supply for the mid-term and long term for each of the major types of fuel and the potential size and impact of any anticipated shortages, including recommendations for measures to—

(A) minimize the deficiency of energy in relation to needs;

(B) maintain the health and safety of citizens;

(C) maintain production and employment at the highest feasible level;

(D) equitably share the burden of shortages among individuals and business firms; and

(E) minimize any distortion of voluntary choices of individuals and firms.

(4) a summary listing of all recipients of funds and the amount thereof within the preceding period; and

(5) a completely independent analysis of domestic oil and gas reserves and the extent to which productive capacity could be increased each year for the next ten years with the full development of such reserves and ascertainable oil and gas resources using available and foreseeable technology: *Provided*, That the Comptroller General, pursuant to section 118 of this title, shall monitor and review said analysis and provide his comments to the Congress and the Administrator.

(b) The Administrator shall provide interim reports to Congress when requested by committees of Congress.

(c)(1) The Federal Energy Emergency Administration, in consultation with the Internal Revenue Service and the Joint Committee on Internal Revenue Taxation of the Congress, is authorized and directed to undertake and complete a thorough review and analysis of all Federal and State tax law provisions relating to exploration, development, production, refining, distribution, and marketing of domestically produced energy resources. Such review shall include, but not be limited to, a review and analysis of the impact on domestic production of energy resources of Federal tax law provisions relating to international operations of domestic energy producing companies.

(2) The Federal Energy Emergency Administration shall submit a preliminary report of its findings and analysis no later than June 30, 1974, to the President and to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The final report in fulfillment of the requirement set forth in paragraph (1) shall be submitted no later than December 31, 1974, and shall include, in addition to its findings and analysis, such recommendations for changes in the Federal tax laws as the Federal Energy Emergency Administration deems necessary to contribute to the goal set forth in this Act of establishing internal self-sufficiency in energy resources in this Nation by 1980.

(3) The Federal Energy Emergency Administration is hereby authorized to contract with any firm or individual outside the Federal government to undertake such portions of the study required in this subsection as the Administrator deems necessary.

(d) The Administrator shall, within thirty days of the date of this Act, review the provisions of section 206 of the National Energy Emergency Act regarding expedited procedures for compliance with the National Environmental Policy Act of 1969 (83 Stat. 856) and shall recommend to the Congress such additional actions under the Administrator's authority which may require similar procedures.

PETROCHEMICAL REPORT

SEC. 128. (a) Within thirty days after he has entered upon the office of Administrator or has been designated by the President

to act in such office, the Administrator, or acting Administrator, as the case may be, with the assistance of the Department of Commerce, the Cost-of-Living Council, and the United States Tariff Commission shall, by written report, inform the Congress as to the—

(1) effect of current Cost-of-Living Council petrochemical price ceilings upon the current level of petrochemical exports, and export levels expected for 1974;

(2) effect of current and expected 1974 petrochemical export levels upon domestic petrochemical raw materials and products available to petrochemical producers, converters, and fabricators currently and in 1974;

(3) current contribution of petrochemical imports to domestic supplies and the expected contribution in 1974;

(4) anticipated economic effects of current and expected 1974 levels of domestic supplies of petrochemicals upon domestic producers, converters, and fabricators of petrochemical raw materials and products; and

(5) exact nature, extent, and sources of data and other information available to the Federal government regarding the matters set forth in subparagraphs (1) through (4) of this subsection, including the exact nature, extent, and sources of such data and information utilized in connection with the report required by this subsection.

(b) As used in this section, the term "petrochemical" includes organic chemicals, cyclic intermediates, plastics and resins, synthetic fibers, elastomers, organic dyes, organic pigments, detergents, surface active agents, carbon black and ammonia.

HYDROELECTRIC GENERATING FACILITIES

Sec. 129. Within sixty days of the date of enactment of this Act, the Administrator of the Federal Energy Administration, in consultation with the Secretary of the Interior, and the Secretary of the Army, shall—

(a) transmit to the Congress:

(1) a list of hydroelectric generating facilities and electric power transmission facilities which have been authorized for construction by the Congress and which are not yet completed, and

(2) a list of opportunities to increase the capacity of existing hydroelectric generating facilities.

(b) provide, for each such facility which is listed:

(1) a construction schedule and cost estimates for an expedited construction program which would make the facility available for service at the earliest practicable date, and

(2) a statement of the accomplishments which could be provided by the expedited completion of each facility and a statement of any funds which have been appropriated but not yet obligated.

INFORMATION CONCERNING TRANSACTION, SALE, EXCHANGE OR SHIPMENT INVOLVING THE EXPORT FROM THE UNITED STATES TO A FOREIGN NATION OF COAL AND ANY REVINED PETROLEUM PRODUCT

Sec. 130. (a) Notwithstanding any other provision of law, the Secretary of Commerce is authorized and directed to establish and maintain a file which shall contain information concerning every transaction, sale, exchange or shipment involving the export from the United States to a foreign nation of coal, crude oil, residual oil or any refined petroleum product. Information to be included in the file shall be current and shall include, but shall not be limited to, the name of the exporter (including the name or names of the holders of any beneficial interests), the volume and type of product involved in the export transaction, the manner of shipment and identification of the vessel or carrier, the destination, the name of the purchaser if a sale, exchange or other transaction is involved, and a statement of reasons justifying the export.

(b) Upon request of any committee or subcommittee of the United States Senate and House of Representatives or the head of any Federal agency, the Secretary shall promptly provide any information maintained in the file and a report thereon to such committee, subcommittee, or agency head, except where the President finds such disclosure to be detrimental to national security.

EFFECTIVE DATE

Sec. 131. This title shall become effective sixty days after the date of enactment or sooner if the President publishes notice in the Federal Register. This title shall terminate June 30, 1975.

APPROPRIATIONS

Sec. 132. (a) There are hereby authorized to remain available until expended, $75,000,000 for fiscal year 1974, and $200,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this title.

(b) There are hereby authorized to be appropriated an additional $40,000,000 for fiscal year 1974, and $75,000,000 annually for each of fiscal years 1975 and 1976 to carry out the purposes of this title in the event that the President adopts a program of rationing for gasoline or other petroleum products.

(c) All sums appropriated by the Congress to the Administrator under this title shall be apportioned for the purposes specified therein during the fiscal year for which appropriated, except to the extent otherwise authorized by section 665 of title 31, United States Code.

SEPARABILITY

Sec. 133. If any provision of his Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

TITLE II—COUNCIL ON ENERGY POLICY

Sec. 201. This title may be cited as the "Energy Policy Act of 1973".

FINDINGS AND PURPOSES

Sec. 202. (a) The Congress finds and declares that—

(1) there are many Federal agencies, created at different times and for different purposes to handle specialized problems, all directly or indirectly involved in the establishment of energy policy;

(2) there is no comprehensive national energy policy but instead Federal energy activities consist of a myriad of laws, regulations, actions and inactions resulting in narrow, short-range, and often conflicting decisionmaking by individual agencies without adequate consideration of the impact on the overall energy policy nor future national energy needs; and

(3) as a consequence of not having a comprehensive national energy policy, the Nation faces mismanagement of energy resources, unacceptably high adverse environmental impacts, inadequate incentives for efficient utilization and conservation of energy resources, shortages of supply, and soaring energy prices.

(b) Therefore, it is declared to be the purpose of the Congress to protect and promote the interest of the people of the United States as energy users by establishing a Council on Energy Policy to serve as a focal point for—

(1) the collection, analysis, and interpretation of energy statistics and data necessary to formulate policies for wise energy management and conservation and to anticipate social, environmental, and economic problems associated with existing and emerging energy technologies;

(2) the coordination of all energy activities of the Federal Government, and provision of leadership to State and local governments and other persons involved in energy activities; and

(3) the preparation, after consultation with other interested organizations and agencies, of a long-range comprehensive plan (hereinafter referred to as the "Energy Plan") for energy development, utilization and conservation to foster improvement in the efficiency of energy production and utilization, reduction of the adverse environmental impacts of energy production and utilization, conservation of energy resources for the use of future generations, reduction of excessive energy demands, and development of new technologies to produce clean energy.

DUTIES OF FEDERAL AGENCIES

Sec. 203. (a) The policies, regulations, and public laws of the United States shall be interpreted and administered to the fullest extent possible in accordance with the policies set forth in this section; and

(b) All agencies of the Federal Government shall to the fullest extent possible—

(1) utilize a systematic, interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;

(2) submit, prior to the review process established pursuant to the Budget and Accounting Act of 1972, as amended, to the Council on Energy Policy established by this section for comment all legislative recommendations and reports deal with or have a bearing on energy matters;

(3) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy; and

(4) recognize the worldwide and long-range character of energy concerns and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to foster international cooperation in anticipating and resolving energy-related problems.

ESTABLISHMENT OF A COUNCIL

Sec. 204. (a) There shall be established in the Executive Office of the President a Council on Energy Policy (hereinafter referred to as the Council). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure by and with the advice and consent of the Senate. The President shall at the time of nomination designate one of the members of the Council to serve as Chairman. Each member shall be a person, who as a result of his training, experience, and attainment, is well qualified to analyze and interpret energy trends and information of all kinds; to appraise programs and activities of the Federal Government in light of the energy needs of the Nation; to be conscious of and responsive to the environmental, social, cultural, economic, scientific, and esthetic needs and interests of the Nation; and to formulate an Energy Plan and recommend national policies with respect to wise energy management.

(b) The Administrator of the interim Federal Energy Emergency Administration established by title I of this Act may, if appointed to the Council pursuant to (a) and if designated by the President, serve as Chairman of the Council in order to coordinate the functions of that Administration with those of the Council and to assure necessary continuity subsequent to the termination of title I as provided by section 125 of this Act.

DUTIES OF COUNCIL

Sec. 205. (a) The Council shall serve as the principal adviser to the President on

energy policy and shall exercise leadership in the formulation of Government policy concerning domestic and international issues relating to energy.

(b) The Council shall make recommendations to the President and the Congress for resolving conflicts between the policies relating to energy of different Federal agencies.

(c) The Council shall develop within eighteen months after the date of enactment of this title and thereafter shall annually update an Energy Plan for energy development, utilization, and conservation in the United States to carry out the purposes as stated in subsection (b) of this section. Copies of such Energy Plan shall be distributed on January 1 of each year to the President, to the Congress, and to all Federal and State agencies concerned with energy, and upon request to local agencies and nongovernmental entities.

(d) the Council shall promptly review all legislative recommendations and reports sent to Congress, to the extent that such recommendations and reports have a bearing on energy matters, and it shall send to the President and the involved Federal agency a statement in writing of its position and the reasons therefor. This subsection shall not apply to title I of this Act.

(e) The Council shall keep Congress fully and currently informed of all of its activities. Neither the Council nor its employees may refuse to testify before or submit information to Congress or any duly authorized committee thereof.

(f) The Council shall conduct annual public hearings on the Energy Plan and may hold public hearings when there is substantial public interest in other pending matters.

(g) In carrying out its collection, analysis, and interpreation of energy statistics function, the Council shall, as quickly as possible and after appropriate study, promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies, after published notice in the Federal Register and opportunity for comment. Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council may gather such data directly. The Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as the Council may direct.

ADMINISTRATIVE PROVISIONS

SEC. 206. (a) In exercising its powers, functions, and duties, the Council shall—

(1) consult with representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(2) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

(b) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

(c) The Council may employ such officers and employees as may be necessary to carry out its functions. The Council may also employ and fix the compensation of such experts, consultants, or contractors to conduct detailed studies as may be necessary for the carrying out of its functions to the same extent as is authorized under section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

ENERGY REPORT

SEC. 207. The Council shall prepare and submit to the President and the Congress on or before January 1, 1974, and annually thereafter, an energy report to to accompany the Energy Plan. This report shall include—

(a) an estimate of energy needs of the United States for the ensuing ten-year period to meet the requirements of the general welfare of the people of the United States and the commercial and industrial life of the Nation;

(b) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet such needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implentation of foreign policy objectives;

(c) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation;

(d) a catalog of research and development efforts funded by the Federal Government to develop new technologies, to forestall energy shortages, to reduce waste, to foster recycling, and to encourage conservation practices; and recommendations for developing technology capable of increasing efficiency and protecting employee health and safety in energy industries;

(e) recommendations for improving the energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

(f) a review and appraisal of the adequacy and appropriateness of technologies, procedures, and practices (including competitive and regulatory practices), employed by Federal, State, and local governments and nongovernmental entities to achieve the purposes of this section; and

(g) recommendations concerning the level of funding for the development and application of new technologies, as well as new procedures and practices which the Council may determine to be required to achieve the purposes of this section and improve energy management and conservation together with recommendations for additional legislation.

PUBLIC ACCESS TO INFORMATION

SEC. 208. (a) Copies of any communications, documents, reports, or information received or sent by any members of the Council shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released under the terms of paragraph (2) of this subsection.

(b) The Council or any officer or employee of the Council shall not disclose information obtained under this section which concerns or relates to a trade secret referred to in section 1905 of title 18, United States Code, except that such information may be disclosed in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(3) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings; and

(4) to the public in order to protect their health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to whom the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

In no event shall the names or other means of identification of injured persons be made public without their express written consent. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

MONITORING OF ENERGY STATISTICS AND ANALYSIS

SEC. 209. (a) The Comptroller General of the United States shall continuously monitor and evaluate the operations of the Council including its reporting requirements. Upon his own initiative or upon the request of a committee of the Congress or, to the extent personnel are available, upon the request of a Member of the Congress, the Comptroller General shall (1) conduct studies of existing statutes and regulations governing Federal energy programs, (2) review the policies and practices of Federal agencies administering such programs, (3) review and evaluate the procedures followed by such agencies, in gathering, analyzing, and interpreting energy statistics, data, and information related to the management and conservation of energy, including but not limited to data related to energy costs, demand, industry structure, environmental impacts and research and development, and (4) evaluate particular projects or programs. The Comptroller General shall have access to such data from any public or private source whatever, notwithstanding the provisions of any other law, as is necessary to carry out his responsibilities under this section and shall report to the Congress at such times as he deems appropriate with respect to Federal energy programs, including his recommendations for such modifications in existing laws, regulations, procedures, and practices as will, in his judgment, best serve the Congress in the formulation of a national energy policy.

(b) In carrying out his responsibilities as provided in paragraph (1) of this subsection, the Comptroller General shall give particular attention to the need for improved coordination of the work of the Federal Government related to energy policies and programs and the attendant need for a central source of energy statistics and information.

(c) The Comptroller General or any of his authorized representatives in carrying out his responsibilities under this section shall have access to any books, documents, papers, statistics, data, information, and records of any private organization relating to the management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental impacts, and research and development. The Comptroller General may require any private organization to submit in writing such energy data as he may prescribe. Such submission shall be made within such reasonable period and under oath or otherwise as he may direct.

(d) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of books, documents, papers, statistics, data, information, and records referred to in paragraph (c) of this subsection.

(e) In case of contumacy, or refusal to obey a subpena of the Comptroller General issued under this section, by any person who resides, is found or transacts business

within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Comptroller General, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by such court as a contempt of court.

(f) Reports submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which could not be disclosed to the public by the Council under the provisions of this title if the information were held by the Council.

AUTHORIZATION OF APPROPRIATIONS

SEC. 210. (a) There are authorized to be appropriated to carry out the provisions of this title not to exceed $1,000,000 for fiscal year ending June 30, 1974, $2,000,000 for fiscal year ending June 3, 1975, and $4,000,000 for each fiscal year thereafter.

(b) All sums appropriated pursuant to this section shall remain available for obligation or expenditure in the fiscal year next following.

The title was amended so as to read: "A bill to provide for the effective and efficient management of the Nation's energy policies and programs for the duration of the existing energy emergency, and for other purposes."

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUMPHREY and Mr. PERCY moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, as chairman of the Senate Committee on Government Operations, I am exceedingly proud of the dispatch with which this particular piece of legislation was perfected, processed, and reported to the Senate. As chairman of the committee, I asked the Senator from Connecticut (Mr. RIBICOFF) to act as floor manager of the bill because he was better versed in its contents than any other member of the Government Operations Committee.

I would like to pay him tribute by saying I think the work he did in perfecting this bill and in presenting it to the Senate is as fine and as intelligent and as statesmanlike a job as I have ever seen performed here by any Senator during the time I have been privileged to serve in this body.

I would also like to commend the distinguished ranking member of the subcommittee (Mr. PERCY) for the many fine contributions which he has made to this bill, and to commend other Senators such as Senator JACKSON, Senator MUSKIE, Senator ROTH, Senator HUDDLESTON, who is now presiding, Senator CHILES, and Senator NUNN, for the fine contributions they made.

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

Mr. ERVIN. I yield.

Mr. RIBICOFF. May I express my appreciation to the distinguished chairman for his gracious comments. The leadership of our chairman was so important in moving this bill ahead and bringing it to the floor for passage. The chairman and the chief of staff, Mr. Robert Smith, were completely cooperative, and all the members and their staffs worked together nights and weekends to draft the committee amendments and prepare the report to the Senate.

Our success is due to the leadership of our chairman and also to the ranking minority member, Senator PERCY, Senator JAVITS, Senator JACKSON, Senator MUSKIE, Senator METCALF, and every member of the committee made valuable contributions.

I also want to state my gratitude to the members of the committee and members' staff. They did a great job.

Mr. President, I want to single out for special praise and recognition, Mr. Robert J. Wager, staff director and general counsel of the Subcommittee on Reorganization, Research, and International Organizations, which I chair. He organized and directed the extraordinary staff effort which went into this bill. His vast knowledge of reorganization procedure was an essential ingredient of the transfer and authority provisions of the act. Without his able assistance it would not have been possible to hold hearings, draft amendments, report the bill, write the committee report and achieve final passage of as fine an act as we have produced today—all within the space of 15 days. This is an outstanding achievement, and I express my thanks to Mr. Wager on behalf of the Senate and the Nation at this time of energy emergency.

Mr. ERVIN. Mr. President, I would like to pay special commendation to Senator METCALF for his work.

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

Mr. ERVIN. I yield.

Mr. PERCY. Very briefly, let me say that when anyone says the Senate is not capable of acting swiftly and thoroughly, we can point with pride to this bill, which is an outstanding example of speedy yet deliberate action. From the day we received the bill, on December 4, until it passed the Senate today, took only 15 days. The bill was the subject of a tremendous amount of modification and a good deal of creative work on both sides of the aisle.

I joint my colleague, Senator RIBICOFF, in commending our chairman, Senator ERVIN, but I think we all would say that we are indebted to the Senator from Connecticut (Mr. RIBICOFF) for the leadership he has shown in this matter. Every single member of the committee was cooperative.

So also was Mr. Simon. If this is an example of the working relationship we are going to have with him, I think it is very fine.

We also relied very heavily on the expertise of the Senator from Washington (Mr. JACKSON), and admirably expert staff.

As always, we relied heavily on the learned, perceptive contributions of the senior Senator from New York (Mr. JAVITS). Senator GURNEY, Senator ROTH, and Senator BROCK all made their distinctive contributions.

The staff work has been thorough and outstanding. Mr. Robert Smith, chief counsel of the committee, and Mr. Robert Wager, chief counsel of the Executive Reorganization Subcommittee deserve special credit, Bob Wager particularly for his skill in working with other members in modifying their amendments so that the managers of the bill could accept them. I would like to express my own appreciation, on behalf of the minority, for the able assistance and contributions of our counsel, Mr. Robert Vastine, Mr. John Pearson, and Mr. Brian Conboy.

Mr. JACKSON. Mr. President, will the Senator yield for 30 seconds?

Mr. MANSFIELD. I yield.

Mr. JACKSON. Mr. President, I would like to associate myself with the remarks that have been made here about the distinguished chairman of the Subcommittee on Reorganization, Research, and International Organizations, the able Senator from Connecticut (Mr. RIBICOFF). This has been a very difficult assignment, and he has handled the situation, I think, in a masterful way. This bill is extremely important insofar as the energy program is concerned. I want to express my gratitude to him and my appreciation to the ranking minority member of the committee, the Senator from Illinois (Mr. PERCY), for the bipartisan effort that has been made in pushing this legislation through. They have been a great team, and I am most appreciative for the high quality of leadership.

ORDER OF BUSINESS

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

Mr. MANSFIELD. I yield.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 19, 1973, he presented to the President of the United States the following enrolled bills:

S. 2413. An act to authorize the disposal of aluminum from the national stockpile and the supplemental stockpile, and for other purposes;

S. 2498. An act to authorize the disposal of zinc from the national stockpile and the supplemental stockpile; and

S. 2551. An act to authorize the disposal of molybdenum from the national stockpile and from the supplemental stockpile, and for other purposes.

HEALTH MAINTENANCE ORGANIZATION ACT OF 1973—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on S. 14, and ask for its immediate consideration.

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

The Legislative Clerk read as follows:

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 this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

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

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 12, 1973 at pp. 41089–41096.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 10 minutes on the pending conference report; that the time be divided, under the usual regulation, between the Senator from Massachusetts (Mr. KENNEDY) and the Senator from New York (Mr. JAVITS), or whomever they may designate.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the end of that time there be a yea and nay vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the yeas and nays are ordered.

Mr. MANSFIELD. And that the rollcall run for approximately 10 minutes.

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

Mr. MANSFIELD. And that following the disposal of that, we then turn to the consideration of Calendar No. 609, House Joint Resolution 176, a joint resolution to authorize the production of petroleum from Naval Reserve No. 1.

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

Mr. KENNEDY. Mr. President, I would like to call the conference report accompanying S. 14, the Health Maintenance Organization Act of 1973, to the attention of the Senate.

Almost 2 years ago, I, together with a number of cosponsors, introduced the Health Maintenance Organization and Resources Development Act into the Senate. Through hundreds of hours of hearings, executive sessions, and floor action, I have strongly advocated passage of legislation to assist the development of health maintenance organizations as a viable and competitive alternative to fee-for-service practice. I am pleased to call the Senate's attention, at long last, to the result of that work.

Although the bill to emerge from the conference committee does not do as much as I believe should be done, particularly in the area of dollar authorizations, in stimulating the development of alternative forms of health care delivery, it is, I believe, a sound if limited beginning to the solution of some of the problems which exist today in the health care industry.

This bill represents the first initiative by the Federal Government which attempts to come to grips directly with the problems of fragmentation and disorganization in the health care industry.

Although this program authorizes the expenditure of only $375 million over a 5-year period, to finance changes in a health care industry with an annual cash flow in excess of $80 billion, it contains a number of other forms of assistance which I believe will stimulate the development of HMO's across the country.

First of all, it contains a provision which would override restrictive State laws, the enforcement of which would impede the development of HMO's. These laws, many of them placed on the books years ago by insurance carriers or medical societies, are in many cases archaic.

To the extent they would impede the development of HMO's meeting the careful definitional and organizational criteria set forth in this legislation, provisions in the bill would override them.

Second, the Senate accepted a House provision which I believe will go a long way toward offering HMO's an equal chance at the health care market with traditional health insurance plans. This bill would require each employer employing in excess of 25 employees to offer an HMO option if he offers his employees health benefits of other types, and if an HMO meeting the requirements of the legislation is operating in his area. The employer is not required to make contributions to his employees health plan in excess of what he is already making, but does require that he offer them the choice between traditional health insurance benefits and benefits in the form of HMO membership.

These two provisions would apply to HMO's whether or not they receive financial assistance in the form of grants, contracts, or loans, under the authority provided in this legislation. It is important to point out, however, that any HMO, in order to qualify for the "preemption" or "mandated multiple choice" provisions of the bill, must meet the rather extensive definitional and organizatonal requirements detailed in the legislation. The conference committee believes that these requirements, together with authority granted in the committee report to the Secretary to continue to regulate HMO's assisted by this legislation, will provide adequate safeguards against the assistance of poor quality or nonviable HMO's by the programs authorized by S. 14.

In addition, this legislation calls for an extensive, carefully defined study of all mechanisms, public and private, currently operating in the United States to assure the quality of health care. The study is to be conducted by a nongovernmental entity, such as the Institute of Medicine of the National Academy of Sciences. A report to the Congress by a date certain is required.

Far from being a national effort to make HMO's the dominant pattern of care in the United States, the bill resulting from the work of the conference committee will, I believe, introduce a modest degree of pluralism into what is otherwise a monolithic fee-for-service health care system, if fully implemented.

I strongly believe that the introduction of diversity and pluralism into our current health care system is desirable. The existence of HMO's, where they have been successful, stimulated healthy innovation and competition in the rest of the health care industry in the area. I believe in competition in the health care industry, and I believe HMO's are one proven form of health care which can be competitive with the existing system.

I have never considered HMO's to be a panacea or the answer to all the problems of our current health care system. Of equal importance are the problems of financing health services, the appropriate production of health manpower, and the equitable distribution of health care facilities, equipment and personnel throughout the country.

I look forward to taking an active role in the enactment of legislation which will adequately deal with those problems.

However, I believe that the HMO is one proven alternative to existing fee-for-service health care practices, and must be given a fair chance to provide health services in a proven, but alternative way, to the existing system. HMO's have been proven to work in urban and rural areas. The San Joaquin Foundation for Medical Care—a rural HMO—and the Harvard Community Health Plan—an urban HMO—have both successfully enrolled low income groups, provided adequate purchasing powers available to them, in groups.

HMO's throughout the years have been highly successful in containing the costs in health care services. Ample evidence exists to confirm this fact. Kaiser Permanente, hospitalizes its enrollees about half as often as the national average. The Harvard Community Health Plan of Boston hospitalizes patients even less. The costs savings are substantial: nobody accuses these plans of providing poor quality medical care.

Because I believe that the HMO is the best idea put forth so far for containing costs and improving the organization and the delivery of health care services, I can assure my colleagues in the Senate that the Health Subcommittee will vigorously exercise its oversight responsibilities with respect to the effective implementation of this program. Although the conference committee report authorizes a self-contained program, I can assure the Members of the Senate that my subcommittee will continue to evaluate the spirit and effectiveness with which the legislation is implemented. There will be no hesitancy on my part to offer legislative proposals to correct problems which may develop in the implementation of this program and which threaten to impede its effectiveness.

Mr. President, I feel privileged to have had a part in the development of this legislation, which I feel is an early, important, and constructive step in the improvement of health services for the American people. I know the Senate will approve the conference report, and look forward to its enactment into law.

Mr. LONG. Mr. President, I understand that members of the Health Subcommittee of the Labor and Public Welfare Committee are interested in how the medicare and medicaid programs might relate to the Health Maintenance Organization quality assurance program established by this bill.

It is my understanding that the office of the Assistant Secretary for Health will be responsible for assuring and monitoring the compliance of HMO grantees

with the quality and capability standards for HMO grantees established under the bill.

The question has arisen as to whether the medicare and medicaid programs should continue their present set of quality standards for HMO's receiving incentive reimbursement or whether these programs might utilize the quality and capability standards in this bill and accept the decisions of the new HMO quality unit on compliance with these standards.

Both the ranking minority member on the Finance Committee, Senator BENNETT, and I understand that these quality and capability standards are reasonably comparable in scope and objective to what is in existing law for medicare and medicaid, and it would seem reasonable to us to avoid duplicative evaluation by accepting certification of quality capability by applying the standards in this bill in lieu of separate medicare and medicaid standards. Thus, the Government would not be in the position of having two separate sets of standards.

Similarly, we see no problem with the Social Security Administration delegating responsibility for judging compliance with the HMO quality and capability standards to the new HMO quality unit in the Assistant Secretary's office. This would avoid the existence of two separate bureaucracies to monitor HMO compliance with quality and capability standards. Social security would, of course, continue to be responsible for the balance of the decisions with respect to eligibility for incentive reimbursement.

Of course, with respect to judging whether any HMO meets the quality and capability standards for incentive reimbursement under medicare and medicaid, the HMO quality assurance unit would have to conduct on-site evaluations to assure that compliance with quality and capability standards exists in actual practice as well as on paper.

Additionally, if an otherwise approved HMO meeting all applicable quality and capability standards has less than 5,000 enrollees, social security would not approve incentive reimbursement under medicare and medicaid unless it was satisfied that appropriate and necessary actuarial calculations necessary for arriving at a valid payment rate and otherwise required under the law can be made.

I can assure the floor manager that I will recommend to the Finance Committee an amendment along the lines I have outlined at the first appropriate opportunity.

Mr. KENNEDY. I greatly appreciate recognition on the part of the chairman of the Senate Finance Committee of the work done by the health subcommittee in the area of HMO's. I believe that your suggestion that the Social Security Act be amended to carry on to the definitial and organizational requirements in S. 14 for purposes of eligibility for reimbursement as an HMO under SSA programs makes a great deal of sense, and I commend the Chairman for his statesmanlike approach.

For my part, I would like to recognize the leadership in the field of quality of health care exhibited by Senators LONG, BENNETT and the other members of the Finance Committee.

I believe the chairman's recognition of the work of our committee in the health area sets an important precedent. I look forward to working with the chairman and members of the Finance Committee in other areas of mutual interest in the future.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, I urge my colleagues to adopt the Health Maintenance Organization Act of 1973 conference report. The conference substitute does not go as far as the Senate-passed bill, but its provisions are a reasonable compromise. It represents an important contribution in getting action on the indispensable problem of supplying to all Americans health services in an efficient and rational manner. This is an essential element of any national health insurance scheme, on which I have introduced appropriate legislation, as have other Senators, and the administration has expressed its intention to act.

I believe the conference substitute we are considering today will effectively carry out the President's recommendations for a Federal program to assist in demonstrating the feasibility of health maintenance organizations as part of our pluralistic health-care delivery system.

SUMMARY OF CONFERENCE SUBSTITUTE

First. Authorizes $375 million over a 5-year period—rather than the Senate passed bill authorization of $805 million over a 3-year period.

Second. Requires a comprehensive set of basic health services to be provided by all HMO's including, in addition to curative medicine, preventive health services as well as outpatient evaluative and crisis intervention mental health services, and acute care and referral services for alcoholism and drug addiction. Also HMO's are authorized to provide additional supplemental health services.

Third. Preempts restrictive State laws for HMO's who qualify for assistance under this bill.

Fourth. Requires employers to offer their employees the choice of joining an HMO under any health benefit plan.

Fifth. Requires regulation of HMO's by the Secretary of HEW and for the Secretary and the Comptroller General to evaluate the ongoing HMO program.

Sixth. Requires 20 percent of appropriated funds to be spent in nonmetropolitan areas.

Seventh. Requires HEW research on quality assurance and also an independent study by a qualified entity, such as the Institute of Medicine of the National Academy of Sciences.

PREEMPTION OF RESTRICTIVE STATE LAWS

One of the major issues before the conference was the question of preemption of restrictive State laws. The Senate bill required that eligible HMO's be allowed to provide health care services in a State regardless of any enumerated restrictive provisions in State laws. There was no comparable provision in the House bill.

I believe State legal restrictions seriously impede and restrict the development of HMO's and am proud to have taken a leadership role in the fashioning of the provision in the conference substitute which permits any HMO for which a grant, contract, loan, or loan guarantee was provided under title XIII or which is a qualified health maintenance organization for purposes of section 1310—employees' health benefits plans—to operate in a State regardless of certain restrictive provisions in a State's laws.

My deep concern on the issue and the letter from Secretary Weinberger to each of the conferees which stated HEW is "opposed to the provision in the Senate version superseding State laws which interfere with the development of prepaid health care delivery systems"—and for which no substantive explanation was provided—prompted me to write to the Honorable Melvin R. Laird, Counselor to the President for Domestic Affairs, and to all the conferees urging support for the inclusion of a preemption of restrictive State laws provision. I ask unanimous consent that the full text of these letters and their enclosures be reprinted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, a recently completed HEW-sponsored health services research project, which examined State legal factors related to HMO's indicated the need for such a provision. It shows that the State legal barriers to HMO formation are associated with an absence of HMO's in those States which have such barriers. The most powerful legal barriers relate to required physician control and the requirement that participation in any one HMO in a State be open to every physician in that State. This latter requirement, of course, removes the ability of the HMO to exercise the necessary discipline over excess utilization of services. In the States where barriers do not exist, the HMO movement has definitely shown substantial growth. In those States where legal barriers to HMO's are most stringent, HMO's have not formed, and 20 States do not have a single HMO.

The need to preempt State legal barriers is further reinforced by that analysis, which shows that the States that have recently passed HMO enabling legislation have varied so much in their approach that they are in effect creating a new set of legal barriers, particularly to multistate or regional HMO's.

I did not understand how HEW reasonably could support a position directly contrary to its own cited study conclusion. The HEW position was further challenged by recent newspaper stories

charging that the reversal of prior support for preemption of State laws is in great measure due to AMA lobbying, past and present.

According to then Secretary of HEW Richardson's testimony, and I quote:

State laws often hamper HMO development.

Many States impose legal restrictions on HMO development which will have to be overcome, such as licensure of health professionals and sponsorship of HMO's. Twenty-one States have even more restrictive laws, in some instances, requiring HMO's to operate under rules applicable to Blue Shield plans or insurance companies. Since HMO's operate in a different fashion from either of these, such laws make it difficult for HMO's to organize.

The preemption of restrictive State laws was clearly our responsibility and the conference substitute provides:

"RESTRICTIVE STATE LAWS AND PRACTICES

"SEC. 1311. (a) In the case of any entity—

"(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

"(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

"(B) requires that physicians constitute all or a percentage of its governing body,

"(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

"(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

"(2) for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301.

"(b) No State may establish or enforce any law which presents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other non-professional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization."

Mr. President, there are numerous excellent provisions in the conference substitute, and another one of which I am particularly proud is the conferee's decision to line item among the basic health services a mental health benefit.

The Senate passed bill required the provision of mental health services for an HMO to qualify for Federal assistance. The House bill only required mental health services as a supplemental health service. The conference substitute adopted the House concept of an HMO providing at a minimum basic, and if desired, supplemental, health services to its enrollees but mandated: "short-term—not to exceed 20 visits—outpatient evaluative and crisis intervention mental health services" as a basic health service.

I believe this is an essential first step if we are to break down the inappropriate distinction between physical and mental health; they are both equally important to the American peoples' health care.

I am not doctrinaire regarding HMO's. This new approach can have a variety of forms and names and sponsors, for example, when I introduced my national health insurance bill in the 91st Congress, a separate title authorized the establishment of local comprehensive health service systems, now commonly termed "HMO's."

The conference substitute adopts the term applied to all of these units by the President, HMO's—health maintenance organizations.

Whether these organizations be called HMO's, local comprehensive health services systems, medical care foundations, or prepaid group health practices this concept has two essential attributes. It brings together a comprehensive range of medical services in a single organization so that a patient is assured of convenient access to all of them. And it provides needed services for a fixed contract fee, which is paid in advance by all subscribers.

I believe—as I stated when I introduced the administration's bill this year—if we are to achieve the desired objective—to rationalize our health care system to benefit all Americans—the bill enacted into law must more strictly define the criteria for HMO establishment and operation; be strengthened to assure a more meaningful role for consumers in HMO operation; and, respond more effectively to the problem of individual State prohibitions against the formulation of HMO's. These essential ingredients are all embodied in the conference substitute.

I urge its adoption to stimulate an innovative medical care delivery system.

I hope that the Senate will approve the conference report, and I yield 3 minutes to the Senator from Colorado.

EXHIBIT 1

COMMITTEE ON
LABOR AND PUBLIC WELFARE.
Washington, D.C., October 9, 1973.

DEAR MEL: Enclosed is a copy of my recent self explanatory letter to the Editor of *The Wall Street Journal* expressing my support and appreciation for their encouragement of the preemption of state law provisions as to HMO's in federal legislation. The letter appeared in the October 2 issue of *The Wall Street Journal.*

Further support of the need to retain preemption of state law provisions, as set forth in the Senate passed HMO bill (S. 14), is provided by a recently completed HEW sponsored Health Services Research Project. That project shows that the state legal barriers to HMO formation are associated with an absence of HMO's in those states which have such barriers. The most powerful legal barriers relate to required physician control and the requirement that participation in any one HMO in a state be open to every physician in that state. This latter requirement, of course, removes the ability of the HMO to exercise the necessary discipline over excess utilization of services. In the states where barriers do not exist, the HMO movement has definitely shown substantial growth. In those states where legal barriers to HMO's are most stringent, HMO's have not formed, and twenty states do not have a single HMO.

The need to preempt state legal barriers is further reinforced by the enclosed analysis entitled "New State HMO Laws" which shows that the ten states that have recently passed HMO enabling legislation have varied so much in their approach that they are in effect creating a new set of legal barriers, particularly to multi-state or regional HMO's.

As you may know, the first meeting of the Conferees on Federal HMO legislation will take place on Tuesday, October 9. I believe it would be most helpful to have the White House thinking on the issue of the preemption of state law provisions, and look forward to your early reply.

With best wishes,

Sincerely,

JACOB K. JAVITS.

COMMITTEE ON
LABOR AND PUBLIC WELFARE,
Washington, D.C., October 9, 1973.

DEAR COLLEAGUE: We call your attention to a letter received today by each conferee from Secretary Weinberger expressing the opposition of the Department of Health, Education and Welfare to the preemption of state law provisions as to HMO's as set forth in the Senate passed HMO bill (S. 14).

Support of the need to retain preemption of state law provisions, as set forth in the Senate passed HMO bill (S. 14), is provided by a recently completed HEW sponsored Health Services Research Project. That project shows that the state legal barriers to HMO formation are associated with an absence of HMO's in those states which have such barriers. The most powerful legal barriers relate to required physician control and the requirement that participation in any one HMO in a state be open to every physician in that state. This latter requirement, of course, removes the ability of the HMO to exercise the necessary discipline over excess utilization of services. In the states where barriers do not exist, the HMO movement has definitely shown substantial growth. In those states where legal barriers to HMO's are most stringent, HMO's have not formed, and twenty states do not have a single HMO.

The need to preempt state legal barriers is further reinforced by the enclosed analysis entitled "New State HMO laws" which shows that the ten states that have recently passed HMO enabling legislation have varied so much in their approach that they are in effect creating a new set of legal barriers, particularly to multi-state or regional HMO's.

We do not understand how HEW can reasonably support a position directly contrary to its own most recent and definitive HEW study conclusions. The HEW position is further challenged by recent newspaper stories charging that the reversal of prior support for preemption of state laws is in great measure due to AMA lobbying, past and present. A copy of a recent article in the Cleveland Plain Dealer in that regard is also enclosed.

We find this particularly distressing and would urge the conferees to reject this position.

With best wishes,

EDWARD M. KENNEDY.
JACOB K. JAVITS.

NEW STATE HMO LAWS

States	Restrictive State laws preempted	For profit—nonprofit	State regulatory department(s)	Quality of care monitoring mandated	Enrollee grievance machinery mandated	Enrollee policymaking participation mandated	(Nonreporting) Financial solvency requirements
Arizona	Solicitation	Both permitted	Insurance	No	No	No	$50,000 bond, plus $100,000 reserve.
Colorado	Insurance; hospital and medical service; solicitation; corporate medical practice.	do	Insurance and health	Yes	Yes	Yes	Bond or deposit (amount unspecified).
Iowa	do	do	Insurance and public health.	Yes	Yes	Yes	Do.
Minnesota	do	Nonprofit only	Health and insurance	Yes	Yes	Yes—40 percent enrollees on governing board after 1st year.	Variety of standards to guide regulator (amounts unspecified).
Nevada	Insurance; solicitation; corporate medical practice.	Both permitted	Insurance and health	Yes	Yes	Yes	Variety of standards to guide regulator (amounts unspecified) bond or deposit (amount unspecified).
New Jersey	Insurance; hospital and medical service; solicitation; corporate medical practice.	do	do	Yes	Yes	Yes	Variety of standards to guide regulator (amounts unspecified) cash or deposit (amount unspecified).
Utah	Insurance; solicitation; corporate medical practice (partially).	do	do	Yes	Yes	Yes	None specified.
Florida (1972)	Insurance; hospital and medical service; solicitation.	do	Insurance and health—rehabilitative services.	Yes	No	No	Adequate working capital.
Pennsylvania (1972)	Insurance; hospital and medical service.	Nonprofit (and nonhospital) corporations only.	Insurance and health.	Yes—But only by implication.	No	Yes—Majority of subscribers on board of directors.	Reserves (amount unspecified).
Tennessee (1971)	None specified	Both permitted	Insurance—Banking and public health.	Yes, but not specifically.	No	No	None specified.

AMA BLOCKS PROGRESS IN HEALTH CARE

(By Robert J. Havel)

WASHINGTON.—In a little noted battle between the HMO and the AMA, the latter, the American Medical Association, appears to be the victor.

The losers are likely to be millions of Americans who could be provided better health care at costs they could afford through HMOs—health maintenance organizations.

HMOs are a source of heated debate within the medical community. The AMA sees federal support of this group practice of medicine as a step down the road to socialized medicine. Supporters sees HMOs as the medical profession's last chance at self-regulation.

In the course of the wrangle over HMOs in the U.S. House, advocates bent to the will of the AMA. So did President Nixon. Two and a half years ago, he was hellbent for building HMOs all over the country. Today, he views them merely as "promising innovations" worthy only of cautious federal experiment.

During that time the AMA's political arm has contributed millions to the re-election of Nixon and to the campaigns of sitting senators and House members.

True, the House has passed a bill in support of HMOs that was hailed as "landmark." It was hardly that, although it is the only health legislation of any importance that will likely emerge from Congress this year.

What it was was a bill to provide meager one-shot federal assistance to the establishment of health maintenance organizations (HMOs). Even now it faces an uncertain fate. It was a far cry from a similar measure passed by the Senate, which itself was a retreat from the $5-billion proposal approved overwhelmingly by that body a year ago.

The House bill also backtracked from the Commerce Committee's original proposal, so much so that the American Medical Association (AMA) dropped its ferocious and long-standing opposition in the House to HMO legislation.

Health maintenance organizations are prepaid group medical practices in which an enrollee, for a fixed sum, is provided comprehensive care. Ideally, an HMO is one-stop medical care, sort of a medical supermarket that can be operated non-profit or for profit.

It would eliminate a patient's having to go to one end of town for a bellyache.

Group practices have operated successfully in the United States for 40 years. An example is the Kaiser program in Cleveland. About 7 million are enrolled in about 80 such operations.

The staff doctors are paid either a salary or a traditional fee-for-service basis.

HMO proponents, who seem to encompass just about everybody but the AMA, cite many advantages to both doctor and patient. Through better organization of health care delivery, soaring medical costs could be held down, they contend. Those costs amounted to some $80 billion last year or about $365 for every man, woman and child in the nation.

For the doctor, HMOs relieve him of the business end of medical practice. They afford regular hours, give him set vacations. They can encourage doctors to go into rural or urban areas they normally would shun, because they would be guaranteed an income. They would have an incentive for efficiency, because the more efficient they are the more money they can make and the more extensive the care they can give enrollees.

The enrollee is relieved of the worry of unforeseen medical costs. Most medical costs are covered completely by the prepayment, usually with the exception of such things as eyeglasses and routine dental care, which are offered as optional services.

"Group practice prepayment plans by their very nature enable many physicians to use the same expensive equipment," Jerry Voorhis, head of Group Health Association of America, said in a recent speech. "They have no economic incentive to perform needless operations, and they can organize all resources, human and physical, in an efficient manner . . .

"(They) have as their main objective to keep people ambulatory and out of the hospital."

(Voorhis, incidentally, was the first politician to fall before Richard M. Nixon. He was a California congressman when Nixon beat him in 1946.)

AMA opposes federal assistance to HMOs because it fears they are a step toward socialized medicine. Sen. William B. Saxbe, R-O., who is an ardent booster of HMOs, sees them as the exact opposite.

"The opposition of most doctors to HMO's is discouraging," Saxbe said. "HMOs are the greatest protection they have against socialized * * * the tremendous advantage of HMOs. They permit doctors to control their own practices and incomes. They can bite off as much as they want in HMOs. In socialized medicine it's just the opposite. The state sets the hours and wages."

An AMA spokesman said his organization is "on the side of the House bill."

"We believe in pluralistic medicine," he said. "One way is the HMO. It's all right to experiment with this baby to see if it will work. But we don't want to have a massive infusion of federal money into HMOs."

In today's terms, the $805-million authorized over three years for "this baby" is hardly a massive infusion—unless it is compared with the $240-million for planning and start-up in the four-year House bill.

During House discussion, not a bad thing was said about HMOs. Why then did the House take such a timid step?

"Why the timidity? Because a lot of guys get money from the AMA," said Rep. William R. Roy, D-Kan., principal author of the House bill. Roy is an obstetrician turned politician who has been ostracized by the AMA.

Nevertheless, Roy defends the House bill as "landmark" because it is "the first federal commitment to bettter organization of the health-care delivery system."

"It's not great," he admitted, "but it is a commitment."

He believes that HMOs will provide competition for the traditional method of medical practice, "and then everybody else will do things better."

HMOs get their biggest boost from Nixon himself in 1971, when he oversold them somewhat as the saviour of the medical system. Even the most enthusiastic supporters of the concept say Nixon was not realistic in setting as a goal to have HMOs available to 90% of the population by 1980.

The 7 million now enrolled in group practices constitute about 3% of the population. Sen. Edward M. Kennedy, D-Mass., author of the Senate bill, says his measure might double the enrollment, and Dr. Philip Caper, a Kennedy aide, estimates that at the maximum only 20% will ever be members of HMOs.

To realize Nixon's goal, Roy said, would have cost as much as $12 billion. Nixon's commitment to HMOs has faded along with his rhetoric in praise of them. Now he supports the House bill, and the AMA openly takes credit for his change of heart. In his 1971 health message, Nixon hailed HMOs and outlined a broad plan of assistance and a determination to have HMO contracts pre-

empt "archaic" state laws in 22 states that prohibit or limit group practice of medicine. His enthusiasm was undiminished in his 1972 message, when he called the HMO concept a "central feature of my national health strategy."

The AMA admittedly went to work on Nixon and the House Commerce Committee, nine members of which received AMA campaign contributions last year.

The administration's change of position was dramatic. In 1972, the administration planned to have HMOs available to 90% of the population in 1980. In his State of the Union message to Congress last March 1, what he himself proposed last year, was too costly and beyond what was needed. From its lofty position as a cornerstone on his national health strategy, the HMO had tumbled to a "promising innovation."

Meanwhile, every provision that the AMA found distasteful was stricken from the House bill. The main differences in the House bill from the Senate version are a smaller required benefits package to qualify for federal funds as an HMO, no grants to HMOs for care of the poor or persons with high medical insurance risks, no preemption of state laws, which, in effect, give medical societies veto power over HMOs, and no quality control commission.

Dr. Caper described the House bill as "fairly innocuous."

"The AMA succeeded in getting a bill it could live with," he said, "it's nonsense that we need another demonstration program. The House bill is 150% stall as far as I'm concerned."

Like Roy, Caper does not find it desirable to have HMOs the "only option," but he believes, also, that "competition will improve all health care."

Saxbe said the House bill is not sufficient to give HMOs a chance to prove what they can do. He supports grants for the poor and for high medical risks because he believes HMOs should be available "not just to those who can plunk their money down." He also supports preemption of state laws, "because it's necessary to have the program applicable nationwide."

"What makes a state law so sacred?" he asked, citing the Occupational Safety and Health Act, which permits federal standards to override state law." If they can come in and tell a guy what kind of ladder he can climb on, they can tell the states what kind of health care can be permitted."

Nobody wants to make HMO the only method of health-care delivery. But if HMOs are so good why can't they go it on their own?

Justin McCarthy of Group Health Association of America thinks HMOs ought to stand on their own feet but they need initial seed money. Restrictive state laws have inhibited the growth of HMOs, he said, while granting the medical profession, under Blue Cross-Blue Shield legislation, "provider monopolies."

McCarthy concedes that state restrictions are not without reason, "because if HMOs are not set up right it's easy to rip people off."

"Without controls, a couple of doctors can get together, get an X-ray machine, set up an HMO and start charging people $50 a month," he said.

"HMOs are designed to meet the needs of the middle-income group of America," McCarthy said. "The poor and the rich get taken care of now."

But they are expensive to start up. McCarthy estimates the cost of a community-wide plan to be as much as $5 million.

"New community group-practice plans must provide new facilities, recruit professional staff and weld them into smoothly working teams, win general public support, achieve rapid enrollment of subscribers and in all probability incur operating losses in their early years," Voorhis said. "If the growth of plans assuming full responsibility for the health of large numbers of people is to take place at the rate hoped for, substantial funding from the federal government would appear to be a necessity."

If anything emerges from the House-Senate conference, it is likely to be a measure closely resembling the House bill.

"I have a strong feeling we will reach agreement rather quickly," Roy said. "And it will be something Nixon will sign."

"There's not enough money in the House bill to give HMOs a fair test," McCarthy said. "And the mechanics for a truly objective evaluation are not there.

Mr. DOMINICK. Mr. President, I thank the Senator from New York.

I congratulate him and the Senator from Massachusetts for bringing out this conference report. I led quite a fight on the Senate floor before. I think that the Senator from Massachusetts and the Senator from New York have arrived at a compromise here which indicates good flexibility on their part.

I am pleased to support the conference report on S. 14, the Health Maintenance Organization Act of 1973, and hope the President will sign it.

My colleagues will recall that I voted against S. 14 when it was before the Senate. Let me just take a moment to explain briefly why I am able to support it now.

From the beginning I have favored Federal assistance for the development of health maintenance organizations in order to provide alternative methods of health care delivery. I did not support S. 14 as it was reported by the Committee on Labor and Public Welfare this year for three basic reasons: First, I thought the authorization levels—$1.5 billion over a 3-year period—were unrealistically high.

Second, the bill violated a principle which I consider to be of critical importance—that HMO's developed with Federal assistance be economically viable after they become operational. By imposing unrealistic requirements such as an overly broad mandatory benefit package, the bill in fact assured that no HMO receiving Federal assistance could ever be competitive with other forms of health care delivery unless it continued to receive massive Federal subsidies. The bill conceded this fact by authorizing $567 million to subsidize the operating costs of HMO's during the first 3 years.

Third, by reserving most of the authorized funds for HMO's meeting a restrictive definition—closed panel, prepaid group practice—I thought the bill would hinder, rather than stimulate innovation in the development of better methods of health care delivery.

I wrote minority views outlining my concerns when the bill was reported out of committee, and later offered floor amendments which were addressed to these issues. One of those amendments was a substitute containing no long-term operating subsidies, and with a total 3-year authorization of $385 million.

Although the authorization level in the bill was scaled down from $1.5 billion to $805 million before it passed the Senate, it still contained the basic defects I had outlined. Accordingly, I voted against it.

Prior to the vote, I made the following statement:

I am not against HMO's. I think that they have considerable promise for improving health care delivery in this country, and they are entitled to Federal assistance. But this bill is not really designed to do that. A little over half of its authorizations, as amended, goes for development of HMO's. The rest goes for a number of things which are essentially irrelevant to development of HMO's. In short, this bill is unrealistic both in terms of cost and scope. I intend to vote against it, and hope that a realistic bill which I can support will emerge from the House-Senate Conference on the two bills after the House acts.

Fortunately, the conference report on S. 14 is more realistic. Its total authorization over 5 years is $375 million; it contains no operating subsidies; and it contains a more realistic benefit package. Although this conference report is a great improvement over the Senate-passed bill, and I hope the President will sign it, I have some reservation as to whether HMO's developed with this assistance will be competitive. The range of services which each HMO must provide is narrower than under the Senate-passed bill. But many health providers—notably Kaiser-Permanente, the prototype for HMO's, and the one with the most experience in this field—believes the benefit package remains too inflexible, and may cause HMO's to be dependent on continuing Federal subsidies.

I hope this will not be the case. Hopefully, the Secretary of HEW will be able to avoid that possibility by implementing this legislation with maximum emphasis on the need for HMO's developed under this legislation to be able to stand on their own after they become operational.

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

Mr. JAVITS. I yield 1 minute to the Senator from Washington (Mr. MAGNUSON).

Mr. MAGNUSON. Mr. President, I think this is a fine bill. It was a fine conference. It now gets down to another matter. I would like to get at least some indication as to how much we have in here for authorization.

Mr. KENNEDY. $375 million for 5 years.

Mr. MAGNUSON. They are different programs?

Mr. KENNEDY. The Senator is correct. The administration requested $60 million for the current year. That rate would project to $300 million over 5 years. In the case of this program, I would hope it would be one of the few programs where the full authorization is appropriated.

Mr. MAGNUSON. There are authorizations for different functions under the bill, and we will be able to expand. However, I thought the record ought to show what we may have to consider.

Mr. JAVITS. The $300 million is not only within the ball park, but the extra $75 million is a loan feature.

Mr. MAGNUSON. The loan feature is a part of the measure?

Mr. KENNEDY. The Senator is correct.

Mr. CRANSTON. Mr. President, the conference report before us today is a major legislative step toward encouraging the development of systems capable of providing comprehensive health care of high quality in an efficient and economical manner.

INTRODUCTION

During the last 2 years the appropriate health subcommittees of each House have held extensive hearings on the need for health maintenance organizations and on the effects of the establishment of such systems on existing medical resources and the community's ability to respond to the individual patient's needs. Considerable testimony was heard and evidence presented to the committees which has been taken into acount in the development of this legislation.

The members of the two committees have been meeting in conference since October. There were substantial differences in the bills passed by each House of Congress, and I believe it is due to the outstanding abilities of the chairman of the Senate conferees. Mr. KENNEDY, and of the House Conferees, Mr. STAGGERS, ably assisted by Mr. ROGERS, that the conferees were able to reach an agreement that represents fairly the concepts underlying each bill.

I believe we have succeeded in coming up with a workable proposal to offer support at a realistic level to medical groups needing initial assistance in developing programs which can offer a full range of comprehensive health services to enrollees on a prepaid basis. The experience of prepaid group medical practices in the past in providing care has shown that these programs have been able to provide full health care to enrollees at substantial savings, due to the efficiencies in utilization of staff and facilities, and an emphasis on primary care provided on an ambulatory basis, tendencies which are encouraged by prepaid group practices.

Included in the conference report, I am particularly gratified to note, are several amendments I had offered in committee to the legislation when it was under consideration in the last Congress as S. 3327. These amendments were part of S. 14 as passed by the Senate last May.

These suggestions, Mr. President, were to:

First, expand the consumer and other health disciplines role in quality care assurances systems;

Second, expand the consumer role in the health maintenance organization;

Third, increase emphasis on the participation of all health disciplines in the management of the system and in the provision of health services;

Fourth, include greater specificity as to services included in preventive health services;

Fifth, utilize the skills of clinical pharmacists to the greatest possible extent; and

Sixth, an amendment I cosponsored with Senator KENNEDY, to authorize the Secretary to contract with health maintenance organizations to provide health services to native American Indians and to domestic migrant and seasonal farmworkers.

EXPANSION OF THE CONSUMER ROLE AND GREATER PARTICIPATION OF ALL HEALTH DISCIPLINES IN QUALITY ASSURANCE REVIEW SYSTEMS

I have felt that the consumer and all the health disciplines have an important contribution to make in the quality review procedures adopted by an HMO.

Mr. President, this concept is clearly recognized in the conference report provisions by which each HMO must have organizational arrangements for ongoing quality assurance programs providing review by physicians as well as other health professionals of the process followed in the provision of health services.

Of particular value, I think, is a provision in the conference report that the Secretary will submit an annual report on the quality of health care in the United States, the operation of quality assurance programs, and advances made concerning the effectiveness, administration, and enforcement of quality assurance programs. I believe the annual submission of such reports will act as a strong incentive to improving the quality of care and broadening the perspective in which such quality assurance programs are viewed to include the interests of the consumer as well as the concerns of all health care providers and professionals.

I am particularly pleased with language included in the conference report and reinforced in the Joint Explanatory Statement that in the independent study related to quality health assurance to be contracted for by the Secretary is specified to include, among the charges, the study of means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care, and the study of methods for assessing the quality of health services from the point of view of consumers of such services.

Mr. President, I strongly feel that there is a need for the quality assurance system to direct its inquiries to the overall provision of health care and not to limit such inquiries to the quality of medical techniques or procedures utilized. The provision of comprehensive health care at a level acceptable to the patient must also take into consideration nonmedical factors such as location, ambience, and accessibility of service, among others.

These factors frequently are foremost in determining the patient's utilization of services and will bear a direct relationship to his full utilization of comprehensive preventive services.

In these specific areas, Mr. President, the consumer as well as other health care personnel such as the nurse and the social worker, for instance, can make substantial contributions to evaluation of the responsiveness of the organization to the patient's needs.

INCREASED EMPHASIS OF THE PARTICIPATION OF CONSUMERS AND ALL HEALTH DISCIPLINES IN MANAGEMENT OF HMO'S

It is my very strongly held view that we should establish a clear Federal recognition of the fact that providing health care is not the monopoly of the medical profession, and that other health care providers as well as the consumer of services should have a voice in decisionmaking.

Mr. President, I am grateful the conferees recognized that consumers must have a meaningful role in the formulation and implementation of policy concerning the manner in which health care services are delivered, and that the conference report does require that consumers have a substantial role in the HMO policymaking body, as I and other members of the Senate committee had urged. The conference report also requires each HMO to have meaningful procedures for resolving grievances between the HMO and its members

The conferees fully recognized that all health disciplines have a significant role to play in the provision of health care and in the decisions made on how such care should be provided.

The conference report provides, as the Senate bill had provided as a result of changes I had suggested in Committee, that a medical group is defined as a partnership or association of health professionals and other licensed health professionals—including dentists, optometrists, and podiatrists. In the early version of this legislation, a medical group had consisted only of physicians, and I believe adoption of the language included in the conference report signifies an important step forward in recognizing that the practice of medicine is carried out by a partnership of various disciplines.

During conference, the Senate accepted House language which permitted an HMO to provide a physician service included as a basic health service through a dentist, optometrist, or podiatrist—as the case may be—licensed to provide such service, if permissible under applicable State law. I fully support this clarification of intent since I believe much of the doctor shortage and geographic maldistribution can be met through greater utilization of highly trained specialized health professionals, leaving the physician more time to provide the services which he alone is trained to provide. I was very pleased that the conferees accepted clarifying language I suggested in the Statement of Managers that the services of a psychologist may be used by HMOs, in providing mental health services, in accordance with the applicable licensing laws of the respective States.

I am also delighted with the emphasis placed in the conference report on the need for the development of new types of professionals such as the nurse practitioner specialists, and new types of paraprofessionals such as the physician's assistant and dental therapist, and feel that the provisions encouraging the use of team training in all education programs, including continuing education programs, will substantially hasten this development. I was pleased to participate in drafting these provisions when the legislation was first under consideration in the Senate.

GREATER SPECIFICITY AS TO PREVENTIVE HEALTH SERVICES

Mr. President, when legislation to support HMO's was first introduced, as a cosponsor I mentioned that I would seek

to amend the term preventive health services to clarify that voluntary family planning services, counseling, and infertility services as well as nutrition counseling and education are included as basic preventive health services. The Senate bill as reported and the accompanying committee report reflect this view. I am delighted that many of these concepts are retained in the conference report.

FULL UTILIZATION OF THE CLINICAL PHARMACIST IN THE HMO

Mr. President, the effect of adverse drug reactions on the recovery of the patient, and the possibility of long-term injury or disability, are extremely serious considerations in the provision of health care. Recent surveys have indicated that the incidence of adverse drug reactions is substantial. It is estimated by initial studies that from 3 to 6 percent of hospital admissions are due to adverse drug reactions, and that a minimum of 15 to 18 percent of patients, hospitalwide, suffer an adverse reaction subsequent to their admission. On the assumption that these adverse reactions on the average double the patient's hospital stay, the costs involved are overwhelming.

In 1970, there were 478 million hospital days recorded in the United States; one-seventh of this amounts to approximately 70 million patient days, and assuming a room charge of $85 per day, works out to around $6 billion in direct cost. About 80 percent of adverse drug reactions are preventable. Thus 80 percent of this estimated cost—or $4.8 billion—could have been saved, had a system been in operation for insuring a rational drug therapy for each of the patients.

Hopefully, Mr. President, these incidents can be reduced in HMO's by provisions which I proposed and which were included in the conference report authorizing HMO's, as part of the basic benefit package in connection with prescription of drugs, and as part of the supplemental benefit package in connection with the provision of drugs, to maintain, review, and evaluate a drug-use profile of each HMO member receiving such services, to evaluate patterns of drug utilization to assure optimum drug therapy, and provide for the instruction of HMO members and of health professionals in the use of prescription and nonprescription drugs.

The joint explanatory statement accompanying the conference report urged that, in carrying out such programs, clinical pharmacists should be used to the maximum feasible extent.

Mr. President, I ask unanimous consent that the appropriate excerpt from the statement with respect to this provision be included at this point in my statement:

The conferees agreed that to achieve the prime goal of an HMO—to provide high quality care most efficiently with the greatest cost effectiveness—the high incidence of adverse drug reactions and interactions encountered in the practice of medicine should be avoided. Experience has shown that utilization of a clinical pharmacist—to establish patterns of patient drug utilization, to maintain such patterns under surveillance, and to provide evaluation and review as well as maintain a drug-use profile for individual patients—has proven highly effective in reducing the incidence of such adverse reactions and interactions. The conferees did not wish to dictate the staffing patterns of each HMO and for that reason deleted language in the Senate bill which would have required the utilization of a clinical pharmacist as part of the basic benefits package. The conferees, however, are cognizant of the important role the clinical pharmacist can play in encouraging the development of rational drug therapy programs for HMO's, and for educating patients and professionals in drug use and abuse, and urge that such professionals should be used to the maximum feasible extent.

Mr. President, like so much of modern technology today's therapeutic agents are two-edged swords. The possibility of drug-drug interactions, drug hypersensitivity, and patient noncompliance with prescribed regimens, makes it mandatory that every effort be made to assure optimum drug usage in HMO's.

In order to optimize the probability that the appropriate and most efficacious prescription drug be used in each individual case, a patient drug record should be kept for each recipient.

I am advised, Mr. President, that the patient drug record should include, but not be limited to—

First, patients name, age, sex, and weight;

Second, physicians' name or names;

Third, documented and suspected allergies—both food and drug;

Fourth, drug intolerances;

Fifth, medication history—including over-the-counter drugs insofar as possible;

Sixth, history of exposure to toxic chemicals;

Seventh, renal and hepatic status;

Eighth, diagnosis and medical problems;

Ninth, an ongoing record of prescribed medication, including name of drug, strength, dosage interval, the amount prescribed, the dates filled and refilled, and the intended purpose; and

Tenth, notation on laboratory test performed.

Although much of this information is available in scattered form, Mr. President, in other patient documents, having it in a concise patient drug record will be of great assistance for retrospective review and prospective prescribing of drug therapy, which would permit continuous surveillance, evaluation, and review of patient drug utilization.

Mr. President, with the increasing number of new medications and their growing complexity, potential drug use side effects and interactions have become a matter of substantial concern to the medical and patient communities. Making available to the staff of the HMO the services of a clinical pharmacist, specially trained in all the nuances of drug use should assist in minimizing medication errors and preventable adverse drug reactions and interactions.

In addition, Mr. President, the clinical pharmacist can play a major role in the dissemination of important drug use and abuse information, both to the HMO staff and to the enrollees, and play an active role in the health education programs of the HMC. Certainly, the clinical pharmacist in each HMO should oversee and control the quality of drug products utilized by enrollees of the HMO and participate in comparative studies of use and abuse records with other HMO's and other health care facilities.

COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

I am pleased also that the conference report includes provision for the Secretary of Health, Education, and Welfare to contract with health maintenance organizations for comprehensive health services for native Americans and for domestic migrant and seasonal farmworkers.

I believe it is only equitable, Mr. President, that these two population groups for whom the Nation has a statutory responsibility to provide health care should have the opportunity to participate in the most up to date and effective means of providing care. In many cases, individuals from these severely disadvantaged groups do not reside in areas accessible to the federally funded special programs such as the hospitals of the Indian Health Service or the migrant health clinics.

Several Indian tribes have sought to provide contract care, but because specific statutory authority does not now exist, the Indian Health Service has not been able to offer this option to its beneficiaries.

Mr. President, migrant health clinics also may wish to offer this option and this provision would insure it could be exercised. S. 740, currently before the Senate Labor and Public Welfare Committee extending and amending the Migrant Health Act, also includes a provision authorizing the Secretary to pay premiums for a prepaid health care plan eligible for Federal assistance where the clinics or special projects request, and a similar provision was adopted by the Senate last year when S. 3762 was passed and sent on to the House. Unfortunately, no final action was taken on this legislation in the last Congress.

CONCLUSION

Mr. President, S. 14 as reported from conference is a product of much study by the members of the committees. The bill we developed is an excellent one and one which I believe can lead to a vast improvement in the ability of the Nation's medical communities to respond to the needs of its citizens.

I would like at this time to express my admiration for the very effective staff work provided the members of the committee by Phil Caper, Jay Cutler, Lee Hyde, Steve Lawton, and Bert Levine, ably assisted by the House and Senate legislative counsels. They devoted a great deal of time and effort to carrying out the views expressed by the conferees.

I urge the full support of the Senate for the bill as reported from conference.

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference reports. 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 Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. MCCLURE), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

Also, the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 83, nays 1, as follows:

[No. 605 Leg.]

YEAS—83

Abourezk	Gurney	Muskie
Aiken	Hansen	Nelson
Allen	Hart	Nunn
Baker	Hartke	Packwood
Bartlett	Haskell	Pastore
Bayh	Hatfield	Pearson
Beall	Hathaway	Pell
Bentsen	Helms	Percy
Bible	Hruska	Proxmire
Biden	Huddleston	Randolph
Buckley	Hughes	Ribicoff
Burdick	Humphrey	Roth
Byrd, Harry F., Jr.	Inouye	Schweiker
	Jackson	Scott, Hugh
Byrd, Robert C.	Javits	Scott, William L.
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Long	Stennis
Clark	Magnuson	Stevens
Cook	Mansfield	Stevenson
Cranston	Mathias	Symington
Dole	McClellan	Thurmond
Domenici	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Ervin	Metcalf	Young
Fannin	Mondale	
Fong	Montoya	
Griffin	Moss	

NAYS—1

Talmadge

NOT VOTING—16

Bellmon	Curtis	Hollings
Bennett	Eastland	McClure
Brock	Fulbright	Saxbe
Brooke	Goldwater	Taft
Church	Gravel	Tower
Cotton		

So the conference report was agreed to.

Mr. KENNEDY. Mr. President, I would like to recognize the hard work expended by my colleagues in the Senate and in the House Interstate and Foreign Commerce Committee resulting in the passage of this conference report.

In addition, the staff of the Senate Labor and House Commerce Committees has worked long and hard, and deserve great credit for the quality of this legislation. On the Senate side, Dr. Philip Caper and Mr. Jay Cutler were particularly helpful. Mr. Lee Goldman, Mr. John Hunnicutt, Mr. John Steinberg, Ms. Louise Ringwalt, Mr. Angus King, Mr. Chuck Woodruff, and Mr. Dan Murray deserve great credit.

Ms. Janet Kline of the Library of Congress also contributed greatly.

On the House side, I know Drs. Lee Hyde and Brian Biles, and Mr. Steve Lawton, Mr. Spence Johnson, and Mr. Bert Levine also deserve credit.

Mr. David Meade of the House legislative counsel's office did his usual fine job.

PRODUCTION OF PETROLEUM FROM NAVAL PETROLEUM RESERVE NO. 1 (ELK HILLS)

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Under the previous order, the Chair lays before the Senate, Senate Joint Resolution 176, which the clerk will state.

The second assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 176) to authorize the production of petroleum from Naval Petroleum Reserve Numbered 1.

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

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Armed Services with an amendment to strike out the preamble and all after the resolving clause and insert:

That this joint resolution may be cited as the "Naval Petroleum Reserves Defense Production Authorization Act of 1973".

FINDINGS

SEC. 2. The Congress hereby determines that—

(1) nationwide shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(2) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(3) the result of domestic petroleum shortages and the reduced availability of petroleum to the Armed Forces of the United States from sources outside of the United States has been to deny to the Armed Forces petroleum essential to the national defense;

(4) the Secretary of the Navy has found that the production of Naval Petroleum Reserve Numbered 1 is needed for national defense and this finding has been approved by the President of the United States;

(5) the state of development of Naval Petroleum Reserve Numbered 1 is not adequate for the production of petroleum in the volume required for national defense; and

(6) Naval Petroleum Reserves Numbered 1 and 4 have the potential to contribute significantly to national defense petroleum requirements, but due to inadequate exploration the full extent of that potential is undetermined.

PURPOSES

SEC. 3. The purpose of this joint resolution is to:

(1) concur in the finding of the Secretary of the Navy that the production of Naval Petroleum Reserve Numbered 1 is needed for national defense;

(2) grant the authorization of the Congress for the production and development of Naval Petroleum Reserve Numbered 1 as is required by chapter 641 of title 10, United States Code, and direct that production be commenced as provided for in this joint resolution; and

(3) authorize and direct the exploration of Naval Petroleum Reserves Numbered 1 and 4.

AUTHORITY FOR PRODUCTION

SEC. 4. The production of petroleum from Naval Petroleum Reserve Numbered 1 is hereby authorized and directed in order to insure that the needs of national defense are met. Production from such reserve shall not exceed one hundred and sixty thousand barrels of crude oil per day and shall be conducted in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise authorized by chapter 641 of title 10, United States Code) is to commence, if practicable, within forty-five days after the date of enactment of this joint resolution, and to continue for a period of not more than one year after the date on which production commences.

DISPOSITION OF PRODUCTION

SEC. 5. Any disposition of the United States share of production authorized by this joint resolution shall be in accord with chapter 641 of title 10, United States Code, and shall be conducted in a manner so as to insure that an amount of petroleum equal in value to the crude oil supplied from Naval Petroleum Reserve Numbered 1 shall be made available to the Armed Forces of the United States for defense purposes. Any disposition shall be effected by competitive bid, and shall be so arranged as to give full and equal opportunity for acquisition of the petroleum by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

SEC. 6. There is hereby established in the Department of the Treasury a Naval Petroleum Reserve Account. During the period of increased production authorized by this joint resolution or as may be hereafter authorized, there shall be transferred or credited to such account (1) any or all proceeds realized under chapter 641 of title 10, United States Code, from the disposition of the United States share of petroleum or refined products, oil and gas products produced, including royalty products, and the net proceeds, if any, realized from exchanges within the Department of Defense of refined products accruing to the benefit of any of the military departments of the Department of Defense as the result of such exchanges, and (2) such funds as may be appropriated by the Congress for the Naval Petroleum Reserve Account, to remain available until expended. Funds transferred, credited, or appropriated to such fund shall be available for expenditure only to the extent provided from time to time in appropriation Acts.

EXPLORATION

SEC. 7. The Secretary of the Navy shall conduct programs of exploration for oil and gas on Naval Petroleum Reserves Numbered 1 and 4 in order to determine the extent of oil and gas resources therein. These programs shall be completed—

(1) within five years from the date of enactment of this joint resolution in the case of Naval Petroleum Reserve Numbered 1, and

(2) within ten years from the date of enactment of this joint resolution in the case of Naval Petroleum Reserve Numbered 4.

The Secretary of the Navy shall make annual reports to the Committees on Armed Services of the Senate and the House of Representatives regarding the progress, results, and findings of these exploration programs, and shall include in such reports such recommendations as he deems appropriate regard-

ing development, production, sale, exchange, transportation, or storage of oil and/or natural gas found to exist on the naval petroleum reserves.

APPROPRIATIONS

SEC. 8. (a) For the exploration of Naval Petroleum Reserve Numbered 1, as required by this joint resolution, there is hereby authorized to be appropriated to the Secretary of the Navy the sum of $4,000,000 for the fiscal year ending June 30, 1974, to remain available until expended.

(b) For the exploration of Naval Petroleum Reserve Numbered 4, as required by this joint resolution, there is authorized to be appropriated to the Secretary of the Navy the sum of $7,500,000 for the fiscal year ending June 30, 1974, to remain available until expended.

(c) For the production of Naval Petroleum Reserve Numbered 1, as required by this joint resolution, there is hereby authorized to be appropriated to the Secretary of the Navy the sum of $47,500,000 for the fiscal year ending June 30, 1974, for necessary development of the reserve, and the sum of $13,000,000 for operating expenses incurred in producing from the reserve. Funds appropriated under this subsection shall remain available until expended.

(d) For the exploration of Naval Petroleum Reserve Numbered 1, as required by this joint resolution, there is authorized to be appropriated to the Secretary of the Navy from the Naval Petroleum Reserve Account established by this joint resolution such additional sums as are necessary to achieve the purposes of this joint resolution for the fiscal year ending June 30, 1975, and for the three succeeding fiscal years.

(e) For the exploration of Naval Petroleum Reserve Numbered 4, as required by this joint resolution, there are authorized to be appropriated to the Secretary of the Navy from the Naval Petroleum Reserve Account established by this joint resolution such additional sums as are necessary to achieve the purposes of this joint resolution for the fiscal year ending June 30, 1975, and for the nine succeeding fiscal years.

REPORT OF THE ATTORNEY GENERAL

SEC. 9. Notwithstanding any other provision of this joint resolution, no funds appropriated pursuant to section 8(c) may be expended and no authority contained in sections 4 and 5 may be exercised until (1) the Attorney General has prepared and submitted to the Committees on Armed Services of the Senate and the House of Representatives a report describing the rights, duties, and obligations of the United States and any other party or parties having any contractual or other interests in Naval Petroleum Reserve Numbered 1, and (2) fourteen days have elapsed after the submission of such report to such committees.

DEFINITION

SEC. 10. As used in this joint resolution the term "petroleum" means petroleum, crude oil, and associated gas and other hydrocarbons.

SEPARABILITY

SEC. 11. If any provision of this joint resolution or the applicability thereof is held invalid, the remainder of this joint resolution shall not be affected thereby.

Mr. CANNON. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada will state it.

Mr. CANNON. What is the time situation?

The PRESIDING OFFICER. The Chair is advised that it is 20 minutes, to be equally divided.

Mr. CANNON. I thank the Chair. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 5 minutes.

Mr. CANNON. Mr. President, the Senate Joint Resolution No. 176, now before the Senate for consideration, would authorize and direct the production of, and the development of, Naval Petroleum Reserve No. 1, which is better known as the Elk Hills Naval Petroleum Reserve, located in Kern County, Calif. It would also provide for the exploration of Naval Petroleum Reserve No. 4, which is located on the Arctic North Slope of Alaska.

As a matter of background, the Elk Hills reserve was established on September 2, 1912, by Executive order issued by President Taft. The limits of the reserve were enlarged to include the balance of the then known geological structure of the Elk Hills Field by Executive order signed by President Roosevelt on October 15, 1942.

The Standard Oil Company of California—Socal—is the only remaining owner of lands inside the reserve. As a result of this ownership, they are partners with the United States in the reserve, and are entitled to approximately 22 percent of the production at this time.

Following the enlargement of the reserve in 1942, a unit plan contract was entered into by the Navy and Socal for the cooperative exploration, development, and operation of all lands in the reserve. Socal, under separate contract with the Navy, operates the reserve at the present time.

This relationship has given rise to two allegations, which I will address later.

By law, the operation and use of the naval petroleum reserve is limited to: First, the production, conservation, maintenance, and testing of these reserves; and second, the production of petroleum whenever, and to the extent that the Secretary of the Navy, with the approval of the President of the United States, finds that it is needed for national defense, and the production is authorized by a joint resolution of Congress.

It is under this latter provision that this resolution is before the Senate today for consideration.

The Secretary of the Navy has made a determination that the Armed Services of the United States are unable to procure on the open market necessary petroleum products to maintain the desired readiness posture, and the production of Naval Petroleum Reserve No. 1 is needed for national defense.

The need for this is quite simple. The requirements of the Department of Defense, at an austere sustaining level, approximates 625,000 barrels of petroleum per day. About half of these needs, or around 300,000 barrels per day, prior to the sanctions by the Arab countries, come from overseas sources. Approximately 80 percent of this procurement came either directly, or indirectly, from Arab sources. This off-shore procurement must now come from domestic sources. This, of course, reduced domestic supplies accordingly. The production from the Elk Hills reserve is no panacea, but will materially aid in satisfying the needs of national defense.

The joint resolution proposed by the administration, which was introduced in the Senate on December 4, 1973, after close scrutiny by the committee, left several things to be desired. Accordingly, the committee, after careful review of the matter, proposes an amendment in the nature of a substitute. The committee amendment accomplishes all the original proposal would accomplish, but incorporates certain safeguards that seem to be essential. Moreover, it will authorize the funds for, and directs the immediate development of, and the production, of reserve No. 1, and the exploration of reserves No. 1 and No. 4.

Before briefly pointing out the salient features of the committee amendment, I wish to emphasize that it has the approval of the administration, has been approved by the Department of Justice insofar as the legal aspects are concerned, and is agreeable to the Standard Oil Co. of California, which, as I have indicated, has a vested interest in the reserve.

Now, as to the differences between the administration proposal and the amendment offered by the committee, the original proposal would authorize production from reserve No. 1 at the maximum efficient rate, for the period of 1 year.

This means the highest rate of production that can be sustained over a long period of time, without reservoir damage. This is a dubious term in relation to the total potential of this reserve. The productive capacity can conceivably be greatly increased by further exploration. Accordingly, the committee amendment will limit production to 160,000 barrels per day for a 1 year period. It will further provide the funds to reach this sustained production within 60 days after the approval of the resolution.

The original proposal provides for a closed cycle funding arrangement by the establishment of the Naval Petroleum Reserve Account on the books of the Treasury. Into such an account would go the receipts from the sale of production, and such other funds as may be made available to the Navy for further development of the reserves. The fund would be administered by the Secretary of the Navy. This, of course, would free the reserve from having to compete for appropriations with other Defense programs, but would limit funding for the reserve primarily to receipts generated from the sale of the production therefrom. The proposal, however, contained no appropriation authorization for exploration, development, or production, other than the fund. This not only could result in a delay in the commencement of operations, but also effectively relinquishes Congressional control of the appropriation process.

Mr. President, the committee amendment corrects these obvious defects. It sets a time schedule for exploration of Reserves 1 and 4, and authorizes the appropriation of $72 million to expedite the implementation of this resolution. The use of these funds is clearly delineated in section 8 of the resolution, and has the

approval of the Office of Management and Budget. Furthermore, the supplemental appropriation bill was amended in the Senate to include these funds, contingent upon the approval of this resolution. However, the conferees agreed only to provide $7.5 million for the exploration of Reserve No. 4 at this time. I understand, however, that the House of Representatives this afternoon rejected the conferees report on the Supplemental Appropriation bill and instructed the House conferees to accept the Senate amendment of $72 million.

It is the responsibility of the Congress to protect the public interest, as well as to provide for the national defense. It is the Navy's responsibility to protect the naval petroleum reserves and oil shale reserves, from unnecessary depletion. The resolution now before the Senate has been drafted to reflect and fulfill these responsibilities.

Earlier, Mr. President, I mentioned that the contractual relationship between Standard Oil of California, and the Navy, has given rise to certain allegations. First, it has been alleged that if production of the reserve No. 1 is undertaken, Standard Oil will possibly receive a windfall profit. The committee inquired into this quite thoroughly and found no way that this could happen. As part owner of the reserve, they can receive only their legitimate proportion of the production—oil they now rightfully own—which, as I have indicated, is around 22 percent of the production. Second, the question arose as to whether Standard Oil would consider production under the resolution a violation of the unit plan contract, under which the lands in the reserve are now operated. A spokesman of Standard Oil testified to the contrary. Furthermore, they have so indicated in writing, and this letter has been made a part of the committee report.

I may say that the Department of Justice concurs in that finding, that this would not violate the terms of the agreement.

Now, finally, Mr. President, I want to say a few words about the conservation practices of the Department of Defense. The committee wanted to assure itself that the Department was taking an aggressive and productive approach to the conservation problem.

Although Defense requirements for petroleum are relatively small in comparison to the total requirements of the United States, being about 3.7 percent, it is, nonetheless, highly visible. This is particularly true when it became necessary last November to invoke the provisions of the Defense Production Act to provide for these requirements.

I am pleased to report that the Department of Defense has initiated a vigorous conservation program, which appears to be paying substantial returns. According to data made available, a reduction of approximately 28 percent has been made in the petroleum consumption of aircraft, ships, and mobile ground equipment operations, during the first quarter of fiscal year 1974. Their weighted reduction in the use of all types of energy approximates 22 percent. A Defense energy task group has been established to recommend actions it might take, both short and long range, to conserve energy. I can assure you, Mr. President, that the Committee on Armed Services intends to follow closely, and will receive periodic reports, upon the conservation efforts of the Department of Defense.

Mr. President, this completes my statement, and I shall be glad to answer any questions.

First, I would say, in order to correct an inadvertent error in Senate Joint Resolution 176, I move that the resolving clause of the resolution be restored as follows :

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled.

The motion was agreed to.

Mr. GRIFFIN. Mr. President, is the time on the other side under the control of the minority leader?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. Mr. President, on his behalf, I ask unanimous consent that the time be under the control of the Senator from Virginia (Mr. WILLIAM L. SCOTT).

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

Mr. WILLIAM L. SCOTT. Mr. President, I shall take very little time.

I commend the chairman of the subcommittee for the work he has done. Hearings were held on this matter and we went into it fairly deeply. It has restrictions in it as to the volume of oil that can be used from this reserve of 160,000 barrels of crude oil a day.

The act is limited to 1 year. This is a matter the Senate should adopt. It is a vital matter and has the recommendation of the administration.

I urge that the resolution be approved.

Mr. CRANSTON. Mr. President, I rise in support of Senate Joint Resolution 176, a resolution to authorize production from Elk Hills Naval Petroleum Reserve in California. I want to commend the distinguished chairman of the Naval Petroleum Reserves Subcommittee, Mr. CANNON, and the chairman of the Armed Services Committee, Mr. STENNIS, and all members of the committee for the expedited consideration that was given to this resolution.

Senate Joint Resolution 176 was introduced in the Senate by request on December 4. A public hearing was held on December 10, and the bill was reported out of the Armed Services Committee and placed on the Senate calendar on December 17.

Mr. President, there is unfounded fear that increased pumping at Elk Hills could deplete oil reserves that might be needed in some future military emergency.

There is absolutely no justifiable cause for such concern. A 1-year production rate of 160,000 barrels a day would use up only about 5 percent of the one billion barrels of oil known to be at Elk Hills.

In addition, some $72 million in proceeds from the sale of Elk Hills oil plus other appropriated funds will be used for further exploratory drilling both there and in Alaska.

So we may very well increase—rather than decrease—oil reserves for military needs.

On the other hand, if we do not promptly relieve fuel shortages in southern California, many industries vital to our national defense will be seriously crippled.

Decreasing military demand on civilian fuel supplies could forestall the drastic job layoffs and rotating blackouts that Los Angeles is now preparing for.

We must reduce the military drain that is taking precious civilian oil away from southern California cities—the hub of our defense-related industries.

Some 19.7 million barrels of oil from civilian stocks have been allocated to the Armed Forces for November and December alone.

It is plainly bad planning for the military to be given first priority in the allocation of scarce fuels while oil reserves set aside for national defense lie unused. We are leaving our cities and our industrial base that supports our national defense short of lifeline supplies of fuel.

By opening Elk Hills and producing 160,000 barrels per day, much of the military demand for civilian oil supplies will be eased. Presently, the military is taking some 300,000 barrels per day of oil from civilian supplies. Opening Elk Hills will provide at least half of that demand and will be of significant help to oil-starved cities like Los Angeles.

In addition, Mr. President, Los Angeles is suffering from the worst air pollution problem in the Nation and it should be permitted to exchange some of its high sulfur fuel for the low sulfur fuel the Navy would be getting from Elk Hills.

The Los Angeles area faces a critical challenge in the immediate days ahead. It has taken decisive steps to conserve fuel and electricity while trying to keep the wheels of industry turning.

But it must now deal with the extremely serious problem of either finding new sources of low sulfur oil or securing legal authority to burn high sulfur oil that will raise smog levels here to possiby dangerous proportions.

If Los Angeles utilities are forced to burn high sulfur fuel oils to produce electricity, the health and the lives of thousands of people may be threatened. Every effort by every branch of government and industry must be mobilized to avoid this.

The resolution reported out by the Armed Services Committee is a good one. It answers, in my opinion, many of the questions and concerns that have been raised and which were not adequately answered by the original joint resolution.

The committee has strengthened substantially the language of the resolution concerning the contractual relationship between the Navy and Standard Oil of California, the only remaining private landowner within the reserve. Since 1944, Socal and the Navy have operated the reserve under a unit plan contract which grants to the Navy the complete control over the development and production of the reserve and fixing a basis for division of any oil produced.

The resolution provides for disposition of the Navy's share of the oil through competitive bidding. The procedures for

this must be capable of assuring fairness and equal opportunity for all companies, including major and independent oil refineries. And as is the case under current law (section 7431 of title 10, United States Code), contract awards will be subject to approval by the Justice Department and congressional committees, thus assuring protection of the public interest.

Mr. President, when the Armed Services Committee held its hearings on Senate Joint Resolution 176, I testified before the committee about the critical need for fuel which now plagues southern California and particularly the city of Los Angeles. I ask unanimous consent that my testimony before the Armed Services Committee on December 10 be printed in the RECORD at this point, along with a letter I wrote on December 18 to William F. Simon, Administrator of the Federal Energy Office, on a matter related to present military use of domestic civilian oil supplies.

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

STATEMENT OF U.S. SENATOR ALAN CRANSTON

Mr. Chairman, I am grateful to have this opportunity to comment on the question of authorizing production from Naval Petroleum Reserve Numbered One—commonly referred to as "Elk Hills".

The Committee, in receiving testimony on Senate Joint Resolution 176, is tackling an issue which has strong sentiment on both sides and which has broad ramifications. Questions vital to our national defense, our economic well-being and the essential needs of our citizens are involved.

I believe that Elk Hills oil should be produced at the rate of at least 100,000 barrels per day (but not more than 160,000 barrels per day) for a period of one year in order to provide for emergency, short-term petroleum needs which are vital to our economy and to our defense capabilities. Should additional oil prove necessary, or if one year is not sufficient, Congress would have to enact additional legislation. I wish to make clear, however, that my support for producing from the Elk Hills Reserve is conditioned upon a resolution in the public interest that is satisfactory to the Armed Services Committee of the contractual and legal questions involving Standard Oil Company of California.

The Elk Hills Reserve was established by Executive Order in September, 1912, for "the exclusive use or benefit of the United States Navy." Three additional Navy Reserves were established by executive order between 1912 and 1923. Because these reserves were established by executive order, however, there was no effect on titles to lands within the boundaries of the reserves which had already been reduced to private ownership. As a result, about one-third of the lands within the Elk Hills Reserve was privately owned. Since 1912, all of the lands within the reserve have come into the ownership of either the United States, which owns approximately 80 percent of the total, or of Standard Oil Company of California which owns the balance.

In 1938, legislation was enacted to consolidate and protect the Elk Hills Reserve. It authorized the Secretary of the Navy to enter into contracts and to acquire lands for the protection and conservation of the oil reserves.

In 1944, a unit plan contract negotiated between the Navy and Standard was approved, giving the Navy complete control over the development and production of the reserve and fixing a basis for division of any oil produced. Also in 1944, Congress authorized production at Elk Hills in order to satisfy wartime petroleum deficiencies of the armed services. Production was limited to 65,000 barrels per day for 18 months. Immediately after termination of hostilities in the Pacific in September, 1945, Congress revoked authority for production at Elk Hills. Today production has stabilized at the rate of 3,000 barrels per day.

Presently, there are more than 1100 wells in the Elk Hills Reserve. It has been estimated that the reserve is capable of producing a maximum of 100,000 barrels per day within 60 days, but that limited pipeline capacity would be able to transport only 90,000 barrels per day to the boundaries of the reserve and only 12,000 barrels per day beyond.

According to the Office of Naval Petroleum and Oil Shale Reserves, the maximum efficient rate of production at Elk Hills with existing wells would approximate 267,400 barrels per day.

To attain that level, however, additional facilities costing some $69 million would be required. The total proven reserves at Elk Hills is approximately 1 billion barrels.

Mr. Chairman, on November 6, 1973, the Acting Secretary of the Navy transmitted a finding that production from Elk Hills at a rate "not to exceed the maximum efficient rate" was necessary to help insure that the petroleum needs of national defense are met. Simultaneously, he transmitted a proposed joint resolution to the Congress, which you have before you today—S.J. Res. 176. Shortly after this, the Secretary of the Interior ordered that first priority in allocating scarce fuels would go to the military. And in November and December, estimates are that some 19.7 million barrels of oil from civilian stocks have been allocated for use by the military.

Mr. Chairman, I believe it is plain bad planning for the military to be given first priority in the allocation of scarce fuels while the oil reserves set aside for national defense sit unused. It amounts to robbing Peter to pay Paul and it is leaving our cities and our industrial base short of lifeline supplies of fuel.

To illustrate my point, I would like to take a moment to describe just how serious the fuel shortages are in Southern California, which is the hub of our defense-related industries.

In the Los Angeles area four of our cities are facing real and immediate shortages. Action is required within a few weeks or these cities will be in very deep trouble.

These are the cities of Los Angeles, with 3 million residents, and the suburban cities adjoining Los Angeles of Burbank, Glendale and Pasadena. All four of these cities operate their own power departments. Other cities in Southern California are served by investor-owned public utilities, which are facing shortages too, but which are not faced with immediate shortages as is Los Angeles.

Burbank, Pasadena and Glendale are in the deepest trouble.

Pasadena has announced it must cut back power before Christmas and rotating, neighborhood by neighborhood blackouts would come next month.

Burbank already has passed an ordinance requiring curtailment of business and industry and has warned that power will be cut off completely for those who fail to comply. Glendale also has a very limited supply of oil, especially low-sulfur oil, and will be forced to make mandatory cutbacks in electricity early next year, unless a variance is granted by the local air pollution control district or additional supplies of low-sulfur oil are found and made available.

The problem in the city of Los Angeles, while not immediately acute, is so huge, because of the large population and the concentration of industry, it is perhaps more dramatic. Let me discuss it in more detail.

The Los Angeles Department of Water and Power is almost totally dependent on fuel oil for generating electricity. About five percent of its electricity comes on transmission lines from the Pacific Northwest during periods of excess supply in that area. And there haven't been any surpluses there in months.

Until last summer the department used a combination of oil for fuel during the winter months and natural gas during the summer when the Los Angeles smog problem intensifies. But this summer, the natural gas shortage led to supplies being cut off and the system must now operate almost entirely with fuel oil.

Because of the California air pollution control standards, the oil Los Angeles burns must have a sulfur content of one-half of one percent (0.5) or less.

This type of oil is not generally available from domestic sources. It must be imported from the Middle East or North Africa, Indonesia, or Venezuela. The L.A. power system does not operate extensive storage facilities as many investor-owned utilities do. It has been buying its oil and its gas as it needed and stores only for a few months.

And, until recently, supplies have been adequate. A year ago, for example, it asked for bids on 4.5 million barrels. It received offers of 32 million barrels. By last April the situation had completely changed. With only a 60-day oil supply on hand, the Department of Water and Power asked for bids for fuel oil and not a single oil company made an offer to supply the city.

The Department has been scrambling for supplies ever since and was forced to enter the world market and deal directly with overseas suppliers. It was successful in contracting with both Indonesia and North African Arab states for oil supplies.

Recently it learned that 11 million barrels contracted for in North Africa had been placed under the Arab embargo. The city will not get that oil. This oil is nearly half of the 23-million barrels it needs to supply the city of Los Angeles and its 3 million citizens and all of the major industries which are not served by the private utilities.

As a result of the loss of Arab oil the department has announced 5-phase conservation plan for the city which could, if fully implemented, have a disastrous impact on the entire Los Angeles area.

This plan must be implemented within three or four months if the city is to survive at all.

Phases 1 and 2 of the plan call for conservation measures and voluntary curtailment of power use. These steps have already been taken.

Phase 3 is for mandatory curtailment of power use.

Phase 4 calls for burning high sulfur oil under a variance from the local Air Pollution Control District's Hearing Board. The application for this variance has been filed.

Phase 5 would require so-called "rolling blackouts"—the complete shut-off of all power, neighborhood-by-neighborhood, on a rotating basis.

City ordinances already are being drawn up to put the plan into effect and we are already close to the need for Phase 2—mandatory curtailment. This would be effected by, among other things, limiting business and industrial operations to 50 hours a week. This move alone could throw 100,000 to 200,000 men and women out of work immediately! The ripple effect of such massive layoffs could create social and economic chaos with many thousands more unemployed, and incredible hardships for workers, families and businesses.

The Phase 5 blackouts would be implemented if the Phase 4 curtailments did not achieve the necessary fuel savings. These blackouts, a complete shutting off of electrical power, would be rotated through the city

for periods of two, three, or four hours. Homes, business, hospitals, traffic lights, police stations—all would be cut off equally.

The outcome of these extreme measures is hard to imagine but they could be serious indeed for the people of the Los Angeles area. And on top of everything else, Los Angeles is suffering from the worst air pollution problem in the nation. If now we must burn high sulfur oil—some 25 to 30 million barrels—the increase in smog could threaten the health and even the lives of thousands of persons, especially the elderly and those already suffering from lung and bronchial disorders.

Mr. Chairman, opening up production at Elk Hills at the rate of 100,000 to 160,000 barrels per day would not solve these serious fuel shortages. But by decreasing military demand on other fuel supplies, it might forestall the drastic job layoffs and rotating blackouts that Los Angeles is now forced to prepare for. I suggest that if these measures are implemented, many Southern California industries vital to our national defense will be crippled.

Moreover, producing at the rates of 100,000 to 160,000 barrels per day for one year would deplete Elk Hills of less than five percent of its total of 1 billion barrels. That is not a very substantial impact, in my opinion.

An added benefit is that the oil at Elk Hills is considered to be low-sulfur, a consideration which is quite significant for Los Angeles, as I have indicated. I suggest that if this Committee decides to authorize production from Elk Hills for national defense purposes, some arrangement should be sought that would allow a city like Los Angeles to trade its high sulfur fuel for the low-sulfur fuel at Elk Hills.

In closing, Mr. Chairman, I wish to say that I am aware of the possible "windfall" which may accrue to Standard Oil Company if Elk Hills is opened for production. Every effort must be made to avoid any possibility that Standard could charge that the government violated its agreement, thereby freeing them to go into full production on their share of the reserve. This would only serve to deplete the reserve through massive offset production on the part of the Navy.

These are publicly-owned reserves. The public's interest in them must be protected, and windfall profits made at the public's expense cannot be tolerated.

The contractual and legal relationship between the Navy and Standard at Elk Hills is extremely complicated. I would hope that this Committee will make every effort to resolve these issues so that limited, but essential production can commence at Elk Hills. This outcome is essential to the continued economic well-being of the citizens of the Los Angeles area.

U.S. SENATE,
Washington, D.C., December 18, 1973.

Mr. WILLIAM E. SIMON,
Administrator, Federal Energy Office,
Washington, D.C.

DEAR BILL: It is my understanding that the Office of Petroleum Allocations issued a directive on December 12, 1973, ordering Union Oil Company of California to provide at least 500,000 barrels of crude oil to Guam by December 31. As a result of this order, Union Oil Company redirected its tanker, San Sizena, loaded with 505,000 barrels of Indonesian crude oil, from its original Southern California destination to the U.S. Territory of Guam.

As you know, Southern California is critically short of fuel. I would therefore appreciate your providing me with a full report on why this directive was issued and for what purpose the oil will be used in Guam. Specifically, I would like to know under what authority and by whom the directive was issued, what timetable and procedures were used, whether the crude oil will be refined for use by American military installations in Guam, and whether any portion will be used for non-defense purposes.

Finally, I would appreciate your advising me of the criteria and procedures used to determine how to re-allocate crude oil and other petroleum products to meet critical fuel shortages in one area or region. In this case, it appears that fuel-short Guam robbed fuel-short Southern California of a tanker load of Indonesian crude oil. What efforts were made to find other sources of crude oil for Guam before the San Sizena was diverted? Also, was consideration given to the fact that the San Sizena was loaded with 505,000 barrels of low-sulfur crude oil, a critical consideration in meeting Southern California's air pollution requirements? If these considerations were not taken into account in this instance, I would urge that they should be in any future reallocation decisions.

Your comments and answers to these questions will be much appreciated.

Very sincerely,

ALAN CRANSTON.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Win Farin and John Steinberg of my staff have the privilege of the floor during the consideration of this and ensuing measures that come before the Senate.

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

Mr. STEVENSON. Mr. President, will the Senator from Nevada yield for a few questions?

Mr. CANNON. I yield for questions.

Mr. STEVENSON. Mr. President, I chaired the hearings most of this morning in the Commerce Committee on the general subject of management of petroleum reserves. Among other things, this resolution was discussed, as was the management of all the petroleum reserves.

A number of questions have been raised about the measure in the past, and the intentions of the Defense Department in the future. I have not had a chance to study the report of the legislation. As a matter of fact, this is the first chance I have had to see the report. I would still hope that consideration of the bill might be put over until Members have had a chance to study it. In the meantime, I might ask a few questions to point out some of the areas of my concern.

The distinguished chairman of the Committee on Rules and Administration mentions that SoCal would receive only a legitimate portion of the production under the utilization agreement.

I assume that is the case. I assume, beyond that, that it means that SoCal will not contest the validity of that agreement as a result of the Government's production of more oil than is now required for defense requirements. But I wonder whether the chairman can tell me at what price and to whom the Government's portion of the oil will be sold.

Mr. CANNON. The Government's portion of the oil will be sold to the highest bidder on an auction basis.

Mr. STEVENSON. Will the Senator tell me who in that area can bid?

Mr. CANNON. Anyone who desires to bid on the oil is eligible. The last time it went out for bids, a number of companies proposed bids. The contract, once the bid is awarded, must be approved by the Department of Justice and must be submitted to the Armed Services Committee of the House for approval.

Mr. STEVENSON. Is it not true that there is only one pipeline in the area and that the last time three bids were submitted, one by Pima Refinery, which is an independent. Its bid was discarded for the ostensible reason, at least, that it did not have the capacity to transport the oil. Two other bids were submitted—one by Shell and the other, I believe, by SoCal—which, by some coincidence, were identical bids. The award of the contract was made to Shell at that time, by drawing lots, and Shell at that very time was under investigation, as I understand it, in the California Legislature for rigging bidding on California leases.

I ask the chairman, in view of that history of bidding or auctioning in this area, what basis we have for being confident, with only one pipeline in the area, that there can be any real bidding.

As I understand it, further, the oil is produced at a cost of about 25 cents a barrel. SoCal has been producing oil at that cost and is now selling it to the public at a price——

Mr. CANNON. My time is about out. I am not sure which question the Senator has asked, but I can address myself generally to the proposition. I do not have more than about 2 minutes remaining.

I would simply say that the Senator's statement that there is only one pipeline is in error. That is not a fact.

Second, it is not necessary to sell only to someone who uses pipelines, because it is possible to take delivery through tank delivery.

Third, when the bid to which the Senator referred was turned down the last time, it was turned down because that company had no apparent way of taking delivery. They were asked to make a proposal as to how they would take delivery, and they did not make it.

I am aware of the matters to which the Senator has referred, and I am sorry that he has not seen the answer of the Department of Justice to those allegations, as well as the answer of the Assistant Secretary of the Navy, Jack L. Bowers, for Installation and Logistics, who responds specifically to all these general types of complaints.

The PRESIDING OFFICER. All time of the Senator from Nevada has expired.

Mr. STEVENSON. Mr. President, I ask unanimous consent that 10 additional minutes be granted each side.

Mr. MANSFIELD. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Virginia has 7 minutes remaining.

Mr. STEVENSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Virginia yield time?

Mr. TUNNEY. Mr. President, will the Senator from Virginia yield me 1 minute?

Mr. WILLIAM L. SCOTT. I yield.

Mr. TUNNEY. Mr. President, I compliment the committee on bringing this measure forward.

Those of us who live in California are well aware that this naval reserve at Elk Hills contains a substantial amount of oil that is desperately needed not only on the west coast but throughout the United States as well.

It is very clear at the present time that the Defense Establishment is drawing upon commercial sources for petroleum to maintain the Defense Establishment. Inasmuch as this reserve is there to help in times of national emergency, we now have a national emergency, and there is no reason why this oil should not be produced for the purpose of maintaining our defense.

I think the committee has done an excellent job in considering all aspects of the proposed legislation and in bringing it forward in expeditious fashion, so that Congress can act on it, so that we can get this oil in production, so that the Military Establishment will not have to draw upon very short commercial reserves for the purpose of maintaining itself.

I thank the distinguished Senator from Virginia for yielding to me.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator's comment.

Let me add, in support of the measure, that during the hearings before the subcommittee, we had a panel of the leadership of the Department of Defense, both military and civilian leaders and secretaries. I posed a question to them as to whether the Department of Defense, both civilian and military, did support the bill in its entirety. We received an affirmative answer that they did wholeheartedly support the military leadership.

Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, the Elk Hills Oil Reserve in Kern County, Calif., was established by Executive order in September 1912 for "the exclusive use or benefit of the U.S. Navy." In 1938, legislation was enacted to consolidate and protect the Elk Hills Reserve and to require congressional approval before any production, in addition to that necessary for testing, and so forth, could be undertaken.

During World War II Congress authorized production from Elk Hills at 65,000 barrels per day. At the end of the war, production authority was revoked, and there has been no production since. Today the generally accepted reserves at Elk Hills are estimated at 1 billion barrels.

The Subcommittee on National Stockpile and Naval Petroleum Reserves, presided over by Senator CANNON, held hearings on Senate Joint Resolution 176 on December 10 and 11. Under Senate Joint Resolution 176, the Navy would be authorized to commence oil production from the Elk Hills Reserve within 45 days after the effective date of the resolution and to continue for a period of not more than 1 year after production commences. Witnesses from the Department of Defense, Standard Oil of California, as well as Senators CRANSTON, TUNNEY, and GRAVEL, testified. With one exception, all were in favor of Senate Joint Resolution 176.

Navy and Standard Oil officials agree that a 160,000 barrel per day production is reasonable and would not damage the field. The maximum efficient rate of production at Elk Hills with existing wells is estimated by the Office of Naval Petroleum and Oil Shale Reserves at 267,400 barrels per day. Therefore, it seems there is no problem with a daily rate of 160,000 barrels. The joint resolution authorizes $72 million for production and further research and development of the reserve.

The Department of Defense recently used the authority of the Defense Production Act—DPA—in ordering some 300,000 barrels of fuel per day which it could not get in the free market. Currently, total Defense needs per day, under an austere sustaining level, are approximately 625,000 barrels per day. While there is not a 1-for-1 ratio between a barrel of crude oil and a refined barrel of petroleum product, witnesses felt that a 160,000 barrel per day production rate from Elk Hills could reduce DOD's demand on the domestic economy by about 150,000 barrels per day.

Mr. President, I believe adoption of Senate Joint Resolution 176 is in the national interest, and I urge its passage.

The PRESIDING OFFICER. The Senator from Virginia (Mr. WILLIAM L. SCOTT) has 1 minute remaining.

Mr. WILLIAM L. SCOTT. I yield that 1 minute to the distinguished Senator from Nevada.

Mr. CANNON. Mr. President, in light of the questions that have been raised, I ask unanimous consent that a letter dated October 18, 1973, from Representative JOHN E. MOSS to the President be printed at this point in the RECORD.

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

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 18, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I noted with interest your proposal to open up the Elk Hills Naval Petroleum Reserve in California because of the "energy shortage." Sharing your concern over oil shortfalls and wishing to ensure that neither our Navy's needs nor the taxpayer's interest should come to harm, I have delved into the Elk Hills situation, discovering factors worthy of your attention.

The question of naval oil reserves is fraught with danger to any government, particularly in light of the Teapot Dome Scandal and questions which would inevitably arise concerning opening up and exploitation of such resources. A recent report by the General Accounting Office entitled, "Capability of the Naval Petroleum & Oil Shale Reserves To Meet Emerngecy Oil Needs," estimates value of proven recoverable resources owned by the Navy in this reserve at a minimum of $2.6 million.

It is publicly proposed to open up Elk Hills to production of at least 160,000 barrels of oil daily. Shell Oil Company, largely foreign-owned, possesses a five year contract to purchase all current and projected production from that Reserve at a price based on average current posted prices, largely throughout California by Shell and Standard Oil of California. Under such a contract, which I have a copy of, if massive production is instituted, will Shell not benefit in the form of windfall profits? Unless any new production is let out for bids to independents under open bidding, what is to prevent Shell from claiming all new production? Further, who could or would compete with Shell in such a situation? There are no storage facilities at Elk Hills, so any production must be sold and moved immediately. What is to prevent an Alaska North Slope situation from developing, when a consortium of major oil companies joined together to offer bids? Suppose their bid is far below market prices?

This oil must be marketed upon extraction. Only a pipeline assures this. It is my understanding that the only pipeline leading out of Elk Hills and from the reserve to market are owned entirely by two major oil companies: Standard Oil of California and Atlantic Richfield. There is a strong possibility that Shell could take title to Elk Hills production, immediately transferring it to the majors owning existing pipelines, in exchange for a portion of their profits to be derived from its sale. Additionally, Shell could receive other payment in form of substantial, equal allocations of oil from any other majors involved, at Shell refineries in other locations. Such tradeoffs are common between major oil companies and have been consistently termed practices in restraint of trade.

When the Shell contract was advertised and the invitation for bid was put out, bidders were required to provide prior certification of assured transportability. The sole method of transport available at the time was through the Standard Oil of California or other private carrier lines. Was the Navy aware then there was a strong possibility of prior arrangement between Shell and Socal for use of the line? Could this not be termed collusion, especially because both Shell and Socal emerged as the prime bidders?

Use of a private carrier line means sale of oil to the carrier when it enters the pipeline. If Elk Hills is opened, Shell will be able to transfer the major share of Navy oil produced in any crisis to Socal. Socal will be able to sell it for what the market will bear, or to another private carrier yielding a substantial profit. Is this in the taxpayers interest?

Involvement of private carrier lines in such a context means a possibility of price arrangement between the majors in question. One small bidder, Pima Refining Co., was, I have discovered, rejected in bidding because of lack of transportation facilities. Certainly examination of the invitation for bid and the transcript of proceedings on bid-letting is in order. In light of the fact that the Justice Department was supposed to review such proceeding thoroughly, was there any concern with investigation of possible collusion and antitrust action? Inexplicably, no action has been taken. Now both companies are in line to profit immeasurably from a national emergency at taxpayer expense.

After Teapot Dome, a requirement was put through under President Roosevelt that all contracts respecting any Navy oil reserves must be reviewed by Justice before presentation to the President or Armed Services Committees of each House of Congress. Existing contracts and government concessions to industry have drastically altered the viability of several of the reserves, allowing private oil interests to drain away oil from the outside, while in some cases draining it from within a reserve. Why has Justice done nothing about what seems to be an obvious situation?

Pricing discrimination and artificially low prices for state-owned crude oil involving both these companies and their posted pricing are presently under investigation in California by the Joint Committee on Public Domain of the State Assembly, headed by J. Kenneth Corey (D.-Garden Grove). Dominance by Socal and Shell, plus questions

surrounding such pricing make their position vis-a-vis Elk Hills more suspect. Compounding this compromising situation is the fact that companies involved in this investigation have largely refused to cooperate. Instead, they are attempting to enjoin the state legislature's investigation of their pricing procedures, refusing to surrender requested information.

Once any oil comes into possession of majors, another windfall profit could accrue through manipulation of posted prices. A bid price is based on prices posted in vicinity of an oil field. Nothing can prevent majors involved from merely posting prices far in excess of what is charged today. The ongoing California State Assembly investigation has discovered that free market prices established by open bidding were found to differ by $1.25 per barrel from what was being paid the state under a posted contract much like that Shell enjoys on Elk Hills, showing they have had experience in manipulation defrauding the state, which can now be applied to a massive defrauding of the Federal Government. To prevent unacceptable profits at public expense, the Federal Government should impose limitations in form of an excess profits tax on Elk Hills oil, as was done in World War II to prevent profiteering in an emergency. Another alternative open to government is to declare private carrier pipeline systems leading to Elk Hills directly to be common carriers all the way to final delivery points for the purpose of carrying Elk Hills oil during any emergency. I stand ready to sponsor any legislation you might seek to implement these objections.

Another windfall profit could be in order for Socal if Elk Hills is opened up for any other reason than national defense. A unit plan contract is presently in force between the Navy and Socal. Socal is both unit and nonunit operator of this field. At given intervals, Socal has been permitted to remove significant quantities of oil from Elk Hills under agreement with government. Through June 30, 1973, Socal owes the Navy and taxpayers approximately $24,000,000 in deferred payments for removals in production and cost balances related to maintenance and development of both Navy and Socal wells. These monies are owed under terms of an existing contract. Socal has been allowed to remove approximately 25 million barrels of oil from the field as payment for entering into the contract with the Navy. Socal may be able to claim the entire contract is ended if Elk Hills is opened up for any purpose other than military emergency. This would not only forgive the $24,000,000 and the obligation concerning the 25 million barrels, but would leave Socal free to drain U.S. Government oil from the reserve through adjoining wells at will.

Alternatively, even if the contract remains in existence, and should production be opened up, Socal, under the existing contract, would receive somewhere in the neighborhood of 22% of all production. Any capital expenditures by the company in that case would be deferred in terms of payments to the government at a later date. If production is set at 160,000 barrels daily, as has been publicly suggested and projected and the price per barrel is $3.60 based on today's going prices, the gross would come to $576,000 daily. At least $115,000 per day would go to Socal. This comes out to a minimum of some $42,000,000 in one year; hardly a pittance.

Another point concerning the Elk Hills Reserve revolves around curious actions of the Bureau of Land Management of the Interior Department. Federal regulations prohibit issuance of oil and gas leases by BLM within a mile of a petroleum reserve boundary, unless the land is being drained by private operators already or it is determined after consultation with the Navy that the Reserve could not be adversely affected. In the cases of Teapot Dome and Elk Hills, the BLM issued such leases. At Teapot Dome, BLM allowed an oil company to drill to within 50 feet of reserve boundaries, despite protests by the Navy and in violation of regulations. This policy, I am informed, began in the fifties, when BLM allowed the first encroachments. In the case of Elk Hills, the BLM has allowed such drillings by Socal up to ½ mile of the reserve boundary, where the company has made major oil strikes, draining off Navy oil through the law of capture, and significantly injuring the Reserve. In self-defense, as was the case in the Teapot Dome situation, Navy has been forced to undertake offset drilling, extracting large quantities of oil. Such extractions have made more oil available to Shell under its contract. Presumably, Shell must have marketed such oil through the Socal pipeline, the major artery leading to market from that reserve.

The other day, testimony by R. G. Rothwell, Deputy Director of the Logistics & Communications Division of the General Accounting Office confirmed what I had established by independent investigations; questionable and illegal granting of permission to drill for oil to private companies has damaged and depleted two of four Navy oil reserves. In the face of Navy protests in one case and Navy inertia and inaction in the other, the Bureau of Land Management has allowed Elk Hills and Teapot Dome to be harmed. It seems that Teapot Dome has been significantly affected, both in terms of being a naval oil reserve and for purposes of relieving any emergency situation involving a domestic energy crisis.

The far richer Elk Hills field is in the process of being drained by such illegal production, in this case carried out by Socal, which would directly benefit as a result of opening of the reserve. In this case, the Bureau of Land Management is also the major culpable party. The Navy, in fact, is currently drilling two new wells at Elk Hills to offset recently initiated additional private production next to the reserve.

A major investigation of the Teapot Dome Reserve's status is in order. It is my understanding that wells there are not capable at this point of major production. If the reserve has been harmed, we have a second Teapot Dome scandal of serious proportions. An intense investigation should be made of illegal drilling presently being carried on in the buffer zone around Elk Hills by Standard Oil of California under BLM auspices. We can no longer ignore what the General Accounting Office revealed about this state of affairs last year.

Before Elk Hills is opened to exploitation and drainings, BLM, oil company activities surrounding the reserve and the Teapot Dome situation should and must be carefully investigated and the results be made publicly known. If windfall profits have already accrued to major oil companies and more such are in the offing, we should know before further steps are taken. I assure you, sir, of my willingness to cooperate with you in protecting the public interest.

Sincerely,

JOHN E. MOSS,
Member of Congress.

Mr. CANNON. Mr. President, I ask unanimous consent that the response to Mr. Moss' letter to the President, dated November 6, 1973, from Jack L. Bowers, Assistant Secretary of the Navy for Installations and Logistics, be printed at this point in the RECORD.

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

DEPARTMENT OF THE NAVY,
Washington, D.C., November 6, 1973.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR MR. MOSS: The President has asked that I reply to your letter of October 15, 1973, in which you state your concern about energy shortages.

You may be assured that everyone having any responsibility for the Naval Petroleum Reserves is aware of the necessity to prevent any repetition of problems such as gave rise to "Teapot Dome." That experience, however, should not be allowed to inhibit necessary, proper, and legitimate transactions relating to the Naval Petroleum and Oil Shale Reserves.

You have outlined many areas which, without remedies or careful surveillance would be matters of serious concern. We would like to outline some of the provisions of the statute under which the Reserves are operated and the existing contracts which have and will provide protection.

Much of your concern involves the contract currently held by Shell. This contract, for purchase of production from Elk Hills, would not provide any windfall to Shell in the event of production authorized by new action of the Congress. Section 1(d) of the Shell contract provides that such newly authorized production will be available for other disposition independent of Shell's right to purchase, upon ten days' notice.

Transportation of production from Elk Hills does present a problem. However, in addition to the two existing pipelines owned by SOCAL and Atlantic Richfield, Getty, Shell, Texaco, and Union do have pipeline facilities in the area which probably can be extended to the Elk Hills field in a short time and at moderate expense. Representations have also recently been made by certain independent refineries of their confidence in being able to take large quantity delivery by truck. In addition, however, the Navy will take other measures to ensure that equal opportunity is presented to all potential buyers regardless of their outright ownership of delivery facilities and terms of sales will be reviewed by the Justice Department.

In the routine sales of relatively minor test production from Elk Hills, assurance of the ability of any purchaser to take delivery has, in the past, been a conditional factor. The bid that you mentioned, involving Pima Refinery Company, was found nonresponsive because of failure and, in fact, refusal of that bidder to specify what arrangements, such as exchange arrangements, would be made for transportation as required by the invitation for bids. The Shell bid and that of Mohawk, another successful bidder for a portion of the production, were reviewed by the Navy Judge Advocate General, the Department of Justice, both the House and Senate Armed Services Committees, and were approved and signed by the President of the United States. No phase of the transaction was deemed to be collusive or to offer any suggestion of antitrust violations.

Certainly, sale of Naval Petroleum Reserves production at the highest price obtainable benefits the taxpayer. On the other hand, manipulation of prices by the oil companies could not be condoned. While this matter is still under investigation by the Department of Justice, no evidence of such manipulation has yet come to light.

The unique position of Standard Oil Company of California as owner of the fee of part of the lands in Elk Hills Reserve needs to be kept in proper perspective. While the existing agreement was formed in June 19, 1944, rather than incur the huge expense of condemnation of Standard's holdings as is authorized, if necessary, by statute, the Navy persuaded Standard to commit its land

to a Unit giving control of the rate and amount of production to Navy. The oil which Standard has been permitted to remove from the reserve is a small fraction of its own oil. Under the terms of the Unit Plan Contract, in the event of production for national defense under joint resolution of the Congress, the Unit Plan Contract will remain in effect. Standard would receive a part of the increased production to which, again, it is entitled as owner. With respect to the deferred costs which Standard currently owes Navy, the balancing provision of the contract will come into play so that Standard will receive much less than its normal share until its sharing of costs with the Navy comes into balance with production it has received.

We believe that production from Elk Hills is required in the interest of National Defense since the Armed Services are currently unable to purchase required amounts of petroleum products. If it were ruled that national defense did not require this production, a new contract would be negotiated with Standard. As mentioned above, the existing statute provides the alternative of condemnation of the Standard Oil Lands.

The wells currently being drilled by Navy on the North Flank of Elk Hills are not for offset but for the purpose of gaining necessary information as to whether production by Standard on its own land adjoining the reserves, not leased public lands, threatens the reserve from drainage. If the indications prove negative, Standard's production will be determined as unrelated to the reserve. If the facts do indicate a threat of drainage, Navy has the contractual right to enter into negotiation and bring these lands into the Unit.

Buffer zones around the Naval Petroleum Reserves established by the Department of Interior pertain to public lands otherwise available for leasing. They offer no control over private lands owned in fee. The administration of such buffer zones around both Elk Hills and Teapot Dome has presented complex problems from time to time in balancing the public interest in protection of the reserves with the equally valid public interest in placing public lands not connected with reserves in production under lease to private enterprise. The net result of these problems and their solutions have not in fact resulted in damage to the Reserves. The Teapot Dome Reserve is intact and fully protected and has a present production capacity of 2,200 B/D utilizing existing facilities. With further development, the reserve would be capable of delivering 15,000 B/D within a two year period.

Should Congress approve the recommendation of the President and authorize oil production from Elk Hills, the Shell contract will be put aside and the oil sold by competitive bid giving fair opportunity to all. We will seek ways for interested companies to have available means of delivery. The awards will be reviewed by the Navy, Justice, and the Armed Services Committees. Standard Oil will be allowed to take delivery of their fair share of oil in proportion to their ownership. The reserve is and has been protected by statute and resulting contracts and if, as in the case of the current new well drilled by Standard Oil, we should determine there is connection with reserve oil, remedies are available. It is imperative that in the current energy crisis we consider the use of all assets and we believe Elk Hills can help. Thank you for reviewing with us the potential problems. We assure you that due regard is being given to each. We appreciate your willingness to cooperate in the public interest.

Sincerely,

JACK L. BOWERS,
Assistant Secretary of the Navy, Installations and Logistics.

Mr. CANNON. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Standard Oil of California to the Honorable CHARLES M. TEAGUE, dated November 3, 1973, responding to a number of issues that have been raised.

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

STANDARD OIL CO. OF CALIFORNIA,
San Francisco, Calif., November 3, 1973.

Hon. CHARLES M. TEAGUE,
House of Representatives,
Washington, D.C.

DEAR MR. TEAGUE: You have requested the comments of my company, Standard Oil Company of California, as to the letter of October 18, 1973, from Representative Moss of California to the President with regard to his proposal for a limited open-up of Naval Petroleum Reserve No. 1 (Elk Hills) for a limited period, and Representative Moss' remarks to the House when he had a copy of his letter inserted in the CONGRESSIONAL RECORD on October 24, 1973.

We are happy to oblige.

I shall discuss first my company's participation in the development and operation of Elk Hills, and secondly the current disposition of oil therefrom including the contract with Shell Oil Company which Representative Moss mentioned.

We are not involved in the Teapot Dome Reserve, also mentioned in Representative Moss' letter.

I shall not discuss Representative Moss' general and inflammatory remarks about the oil industry, except to say that we disagree with them in every particular, and that they are irrelevant to the President's proposal with regard to Elk Hills.

CREATION OF THE RESERVE

As you may know, Naval Petroleum Reserve No. 1 was established in 1912 and is located in the Elk Hills in Kern County, California. At the turn of the century, government lands in the West were rapidly being turned over to private ownership. At the same time there was a growing realization of the importance of oil for the Navy, which was then changing from coal to oil burning ships. Accordingly, President Taft withdrew large tracts of potentially oil-bearing public lands in California and Wyoming from eligibility for private ownership, and in 1912 set aside Naval Petroleum Reserve No. 1 by Executive order.

A good many sections of the lands covered by this Executive order had, however, already passed into private ownership, in accordance with the government's policy of the time. While the Executive order establishing the reserve governed the further use and disposition of the government lands included in the reserve, it had no effect on the privately-owned lands so included, and the owners of those lands remained free to use them or dispose of them as they saw fit.

In 1944 there were approximately 44,000 acres of land within the reserve. Of these approximately one-fifth were privately owned in fee by my company, Standard Oil Company of California, and the remainder, or approximately four-fifths, were owned by the United States and administered by the Navy. The Standard lands were and are not all in one block, but are checkerboarded throughout the reserve.

Also, by 1944 three geologic "zones" underlying the reserve known to be commercially productive of oil and/or gas had been discovered. These are the Dry Gas Zone, the Shallow Oil Zone, and the Stevens Zone.

Within the Shallow Oil and Stevens Zones are several separate oil pools or reservoirs. These underlie both Navy and Standard lands within the reserve, and production from the lands of one could reduce the amount of oil underlying the lands of the other, with the result that the government's policy of conserving its oil in the ground until needed in time of emergency could not be effectively implemented if Standard were to produce from its own lands as it had the right to do. For this reason, in the years prior to World War II, Standard did not develop its lands within the reserve to the extent that it would otherwise unquestionably have done.

On the threshold of World War II, and with the threat of the condemnation of Standard's underdeveloped lands, active negotiations begin either for an exchange, purchase or condemnation of Standard's lands within the reserve, or for their operation as a unit with Navy's lands. A purchase or exchange would have required a substantial expenditure by the government. As an alternative arrangement, Navy and Standard agreed to operate all of the lands within the reserve as a unit, and on June 19, 1944, entered into a Unit Plan contract for the reserve.

THE UNIT PLAN CONTRACT

A Unit Agreement is an arrangement, common in the petroleum industry, under which the owners of two or more separate parcels of land in a common pool or field agree to operate all the lands overlying the pool or field as a single unit, and to share production and costs in agreed-upon proportions. Such an arrangement is usually for the life of the field and the parties have the same objective, i.e., to produce currently at minimum expense and at maximum rates, consistent with good engineering practice.

The Unit Plan contract here involved, however, is unusual because its long-range purpose (after certain emergency production during World War II) is not to produce currently but to conserve in the ground as much of the oil in the field—both Navy's and Standard's—as is feasible, until needed for a future emergency. This required Standard to agree to the curtailing of its production from its lands, along with that of Navy from its lands, once World War II was over, for which Standard was entitled to compensation. Accordingly, the parties agreed that in consideration for Standard giving up control over the development and operation of its lands, Standard would be allowed to take certain quantities of Shallow Oil Zone oil, most of which were produced during World War II, until Standard had received 25 million barrels of oil, or an amount equal to ⅓ (one-third) of its share of the estimated recoverable oil in the Shallow Oil Zone, whichever was less—all of which production was charged to Standard's share of the oil in the Shallow Oil Zone. The period during which Standard received this oil is referred to in the Unit Plan contract as the "primary period." After the primary period, production was to stop, except to the extent necessary to cover Standard's out of pocket expenses in connection with the operation of the reserve, and except for production for the purpose of protecting, conserving, maintaining and testing the reserve.

Provision was also made for exploration and development, and for the drilling, equipping and maintenance of wells in the reserve so that it could be produced upon short notice in the event of a national emergency. It is a truism, of course, that once oil wells are drilled they must be inspected and tested periodically to make sure that they still retain their capacity to produce.

Incidentally, the Unit Plan contract for Elk Hills was submitted to and approved by both the House and Senate Armed Services Committees, was specifically authorized by an Act of Congress adopted in 1944, and after execution by the Secretary of the

Navy was approved by President Franklin D. Roosevelt.

THE AMENDATORY AND SUPPLEMENTAL AGREEMENT

After the Unit Plan contract was entered into, exploration within the reserve showed that part of a Stevens Zone pool extended outside the reserve. There was no mechanism provided in the Unit Plan contract for drilling outside the reserve, however, to determine how far. Accordingly, in December 1948 Navy and Standard entered into an amendatory and supplemental agreement which provided in Part II for exploration jointly by the parties of lands of both Navy and Standard in a "proposed extended area" outside the northwest boundaries of the reserve, and for the inclusion under unit operation (down to and including the Stevens Zone) of any lands found to be commercially productive of oil from any pool or pools then productive within the then existing boundaries of the reserve. Under this amendatory and supplemental agreement certain additional Navy and Standard lands were included within the Unit, and Standard received an extension of the "primary period" as consideration for the inclusion of its lands.

Again, the 1948 amendatory and supplemental agreement was submitted to and approved by the House and Senate Armed Services Committees, and was approved by the President of the United States.

PRODUCTION TAKEN BY STANDARD

In other words, 25 to 30 years ago, as a consideration for giving up its control over its own privately owned and proven oil lands at Elk Hills, which Standard had a clear right to develop and produce, Standard was permitted to take a certain quantity of oil from the reserve, most of which would in all probability have been produced anyway in the World War II emergency, and all of which was charged solely to Standard's overall share of oil in the Shallow Oil Zone, thus depleting Standard's share in that zone while leaving Navy's share of the oil untouched and intact in the ground.

Since that time, the only oil which Standard has received from Elk Hills has been in strict compliance with the Unit Plan contract and has been produced at the direction of Navy for the purpose of protecting, conserving, maintaining or testing the reserve—including oil produced to test the readiness wells referred to above—or to reimburse Standard for its out-of-pocket costs in the reserve—the latter on the theory that it would be grossly unfair to require Standard not only to forego the development and operation of its own proved oil lands at Elk Hills, but to suffer a net out-of-pocket monetary loss in so doing.

Representative Moss' statement that "at given intervals, Socal has been permitted to remove significant quantities of oil from Elk Hills under agreement with government" must therefore be read in the light of the above.

Further, I cannot agree with Representative Moss' statement that "another windfall profit could be in order for Socal if Elk Hills is opened up . . .," whether for national defense or otherwise. So far as I know, no one has seriously suggested that Standard received an undue or unfair consideration for giving up control over its fee lands at Elk Hills when it was permitted 25 to 30 years ago to take a quantity of oil which was going to be produced anyway all of which was charged solely to Standard's agreed share of the oil in the field and not in any way to Navy's share. Since then Standard has adhered to its agreement with the government regarding Elk Hills and its oil as well as Navy's oil has been kept shut up in the ground with the exception of the relatively minor quantities noted above. To say that Standard would receive a "windfall" because Standard would now be able to produce and take an additional quantity of its own oil, if the government concludes that the national interests require that Elk Hills be opened up, strikes me as grossly unfair and prejudicial to my Company.

NO POSSIBILITY OF STANDARD CANCELING THE UNIT PLAN CONTRACT

Incidentally, there is no danger of the existing Unit Plan contract for the governance of Elk Hills being unilaterally terminated by Standard because of an open-up by the government which otherwise follows the provisions of the Unit Plan contract, no matter what the purpose of the open-up may be, and we are prepared to give the government any needed assurances on this point.

THE OPERATION OF THE RESERVE

Subject to the provisions of the Unit Plan contract, Navy was given exclusive control over the exploration, prospecting, development and operation of the reserve. Navy was also given the right at its discretion to operate the reserve directly with its own personnel or to contract for such operation. Navy entered into a contract with Standard for Standard to operate the reserve, and since that time has entered into two subsequent operating agreements with Standard.

Each of these operating agreements has also been approved by the House and Senate Armed Services Committees, and by the President of the United States.

THE WORKING OF THE UNIT PLAN CONTRACT

Under the Unit Plan contract all exploration, prospecting, development and producing operations on the reserve were placed under the supervision and direction of an operating committee comprised of two petroleum engineers, one to be appointed by and represent Standard and one to be appointed by and represent Navy. In order to provide technical advice and to make certain specified determinations based upon petroleum engineering data, an engineering committee was also established, consisting of the members of the operating committee ex officio and four other petroleum engineers or geologists, two to be appointed by and represent Navy, and two to be appointed by and represent Standard.

The "percentage participations" of the parties in each productive zone within the Elk Hills Unit were fixed as of November 20, 1942, and are to be revised retroactively from time to time in the light of new knowledge gained. Generally, as to each zone, production is to be shared by the parties currently in accord with their then existing participating percentages, and costs are to be paid currently in accord with receipts of production. Because of the special provisions of the Unit Plan contract, however—e.g., the provision that Standard was to be permitted to take World War II production, up to 15,000 barrels per day, (to be charged to its share of the Shallow Oil Zone oil) during the "primary period"—it was inevitable that the parties from time to time would become "out of balance" with their participating percentages both in oil received and costs paid. In addition, any retroactive revision of the participating percentages of the parties in a given zone will automatically place the parties "out of balance" in that zone. Accordingly, the parties provided for certain "catch-up" mechanisms and provided that at the end of the life of each zone there should be an appropriate cash adjustment to effect an ultimate balancing of production and costs with final participating percentages.

It is because of these special provisions that Standard is at the moment behind in costs and ahead in oil to the extent of approximately $24,000,000, as Representative Moss notes. However, Standard does not "owe" this amount to Navy, as Representative Moss says, or indeed any amount. On an open-up, Standard would be required to reduce its take of production to ⅓ of its participating percentage share (which would work out to be about 12 percent to 14 percent) until oil balance occurs, and then to increase its share of current cost payments until cost balance occurs. You can see, therefore, that in overall operation the Unit Plan contract is a fair one, and does not favor Standard at the expense of Navy or the United States.

DRILLING AROUND PERIPHERY OF RESERVE

Lastly, I should like to comment on Representative Moss' statements with regard to drilling by my Company around the periphery of the reserve.

In his remarks to the House, Representative Moss said "federal regulations prohibit issuance of oil and gas leases by BLM within a mile of a naval petroleum reserve boundary. Over Navy protests and in violation of such a rule, the BLM issued such leases around and adjacent to the Elk Hills reserve to—by sheer coincidence—Standard Oil of California, which proceeded to drill a well within 1 mile of the reserve boundary and, by luck and accident, I am sure, hit major oil strikes." Representative Moss adds that "this has resulted in significant drainage of oil pools under the Elk Hills reserve," and refers to "Socal's illegal drilling near the Elk Hills boundary." Essentially the same statements are repeated in Representative Moss' letter to the President.

Representative Moss has been misinformed. The BLM has not issued any leases adjacent to or within 1 mile of the reserve to Standard Oil Company of California, over the protests of Navy or otherwise. Standard does hold two government leases on the South Flank of Reserve No. 1 issued to another company in 1920, which company was acquired by Standard in 1943. Both leases are in the Buena Vista Hills field within Reserve No. 2, however, which field has been produced commercially by numerous owners and lessees ever since its discovery and development around 1910. Further, in 1955 the BLM issued a government lease outside the northwest corner of the Reserve No. 1 to American Marc, Inc. In 1965 and 1966 Standard acquired this lease by assignment. Later it drilled several wells thereon, the closest of which was over ¾ of a mile from the Elk Hills Unit. Some of these wells were and are productive from a zone not known to be productive within the Unit. Three wells penetrated a zone (not a pool) which is known to be productive within the Unit, and were shut in. By agreement between Navy and Standard, a well was then drilled to this zone approximately half way between Standard's wells and the boundary of the Elk Hills Unit, and proved to be not commercially productive. Clearly, then, none of these wells of Standard's can be said to be draining or injuring the Unit.

Standard does own outright a substantial amount of land around the periphery of the reserve. As part of our stepped-up exploration program undertaken to help alleviate the growing shortage of petroleum and petroleum products in California, we drilled an exploratory well earlier this year on a section of our own fee land just outside the northern boundary of the reserve. Since the well was drilled on our own fee land, outside the reserve, it cannot possibly be characterized as "illegal." The well was successful, and discovered a new and productive pool of oil. Present indications are that the pool does not extend within the reserve. We have given all the information on our well to the government, however, and if it should turn out that the pool does extend within the reserve, the government has ample authority to protect it, and we would fully expect it to do so.

DISPOSITION OF GOVERNMENT OIL FROM ELK HILLS

Representative Moss' fear that Shell Oil Company will reap "windfall profits" if Elk Hills is opened up as the President has proposed seems to me to be unjustified. While it is true that Shell has a contract executed

in May 1970, to purchase Navy's unit production at Elk Hills for a period of five years, under Article IX thereof the contract is terminable at will by either party on six months' notice to the other. Shell is therefore not in a position to "claim all new production," as Representative Moss fears.

As to how and to whom the new production going to Navy might be sold, the Director of Naval Petroleum Reserves can, of course, give you the facts better than we can, but I do know that in past years Navy's production from the Elk Hills area, both within and outside the Unit operation, has been sold at various times to Wilshire, Douglas, Mohawk, Rothschild and Edgington. In each case, Navy has offered the oil for bidding on the open market, and companies desiring to purchase the oil may add a bonus over and above the posted prices for comparable oil produced from other fields in the vicinity. And in each case, the purchaser has had no difficulty in getting the oil out of the field, and disposing of it or utilizing it as he saw fit.

Incidentally, Navy's non-unit production in the Elk Hills area is presently going to the Mohawk Petroleum Company, I understand.

CONCLUSION

In view of the developing energy shortage in this country, it seems to me undeniably in the national interest that the President's proposals for dealing with that shortage receive a fair and objective hearing by all concerned. Accordingly, we very much appreciate your interest in the facts with regard to Elk Hills, and hope that the above will assist you in your inquiry.

Respectfully,

L. T. VICE.

Several Senators addressed the Chair.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be an additional 10 minutes for the purpose of allowing the Senator from New Hampshire and the Senator from Illinois to ask questions within that period, and at the end of that time the yeas and nays be called.

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

Mr. McINTYRE. Mr. President, I would like to ask the Senator from Nevada: Of the 160,000 barrels a day will 78 percent of that go to the defense forces of this country?

Mr. CANNON. The Senator is correct. Twenty-two percent of that production of 160,000 barrels—when it reaches that volume and that will take a period of time—will go to Standard Oil under the unit plan agreement. However, there is a credit in behalf of the United States. The unit plan contract calls for a pay back to the Government before SoCal draws the 22 percent. Until this payback is fulfilled SoCal will receive about 7 percent of production. But the 78 percent will go to the U.S. Government and it will not make up the deficit now being proposed under the Defense Production Act on the civilian economy, which is 300,000 barrels a day.

Mr. McINTYRE. What the Senator from Nevada is talking about and what the Senator from California is talking about with respect to the 22 percent comes from a prior agreement with SoCal.

Mr. CANNON. Standard Oil of California owned lands in this reserve when it was established and this plan was worked out so that they agreed not to pump for the Government's benefit. They have the right to 22 percent of the oil pumped, and the Government the remaining 78 percent. It is estimated that for 1 year it will not use up more than 6 percent of the estimated known reserves in Elk Hills. The most conservative estimate we have received in testimony was that that reserve would have 17 to 18 years remaining after that 1 year of use.

Mr. McINTYRE. I thank the manager of the bill.

Mr. STEVENSON. Mr. President, will the Senator from Virginia yield?

Mr. WILLIAM L. SCOTT. I yield.

Mr. CRANSTON. Mr. President, will the Senator yield first for a unanimous-consent request?

Mr. STEVENSON. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Ann Ray, of my staff, may have the privilege of the floor.

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

Mr. STEVENSON. Mr. President, I have to speak as strenuously as I can against the consideration of this bill at this time. We have not had a chance to debate this matter on the floor. I have not had a chance to read the report of the Committee on Rules and Administration. There are many questions. We cannot answer them all or debate them under this time agreement.

I do not know that all Members of the Senate know that at this moment SoCal is being sued by the U.S. Government for drilling this reserve, and under this agreement it would become the operator of the reserve. I do not know what happens to funds placed in escrow. They are apparently for Reserve No. 4. I think we do realize that Mr. Clements, the Deputy Secretary of Defense, has plans for private exploration and development of Petroleum Reserve No. 4. That means that funds from the balance of the oil can be used for the benefit of major oil companies, which may end up developing Petroleum Reserve No. 4. A conservative estimate is that 33 billion barrels are involved. Captain Trunds says there may be as much oil in Petroleum Reserve No. 4 as has been proven in the Mideast.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield.

Mr. WILLIAM L. SCOTT. The distinguished Senator from Nevada is chairman of the Committee on Rules and Administration. While he is here today in his capacity as chairman of the subcommittee of the Committee on Armed Services, the Subcommittee on National Stockpiles and Petroleum Reserves is the subcommittee that considered the legislation now before us, and the full Committee on Armed Services.

Mr. STEVENSON. I thank the Senator for that inadvertence on my part.

Mr. President, I shall conclude where I began. My point is that the Senate is in no position to seriously consider this bill. We have had no debate. Most of us have had little or no opportunity to read the report. Many questions have not been considered and were not fully considered in the Committee on Armed Services. That is what I am told. Many questions were raised this morning in the Committee on Commerce. As a member of that committee I have not had a chance to review this matter.

What is the urgency? What difference does it make if the matter is approved tonight or tomorrow morning? We would be better off if we had a chance to study this bill. On the basis of the hearings this morning I see a similar pattern developing as developed in connection with Teapot Dome, Elks Hill, and it will go on to Alaska. It would be prudent to defer consideration of this matter and I hope the leadership will reconsider its unanimous-consent request.

Mr. CANNON. Mr. President, I simply point out to my distinguished colleague that his charge about the suit of Standard Oil is completely misrepresented. This is a private action to determine the rights of whether or not a well drilled outside of the reserve by Standard on their own land should be included within this reserve. There is a provision for inclusion of lands within the reserve. That is the sole determination. At the present time we do not know whether it is such that it should be included. It would be included if it is draining the reserve. That matter is covered in the hearings.

I would point out that it is the subcommittee of the Committee on Armed Services that has jurisdiction over the stockpile, and we are the committee that considered this matter. We considered all these charges that have been made by the various people. We made a good record.

It would be very difficult to explain to the people of this country why we did not use for defense purposes naval petroleum reserves and left them in the ground when we had the opportunity to use them and alleviate part of the shortage the country will face shortly. When people find themselves unable to heat their homes or drive their cars I am sure they will not appreciate Congress saying, "Let us keep those petroleum reserves in the ground and sit on them and not develop them, and take an orderly procedure to develop them."

We do not know the extent of Petroleum Reserve No. 1, but by all estimates it is over 1 billion barrels, and further exploration conservatively speaking, may produce another 400 million barrels. There is still more development work to do. We feel it is incumbent upon Congress to act responsibly.

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

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CANNON. The hearings address themselves to the questions raised. The answers are given by the respective witnesses, and the official position of the company that is in partnership with the Government to the extent of 22 percent. Had the unit plan not been reached by the Navy and SoCal, the Navy had two alternatives; they could have let Standard pump and drill that reserve as they saw fit, or they could have, used the condemnation process, and been willing to pay for Standard Oil's 22 percent of the then known 1 billion barrels of oil at a great cost.

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

Mr. CANNON. Mr. President, I yield the remainder of my time to the Senator from California.

Mr. CRANSTON. Mr. President, I merely want to say that I have been aware of these charges. I have explored them to the best of my ability, and so has my staff. I know the committee has looked into them thoroughly. They had numerous witnesses and asked each witness these questions. The committee is satisfied that the charges are without merit.

I would like to point out that the measure has an escape clause on page 10, line 11, in which it is stated:

No authority contained in sections 4 and 5—

Which are the key authorizing provisions—

may be exercised until (1)—

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

Mr. CRANSTON. May I have half a minute?

The PRESIDING OFFICER. Is there objection to the extension of time? Without objection, it is so ordered.

Mr. CRANSTON. I continue to read—"the Attorney General has prepared and submitted to the Committees on Armed Services of the Senate and the House of Representatives a report describing the rights, duties, and obligations of the United States and any other party or parties having any contractual or other interests in Naval Petroleum Reserve Numbered 1, and (2) fourteen days have elapsed after the submission of such report to such committee."

If there is any merit to any of these charges or any new allegations are raised, this provision provides time for the Armed Services Committees to investigate before any production can commence.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the joint resolution.

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

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

[The Vice President assumed the Chair as Presiding Officer.]

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. MCCLURE), and the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

Also, the Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 67, nays 10, as follows:

[No. 606 Leg.]

YEAS—67

Baker	Hansen	Nunn
Bartlett	Hartke	Packwood
Bayh	Haskell	Pastore
Beall	Hatfield	Pell
Bentsen	Helms	Proxmire
Bible	Hruska	Randolph
Buckley	Huddleston	Ribicoff
Byrd, Harry F., Jr.	Hughes	Roth
	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott, Hugh
Cannon	Jackson	Scott, William L.
Case	Johnston	
Chiles	Long	Sparkman
Cook	Magnuson	Stafford
Cranston	Mansfield	Stennis
Dole	Mathias	Stevens
Domenici	McClellan	Symington
Dominick	McGee	Talmadge
Eagleton	Metcalf	Thurmond
Fannin	Montoya	Tunney
Fong	Moss	Weicker
Griffin	Muskie	Williams
Gurney	Nelson	Young

NAYS—10

Abourezk	Hart	McIntyre
Allen	Hathaway	Mondale
Biden	McGovern	Stevenson
Clark		

NOT VOTING—23

Aiken	Curtis	Kennedy
Bellmon	Eastland	McClure
Bennett	Ervin	Pearson
Brock	Fulbright	Percy
Brooke	Goldwater	Saxbe
Burdick	Gravel	Taft
Church	Hollings	Tower
Cotton	Javits	

So the joint resolution (S.J. Res. 176) was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. COOK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended, so as to read: "Joint resolution to authorize and direct the development of and the production of petroleum from Naval Petroleum Reserve No. 1, and to direct the exploration of Naval Petroleum Reserves Nos. 1 and 4, and for other purposes."

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 620) to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes.

AMENDMENT OF SMALL BUSINESS ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2482.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2482) to amend the Small Business Act which was to strike out all after the enacting clause, and insert:

AUTHORIZATION

SECTION 1. Paragraph (4) of section 4(c) of the Small Business Act is amended—

(1) by striking out "$4,300,000,000" and inserting in lieu thereof "$4,875,000,000,";

(2) by striking out "$500,000,000" where it appears in clause (B) and inserting in lieu thereof "556,250,000";

(3) by striking out "$500,000,000" where it appears in clause (C) and inserting in lieu thereof "$525,250,000";

(4) by striking out "$350,000,000" and inserting in lieu thereof "$381,250,000".

Any additional amounts authorized by this Act which are not obligated by June 30, 1974, shall no longer be available after that date.

LOAN TO MEET REGULATORY STANDARDS

SEC. 2. (a) Section 7(b)(5) of the Small Business Act is amended to read as follows:

"(5) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in its plant, facilities, or methods of operation to meet requirements imposed on such concern pursuant to any Federal law, any State law enacted in conformity therewith, or any regulation or order of a duly authorized, Federal, State, regional, or local agency issued in conformity with such Federal law, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph: *Provided*, That the maximum loan made to any small business concern under this paragraph shall not exceed the maximum loan which, under rules or regulations prescribed by the Administration, may be made to any business enterprise under paragraph (1) of this subsection; and"

(b)(1) Section 7(b)(6) of the Small Business Act is repealed.

(2) Paragraph (7) of such section 7(b) is redesigned as paragraph (6).

(c) Section 28(d) of the Occupational Safety and Health Act of 1970 (Public Law 91-596) is amended by striking out "7(b)(6)" and inserting in lieu thereof "7(b)(5)".

(d) In no case shall the interest rate charged for loans to meet regulatory standards be lower than loans made in connection with physical disasters.

CONFORMING TECHNICAL AMENDMENTS

SEC. 3. (a) Subsection (g) of section 7 of the Small Business Act, as added by section 3(b) of the Small Business Investment Act

Amendments of 1972, is redesignated as subsection (h).

(b) Subsection (c) of section 4 of the Small Business Act is amended by striking out "7(b)" each place it appears in paragraphs (1)(B), (2), and (4) and inserting in lieu thereof "7(h)".

AUTHORITY OF SECRETARY OF AGRICULTURE WITH RESPECT TO NATURAL DISASTERS

SEC. 4. Notwithstanding the provisions of Public Law 93-24, the Secretary of Agriculture shall continue to exercise his authority with respect to natural disasters which occurred after December 26, 1972, but prior to April 20, 1973, in accordance with the provisions of section 5 of Public Law 92-385 as such section was in effect prior to April 20, 1973.

LIVESTOCK LOANS

SEC. 5. Section 7(b)(4) of the Small Business Act is amended by inserting before the semicolon at the end thereof the following: ": Provided, That loans under this paragraph include loans to persons who are engaged in the business of raising livestock (including but not limited to cattle, hogs, and poultry), and who suffer substantial economic injury as a result of animal disease".

LOANS FOR ADJUSTMENT ASSISTANCE IN BASE CLOSINGS

SEC. 6. Section 7(b) of the Small Business Act is amended by adding after paragraph (6) the following new paragraph:

"(7) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in continuing in business at its existing location, in reestablishing its business, in purchasing a new business, or in establishing a new business if the Administration determines that such concern has suffered or will suffer substantial economic injury as the result of the closing by the Federal Government of a major military installation under the jurisdiction of the Department of Defense, or as a result of a severe reduction in the scope and size of operations at a major military installation.".

ANNUAL REPORT ON STATE OF SMALL BUSINESS

SEC. 7. The first sentence of subsection (a) of section 10 of the Small Business Act and the first word of the second sentence of such subsection are amended to read as follows: "The Administration shall, as soon as practicable each calendar year make a comprehensive annual report to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include a description of the state of small business in the Nation and the several States, and a description of the operations of the Administration under this chapter, including, but not limited to, the general lending, disaster relief, Government regulation relief, procurement and property disposal, research and development, technical assistance, dissemination of data and information, and other functions under the jurisdiction of the Administration during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary or desirable to implement more effectively congressional policies and proposals, for establishing new or alternative programs. In addition, such".

ANTIDISCRIMINATORY AMENDMENT

SEC. 8. Section 4(b) of the Small Business Act is amended by adding after "The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator." the following new sentence: "In carrying out the programs administered by the Small Business Administration including its lending and guaranteeing functions, the Administrator shall not discriminate on the basis of sex or marital status against any person or small business concern applying for or receiving assistance from the Small Business Administration, and the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States and their survivors or dependents.".

INFLUENCING OF SBA DECISIONS

SEC. 9. The Small Business Act is amended by inserting at the end thereof the following new section:

"SEC. 22. (a) No Member of Congress or officer or employee of the United States may attempt to improperly influence the official conduct of any officer or employee of the Administration with respect to the entering into by the Administration of any loan, loan guarantee, or other agreement.

"(b) For purposes of subsection (a), the term 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico.

"(c) Any person who violates subsection (a) shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(d) Any official decision of any officer or employee of the Small Business Administration with respect to which any violation of subsection (a) occurs is null and void."

SEC. 10. (a) Section 3 of Public Law 93-24 is amended by striking therefrom: ", and are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time", and insert in lieu thereof the following: "Such loans shall be made without regard to whether the required financial assistance is otherwise available from private, cooperative, or other responsible sources".

(b) The provisions of subsection (a) of this section shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after April 20, 1973.

(c) With regard to all disasters occurring on or after December 27, 1972, the Secretary of Agriculture shall extend for ninety days after the date of enactment of this section the deadline for seeking assistance under section 321 of the Consolidated Farm and Rural Development Act as amended by this section.

(d) Section 321(a) of Public Law 87-128, as amended, is hereby amended by striking "which cannot be met for temporary periods of time by private, cooperative, or other responsible sources (including loans the Secretary is authorized to make or insure under subtitles A and B of this title or any other Act of Congress), at reasonable rates and riods of time". The provisions of this subterms for loans for similar purposes and pesection shall be given effect with respect to all loan applications and loans made in connection with a disaster occurring on or after December 27, 1972.

Mr. CRANSTON. Mr. President, there are two minor differences between the House language and the Senate-passed bill. The first is acceptable, in my view. It provides sufficient increases—in SBA's loan ceilings to permit the agency to operate for another 6 months. The Senate measure would have provided a 2-year extension. There is a second difference in which I feel I cannot concur. So on behalf of the Senator from Texas (Mr. TOWER), the ranking minority member of the Banking Committee and myself, move that the Senate concur with the House amendment with an amendment which I send to the desk.

The VICE PRESIDENT. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

Strike Section 9, beginning on page 6 and ending on page 7.

Mr. CRANSTON. Mr. President, I have discussed this amendment at considerable length with the Senator from Texas and I join with him, as a cosponsor. The amendment has also been discussed with all of the concerned parties on this side, both sides of the aisle—including Senators SPARKMAN, WEICKER, PACKWOOD, and BIBLE, all of whom concur in the recommendation made by Senator TOWER and myself—and I am convinced it is a necessary amendment at this point. I believe that the House will be willing and able to agree to the bill with this amendment and send this emergency legislation to the President for signature.

The amendment of the Senator from Texas would strike from the House amendment section 9, which is a provision which was added on the House side without any discussion at hearings or in subcommittee in that body and which, of course, was not considered at the hearings or markup in either subcommittee or full committee on this side. There is no House committee report on the matter to spell out the purposes of the amendment and deal with its ambiguities.

The House provision would make it a criminal offense punishable by imprisonment of not more than 1 year or a $10,000 fine, or both, for any Member of Congress or officer or employee of the United States to, and I now quote, "attempt to improperly influence the conduct of any officer or employee of the [Small Business] Administration with respect to the entering into by the administration of any loan, loan guarantee, or other agreement."

This amendment has a most laudatory purpose—a purpose in which I fully concur—to restore integrity to the operations of the SBA which have come under such a dark cloud recently. However, as the Senator from Texas has indicated in our discussions, the House amendment has many, many difficulties.

Its language is extremely vague, and the debate in the other body was both hazy and incomplete as to the intended scope of this criminal provision. This problem of vagueness is seriously exacerbated when it is connected to a criminal prohibition. Thus, we are advised that the language of the House provision is of dubious constitutionality under the due process clause.

As a part of the vagueness of the language, there appears to be a distinct possibility that this provision could be interpreted as eliminating any effective congressional oversight of the SBA's operations. The Small Business Subcommittee, which I chair, is engaged at this very moment in very intensive oversight of SBA activities, and I cannot believe that it would be in any way in the public interest for such congressional scrutiny to be barred.

I do not see how we can take such a

risk, since the result would obviously be totally contrary to the stated intention of the House provision.

The House provision also would retroactively invalidate any loan or loan guarantee or other agreement entered into in connection with activities found to violate the House prohibition. Such a retroactive invalidation provision adds more complications to the difficulties already expressed in terms of vagueness, by imposing a threat of invalidation over SBA actions. Such a threat could cause great hardship to legitimate SBA loan recipients who would be unable to predict with any certainty whether a particular loan or loan guarantee might turn out to be found violative of the criminal prohibition.

There has been no opportunity for us to secure a legal opinion as to the scope, impact, and implications of the House provision either from the American Law Division of the Congressional Research Service or from the Department of Justice, or, indeed, to test the language of the House provision with criminal law or constitutional law experts.

If indeed the policy seemingly set forth in the House provision is a desirable one—as it seems to be—there seems to be no justification for applying it only to the operations of the SBA. Certainly, numerous other Federal agencies engage in a dollar volume of contracts, grants, loans, and loan guarantees, far in excess of the SBA's. If such a provision is desirable and can be clearly drafted so as to withstand constitutional scrutiny, is there any reason why it should not be applied across the board to all Federal loans, loan guarantees, grants and contracts?

We have an emergency measure here. The authority for the SBA's operations is running out, and I do not see how we can risk the well-being and livelihood of the thousands of small businessmen who will depend upon this program next year, by trying to perfect and make acceptable the language of the House provision in the very short time left in this session.

The only reasonable course of action, therefore, seems to be to delete this particular House language and, to proceed to examine its efficacy, resolve the questions raised, and consider appropriate revisions in an atmosphere removed from the present emergency situation.

Mr. BIBLE. Mr. President, I rise to comment upon the Small Business Amendments Act, S. 2482. This bill passed the House on Monday, December 17. Sections 2 through 8 are identical with the bill passed by the Senate earlier this year.

Section 1, however, has been modified by the House so that the increases in ceilings for various Small Business Administration loan categories will be sufficient for only 6 months, rather than the 2 years provided by the Senate-passed bill. The reason for this change is that in the interim an intensive investigation by the House Banking Committee uncovered reports of possible mismanagement and misconduct in some of SBA's field offices.

The House committee apparently felt that there should be a complete investigation of these charges before Congress is asked to approve increases in authority for the remainder of the 2-year period. I believe that the judgment of the committee and the House in this respect are fully supportable, and that these matters should be fully looked into before action is taken for 2 years into the future.

I wish particularly to comment on section 2 of the bill which contains authority for so-called compliance loans. This section will consolidate and extend SBA's authority to make emergency—disaster—loans to businesses seeking to comply with more stringent Federal or federally derived standards in the pollution, environmental, health, and sanitary fields.

It has been gratifying to work on this measure with the distinguished chairman of the House Banking Committee, Mr. PATMAN, who introduced the House companion bill resulting in identical versions of section 2 in the House and Senate-passed bills. Representative PATMAN's wisdom has improved this measure at several points over the years; for instance, in limiting the amount of the permissible loans to the level prevailing under other subsections of the applicable 7(b) of the Small Business Act.

Commendation is also due to the Senator from New Hampshire (Mr. MCINTYRE), who held hearings on this proposal in 1970 and 1971; and also the Senator from California (Mr. CRANSTON), who gave a sympathetic hearing to the present bill and guided it to final passage.

Small businessmen around the country, and the Nation as a whole, are well served by these distinguished legislators, who have taken their time to keep the foundations of our economy in good repair.

This area of small business difficulty has been caused by our entry into what has been called the consumer-environmental era. One of the series of laws signaling the arrival of this new era was the Wholesome Meat Act of 1968, which threatened to put many small business meatpackers out of business under its upgraded standards and 2-year deadline. In May of that year, I introduced a resolution calling upon the Small Business Administration to study the impact of that bill on approximately 14,000 small processors in this basic industry.

When the study was completed, it showed that only about half the funds needed to finance the improvements needed to effect compliance would be available from private commercial sources. I believe that we should recognize the efforts of SBA in completing this very useful survey, which served as a model for other impact studies of this kind elsewhere in the Government.

Consideration of this kind led to my introducing S. 1750 in April of 1969 in order to provide general authority for SBA to make compliance loans so that small businesses could become partners in progress rather than its victims. During the intervening years, the language of S. 1750 was applied to and enacted as to six specific areas: coal mine safety; occupational safety and health; wholesome meat, poultry and eggs; and water pollution. SBA has been gradually implementing this authority, and I believe that more than 200 businesses have been saved from closing their doors by loans of this kind.

However, other areas such as air pollution were not covered. Also, in many cases small firms have multiple compliance problems, so it will do them little good to expend their capital solving one problem if another would put them out of business.

Now, at the end of 1973 the general loan provision will become law in almost the form in which it was first proposed. I thank the Senate and the House for their attention to this matter and hope that these loans may benefit many small firms and employees and their communities in every State, so that in the words of the Small Business Act, we may "strengthen the overall economy of the Nation."

The VICE PRESIDENT. Without objection, the motion is agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COOK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. What is the will of the Senate?

PETROLEUM RESERVES

Mr. STEVENSON. Mr. President, the petroleum reserves should be developed, and developed expeditiously, for the benefit of the public. But that is not the question. The question is whether they will be developed and employed for the benefit of the public or for the benefit of the major oil companies.

That is not a question that we were able to discuss tonight. I regret it; I think it is a matter of such importance that it warranted and deserved the full consideration of the Senate.

To better explain the issue, since I did not have that opportunity tonight, I ask unanimous consent that the testimony of Representative JOHN E. Moss of California before the Senate Committee on Commerce this morning be printed in the RECORD at this point.

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

TESTIMONY OF REPRESENTATIVE JOHN E. MOSS, OF CALIFORNIA BEFORE THE SENATE COMMERCE COMMITTEE, DECEMBER 19, 1973

It is a pleasure to appear before this Committee today to testify on a situation I believe must be brought to public attention before it is too late to prevent the largest, most successful attempt by the oil industry to utilize public resources for private gain. What is worse, as the outcry mounts over energy shortages, this effort stands an ever-increasing chance of suceeding, largely because few are reading the fine print.

Many well meaning groups and individuals, ranging from mayors, utilities and owners of industry to labor unions, private plane owners and heads of families are asking that Navy Oil Reserves, especially Elk Hills, California, be opened up in the name of alleviating shortages.

I do not oppose such a step, if it can be proven that these reserves will make a dif-

ference, and in time to make life easier for consumers. What I oppose is opening them up in a panic situation, and by so doing allow a private industry, already accused of causing many shortages, to profit vastly at virtually no risk or cost to itself. That is the situation surrounding Elk Hills, as I perceive it now.

Elk Hills contains, according to an October 5, 1972 study by the General Accounting Office, a minimum of 1.3 billion barrels of low-sulfur, easily extracted oil. Its 72 square miles are located 16 miles southwest of Bakersfield, containing some 1,050 wells, producing approximately 2200 barrels daily for test and maintenance.

There are three other Navy oil reserves. Buena Vista Hills, drained steadily over the years, is not a meaningful element in our considerations. Teapot Dome, Wyoming, and Pet Four, on Alaska's North Slope, do figure in them; the first because it sets the stage for an attempt to grab off Elk Hills and the latter because it is the main course in a meal of lush profits the oil industry hopes to cook for itself at taxpayer expense.

In World War II, Elk Hills produced up to 65,000 barrels daily. Teapot, of scandalous memory, has been a low level producer over the years. Pet Four, large as Indiana, is not even fully explored and mapped. Standard Oil of California, referred to as SOCAL, owns approximately 20% of Elk Hills, having retained ownership because government did not take its land when the reserve was created. In the 1940's, when Navy moved to acquire land in the reserve, a bitter struggle developed, ending as government imposed a settlement on industry. Instead of taking over private holdings, Navy entered into a "unitized" agreement with SOCAL, covering their Elk Hills holdings. All the property is operated as a unit, tying Navy and company together for that sole purpose.

In theory, these reserves are to be opened only in case of armed conflict. Any exploitation must be approved by resolution of both Houses of Congress. Numerous efforts have been mounted over the years to open these reserves. In each case, the Armed Services Committees have proved effective roadblocks. While the public virtually forgot these energy safety deposit boxes, SOCAL had them very much in mind, even maintaining a special Elk Hills group within the company, on which highest ranking officials served.

Private interests required an ally within government, finding it in the Department of the Interior, which today virtually operates as an adjunct of the oil industry insofar as these reserves are concerned. For years, that agency, steadily and consistently, has sought to encroach on these reserves; sometimes by allowing private interests to lease and drill on Federal lands, including buffer zones around two of them. Two agencies within Interior, Bureau of Land Management and Geological Survey, have consistently allowed private interests to nibble at the edges of these increasingly valuable reservoirs.

Both Elk Hills and Teapot Dome have been damaged because of this policy. The Justice Department has also, by both action and inaction, aided and abetted this state of affairs. Two long-standing Federal regulations are designed to prevent encroachment on these reserves, specifically prohibiting leasing of and drilling on Federal lands within a one-mile buffer zone extending outwards from any reserve boundary. Title 43, Code of Federal Regulations, 3101.1(a)(6), *Lands within one mile of Naval Petroleum Reserves*, governs leasing, and is administered by the Bureau of Land Management. The second, under Title 30, Part 221.20, erects a 200-foot prohibition on drilling operations, and is administered by the Survey.

Two documents, which I submit for the permanent hearing record, were first clues to the cumulative effort to erode viability of the reserves. The first, an October 5, 1972 GAO report, titled: "Capability of Naval Petroleum and Oil Shale Reserves to Meet Emergency Energy Needs," delineated how private oil interests have been allowed to drain oil from around boundaries of Teapot Dome and Elk Hills. At Teapot, it shows the situation has prevailed since 1954, growing progressively worse despite Navy protests.

The second document, dated October 1, 1973, was issued by Navy's Office of Petroleum Reserves, and restates and reinforces the GAO report. Here is an excerpt:

"In the fall of 1954, operators on the eastern boundary of the Reserve obtained commercial oil production from the Shallow Shannon Sand by use of the then new oil production technique called "sand fracturing." This again opened the question of drainage. Operations of adjacent operators were placed under surveillance and data were assembled in order to permit an engineering study of the problem. Both Geological Survey and Navy's engineering consultants concluded drainage from the Reserve was probably occurring.

"All information obtained indicated production was necessary to prevent drainage of oil from the reserve. To date 104 Shannon wells have been drilled to protect 4½ miles of common boundary.

"Private operators on the northwest boundary of the reserve initiated a secondary recovery project on October, 1965 by injecting water into portions of the Second Wall Creek formation. Offset production by the Navy became necessary after efforts to persuade private operators to change their flood pattern failed. With concurrence of another government agency (Geological Survey), private operators drilled water injection wells 50 feet from the reserve boundary which compelled Navy to commence a costly offset drilling and producing program in order to protect the reserve from most of the damaging effects of invading waters."

Here we have a pattern which later emerged at Elk Hills. Because of peripheral drilling and drainage over Navy protests, Navy was forced to drill wells it did not want to drill within the Reserve, extracting oil it preferred to leave in the ground. Oil taken out by private operators was sold at a profit. Oil extracted by Navy was sold to private interests, because Navy had no immediate use for it.

At October 17 and 18 hearings before the House Armed Services Investigating Subcommittee, this information was fully developed. I offer this report for inclusion in the record. Testimony by GAO's R. G. Rothwell bore out all findings, stating:

"Offset production is carried out at Elk Hills and Teapot Dome to counteract threats of drainage, reduced pressures or flooding caused by production of oil on lands adjacent to the reserve."

I also obtained correspondence between former Navy Secretary BeLieu and both Justice and Interior Departments, calling attention to the situation and protesting inaction allowing this state of affairs to worsen. I offer this material for the record. In a June 4, 1965, letter to the Attorney General, for example, BeLieu states in his opening paragraph:

"I consider it advisable that I inform you that operations now being conducted by private oil companies holding leases on public domain lands adjacent to Naval Petroleum Reserve No. 3 (Teapot Dome) pose a threat of possible irreparable damage to a portion of that Reserve."

Thereupon, I wrote a letter, afterwards made public on the floor of the House, to the President, with copies to the Attorney General, Secretary of Interior, Secretary of Defense and Secretary of Navy, delineating the situation at both reserves, and asking for a complete investigation. That letter, sent October 18, has elicited a reply only from an Assistant Secretary of Navy, denying all accusations, denigrating facts and assuring me all would be well. I include that communication in the record.

One humorous footnote emerged, however, in the form of an outraged letter from Governor Hathaway of Wyoming, who assured me no such events were transpiring. Unfortunately for the Governor, he was kind enough to enclose a letter from his State Oil & Gas Supervisor, one Donald Basko, seeking to disprove these facts. Basko generously included a complete listing of all drainage operations by private companies, their production for a recent month and compared them to Navy's for August of this year. I include this correspondence, plus my reply, which included the following comments:

"The Shannon Case involved MKM Co. The Shannon Case involved Amax, a subsidiary of American Metal Climax. Amax received an exception from Geological Survey, allowing it to violate the Federal regulation over Navy protests, and to drill within 200 feet of the Teapot boundary. In the Shannon Sand Case, from December, 1958 to January, 1973, 2½ million barrels of oil have been taken out by Navy through offset wells and disposed of through Western Crude Refining Co.; oil the Navy would rather not produce. In the case of the Second Wall Creek Sand, Navy has had to produce 1.1 million barrels from September, 1965 to January, 1973. This makes a total of 3.6 million barrels of oil reserved for national defense purposes produced and sold because of Survey's actions. It is known that private operators have produced 1.8 million barrels of oil up to January, 1973. This comes to a grand total of 5.4 million barrels of oil taken out, by private operators and the Navy, from Teapot and its environs, largely in violation of Federal regulations. Activities by private operators have caused water from the process used to invade Teapot, damaging its wells and eroding their produceability. To get oil out, Navy must drill more wells and extract water. All such damaging activities have been going on with the full knowledge of the Bureau of Land Management of the Interior Department."

I have yet to hear from the Governor, even though he is reputed to have called for an investigation. To my knowledge, no inquiry of any kind, beside hearings such as this one and those of the House Armed Services Committee, have been held into this situation.

All this is but a prelude to the Elk Hills effort, commencing with the President's November 7 Energy Emergency Address, in which he called for opening Elk Hills for production of 160,000 barrels daily for one year. Simultaneously, Mr. Ketchum, my colleague from California in whose district Elk Hills is located, introduced a measure to open the Reserve. A mounting public outcry was also heard, calling for opening of Elk Hills. Yet few are aware of profits this could entail for big oil, which swiftly realized how useful public apprehension could be. It has acted accordingly.

As emergency energy legislation cascaded into legislative hoppers of both Houses, carefully imbedded in several such measures were provisions calling for opening up Elk Hills. I do not believe any legislator or staff person know what was entailed in such a move.

I requested further documentation from the Pentagon on Elk Hills, coming into possession of contracts between Navy and private oil companies dealing with that reserve. Two major oil companies now enter the drama; Shell and Standard Oil Company of California (SOCAL). Both companies are dominant in the California energy market, and are among seven major oil giants which control the non-Communist energy equation. Shell is foreign controlled. SOCAL figures in price-fixing accusations in the State of California. Its chairman, Otto Miller, was

revealed by Common Cause's lawsuit to have been a $50,000 contributor to the Committee for the Reelection of the President before the April deadline. David Packard, once No. 2 man in the Pentagon, is reported to have contributed an even larger sum, and also is a member of SOCAL's board.

These two companies possess a total of three agreements with Navy on Elk Hills. Shell's was a five-year contract, arrived at in 1970. Under its terms, passed by Justice and signed by the President, Shell would be sole purchaser of Navy's share of any Elk Hills production from the unitized area. Under questioning, Navy indicated the Shell contract was intended to dispose of routine, relatively minor (2200 bbls daily) test and maintenance production. However, that agreement is so worded as to accommodate deliveries of production at vastly increased rates, such as would be the case under the President's requests. Translated, this means Shell could have claimed, with perfect legal right under its Navy contract, any and all increased production from the Reserve.

When I made these revelations in the same October 18 letter referred to earlier, Navy responded on November 6, claiming no such intention had been in mind, and that this contract would be set aside if the field was opened. This gives rise to the question as to why such a contract was awarded in the first place. At this point, I offer the Shell contract and Navy's response for inclusion in the record. No other formal answer has been forthcoming to me since October 18 from any other involved agency.

Upon further investigation, still more intriguing tidbits emerged. When bidding for this contract was held, the smallest bidder, Pima Refining, was excluded at the start because it could not guarantee transportability of oil. Two serious bidders were left; Shell and SOCAL, who proceeded to submit exactly identical bids. Navy, as the letter I have submitted indicates, thought this mere coincidence, although it admitted it considered a possibility of collusion. After dismissing this possibility, Navy awarded the contract to Shell by lot.

Had the Navy and the Justice Department, which also approved the contract, conducted even the most cursory investigation, they might have discovered further strange factors at work. Kenneth Cory, chairman of the California State Legislature's Joint Committee on Public Domain, could have enlightened them. Cory's investigation has resulted in a court case revolving around an accusation that Shell and SOCAL have conspired to deprive California of royalties from oil produced on state-owned lands. A difference in royalties of $1.27 per barrel appears to be involved. It is alleged that major oil companies, through market domination, are able to rig bidding. Requests to the two companies for appropriate information have thus far met with vigorous resistance.

Nonetheless, Navy approved the Shell contract, passed it to Justice, which also approved, and it was then signed by the President.

On November 3, 1971, Navy entered into another contract with SOCAL for actual operation on Elk Hills. SOCAL, it should be noted here, had 1972 sales of $5,829,000,000, with net profit after taxes of $547 million. As of the third quarter of 1973, its profits already came to $561 million.

This company already owned 20% of the land within the Reserve, had fought creation of the Reserve, had submitted an identical bid with Shell and is accused of depriving California of oil royalties. Yet Navy again handed over operation of this $10 billion reserve to that same company. I submit that contract for the record.

A third contract exists, which I also offer here. It is also between Navy and SOCAL, and is known as the unit plan contract, governing production on the Reserve. When Elk Hills was created, SOCAL owned 8,000 of 45,000 acres in the Reserve. SOCAL-owned land overlying 30% of oil producible from the older, more easily reached Shallow Zone, and overlies 16.5% of known oil in the untouched Stevens Zone. In light of today's situation, SOCAL emerges as a contented silent partner, about to reap fruits of patience and government laxity.

Unit agreements are common to the oil industry. This one contemplates that each party will eventually receive an amount of Elk Hills oil equal to the amount of oil underying its land holdings, irrespective of well location. Each party is expected to pay its pro rata share of costs necessary to get the oil.

Navy, however, took a generous view of such SOCAL obligations, ostensibly because unlike commercial fields, the Reserve is not to be produced except upon an uncertain contingency: war. Navy took the position it would be unfair to ask SOCAL to pay its share because there was no guarantee of immediate return.

Accordingly, Navy agreed to pay all such costs "currently", and to defer SOCAL's obligation to pay its share until it actually received oil. So the contract allows SOCAL to build up a deficit in costs, requiring it to wipe out any deficit by paying more than its share of costs when it actually starts to receive production. Today that deficit amounts to $10.5 million. SOCAL starts getting its share when such a "production balance" is achieved.

"Production balancing" was made necessary because the contract allows SOCAL to receive oil ahead of schedule, as a deviation from the general rule that each party should share in oil as it comes from the ground according to its percentage ownership of oil in the field.

When the Unit Plan contract began, SOCAL received all Elk Hills production until it had received some 25 million barrels, as consideration for its agreement to give Navy control over production. To relieve SOCAL from being "out of pocket" during periods when the field is shut in, the contract allows it to receive enough oil to cover its share of current expenses and local taxes on its Elk Hills land. These provisions have the effect of putting SOCAL ahead of Navy in receipt of production to date. As of today, Navy admits, SOCAL has actually received a percentage of oil withdrawn from the Reserve to date greater than its percentage of ownership of total oil in the field. SOCAL's production balance owed the taxpayers now stands at $13.5 million, for a grand debt total of $24 million. Should Elk Hills be opened up in the name of emergency other than a war, SOCAL could probably go to court, argue Navy has unilaterally breached the contract, and seek forgiveness of the debt. Testifying before the House Armed Services Investigations Subcommittee on October 17, Assistant Secretary of the Navy Bowers stated:

"Thus, production might arguably be in breach of the Unit Plan contract if it were not construed to be for 'national defense.'"

I have both his testimony and a copy of the report emerging from those hearings, which I offer to the committee.

SOCAL could argue that production would not be taking place under the contract, that obligation to come into production and cost balance would not be triggered, and that SOCAL would have returned to it rights it had before any contract existed. This would in turn allow the company to enter its lands within the Reserve to produce its share without restriction, effectively draining much of the Reserve, ruining it as such. SOCAL, I understand, has already indicated to Navy that it would drill and extract oil not from the Shallow Zone, which would be Navy's preference, but from the Stevens Zone, a virgin reservoir. Once tapped, such a pool could not have its production turned on or off like a spigot. An oil field produces on a curve, rising and falling gradually. Once production begins, geological forces called hydrodynamic imbalances are created. If production is not maintained, much oil is irretrievably lost. Today, for example, maintenance production continues at Elk Hills because of World War II tapping. Therefore, extraction must be kept up; in the case at Elk Hills, large and continuing production. Navy wishes to avoid this. SOCAL may be counting on it.

What would happen to the huge Navy share of 80% of all production foisted upon a reluctant service if we approve a hasty opening? Navy said, in the earlier submitted letter, it would be, "sold by competitive bid giving fair opportunity to all." Would it? I think not.

Major oil companies have a stranglehold on all significant markets. This was once again illustrated by a recently released two-year FTC study on monopoly practices in that industry. The history of these reserves alone offers further proof, especially the Shell contract. How many independents would thrust forward in competition for Navy's share against the giants? Pima Refining's fate is obvious to all. Would they, for example, even if able to bid successfully, be able to obtain pipeline capacity?

The only pipelines connecting with Elk Hills proper are owned by SOCAL and Atlantic-Richfield. No common carrier pipe is to be found there, guaranteeing monopoly of control to private interests, no matter who buyers may be.

Yet even this was not enough. Upon even more careful scrutiny of the Navy and GAO documents, a pattern of oil drainage along the boundaries of Elk Hills emerged similar to that reported at Teapot Dome. The Navy report contains the following lines, alluding to the boundary at Elk Hills:

"Because of production by the adjoining private operators, the Navy has been forced to produce competitively from Asphalto to protect against loss of hydrocarbons due to drainage."

Teapot? No. Elk Hills. The GAO report yielded confirmation, as follows:

"Commercial operators on leased Federal and privately owned lands contiguous to the southwestern portion of the reserve are producing oil from the same geologic zone and structure as lands within the boundary of the reserve. In this area, known as the Asphalto Field, the Navy has had to produce oil from a 160-acre parcel of land within the Reserve to prevent it from draining into the commercial wells on the leased land just outside the Reserve's boundary.

"The BLM leased land in this area to commercial producers in 1962. Federal regulations prohibit issuance of oil and gas leases by BLM within a mile of Reserve boundary, unless the land is being drained by private operators or it is determined after consultation with Navy officials that the Reserve would not be adversely affected. In December of 1962 and January of 1963, ONPR officials expressed concern over issuance of the leases within the one mile buffer zone and the subsequent drilling activity. BLM officials informed them that in August, 1955, the Director of ONPR had given blanket permission for new leases or renewal of leases previously approved by Navy. Although Navy cancelled the 1955 waiver in January, 1963, it was unable to provide sufficient grounds to BLM for cancelling the lease."

The October 17–18 hearings produced that letter, appearing on page 32. It states in part:

"The House be advised that leases or renewal of leases to lands previously approved for leasing by the Dept. of the Navy may be made without reference to this office."

The person signing was S. Miller, Captain, U.S. Navy, Director, Naval Petroleum Reserves. As a result of the letter and how Interior chose to interpret it, exceptions to

Federal regulations on oil and gas leasing around boundaries of Reserves under discussion were allowed by Interior, over continued Navy protests. Today, Stan Miller is no longer in the Navy. And today Interior admits to Navy it misconstrued his letter to allow buffer zone leasing. Interior is still where it was. Miller, however, is an executive for the "American Committee for Flags of Necessity;" an organization representing, among others, fleets of tankers controlled by major oil companies.

GAO's 1972 report continues:

"In December, 1972, oil was also discovered on land within the Asphalto Field adjacent to Elk Hills, which is owned in fee by a private oil company (SOCAL). The term "in fee" indicates that the company owns both the land and the subsurface minerals. Two wells were drilled in February, 1964, by the oil company on its fee land.

"The Unit Plan contract allows Navy to bring additional lands owned by the oil company into the plan, if it can show that the lands are on the same geological structure as an oil field in Elk Hills. According to Navy, it attempted to implement this provision of the contract with respect to the Asphalto Field but these attempts were resisted by the oil company. Claiming that drainage was occurring from the unit area into the company's fee land in this area, Navy initiated a suit against the company in 1967 to include portions of this fee land in the Unit Plan. On May 18, 1972, the U.S. District Court for the Northeast District of California decided the case in favor of the oil company."

Here we encounter unique legal acrobatics on the part of Justice Department. Navy sees boundary invasions at Elk Hills exactly similar to those at Teapot. BLM is involved in both situations. Yet it took Navy from the early sixties until September 29, 1967 to get the Justice Department to file its first legal complaint. SOCAL was given till August 30, 1968 to answer, and trial was not held until June of 1971. District Court judgment was entered in late May of last year. Notice of appeal was filed by Navy in July of last year. The U.S. filed its brief in March, 1973, and the appeal is still pending before the U.S. Court of Appeals of the 9th Circuit.

SOCAL asked and received from Justice twelve consecutive continuations. All the while Elk Hills was being damaged, because Navy had meanwhile been forced into the same policy it had adopted at Teapot; offset drilling within the Reserve, and extraction of oil it preferred to leave in the ground. As GAO said:

"The Navy drilled its first offset well in the Asphalto Field in April, 1963. By December, 1970, it had taken out about 84% of its share of the recoverable resources in the field. Navy also drilled water injection wells between Asphalto and the main oil field in Elk Hills to prevent movement of oil from that pool into the Asphalto Field."

Each well costs hundreds of thousands of dollars to drill at taxpayer expense. Also, whatever oil Navy extracted presumably was sold through private industry, SOCAL later proceeded to do exactly the same thing on other fee land around Elk Hills, this time at an area known as Railroad Gap. Here again we had a pattern of drainage, Navy protest, Navy offset production and loss to the Reserve, as the GAO report indicates.

Meanwhile, Justice was engaged in pursuing justice, but at a very leisurely pace. In a meeting with my staff, Justice representatives admitted a recommendation had been made in 1970 for action on Elk Hills by their Los Angeles office. No action was ever taken. Yet this was the same department professing lack of surprise over identical bids which approved all contracts in question. At the meeting these officials admitted knowledge of identical bids, offering no explanation of why the Navy's appeal was not being pressed.

Which brings us to the latest boundary zone raid by SOCAL at Elk Hills. Just north of the Reserve, SOCAL opened up a new field, known as Tule Elk. After a vigorous effort, virtue being its own reward, SOCAL brought in a lush new oil field, as the Oil & Gas Journal in September of this year noted. At least five drilling rigs are involved and a minimum of three wells have been completed, all of which are now heavy producers. Some 30,000 barrels daily are being taken by SOCAL out of the Tule Elk Field, and are being marketed for about $6 per barrel. According to a well spread chart shown Navy by the company, the nearest planned well is 330 feet from the Elk Hills boundary on Standard land.

Navy had a gentleman's agreement with SOCAL to the effect that no drilling would be performed by SOCAL on that land. When SOCAL kindly informed Navy they were bringing in a field just over the next hill, Navy was, to put it mildly, aghast.

Navy has now been forced into an expensive offset drilling program within the Reserve, because it believes there is a strong connection between the oil pool being tapped by SOCAL at Tule Elk and Elk Hills. As in the past, Navy drilling is being provided through SOCAL. Wells, of which four have been drilled, are costing the taxpayer some $450,000 each. Thus far, $1,800,000 in taxpayer funds have been laid out by Navy, and I am informed a connection has been established between the two fields by an oil show at Navy's fourth well. SOCAL's goals can be ascertained by presence of a 50,000 barrel-per-day gathering unit emplaced at Tule Elk. To quote strained Navy language from a recent internal document:

"The seriousness of the potential drainage from this area may be seen from the fact that during the week of November 17, 1973, Standard had three producing wells with daily production averaging in excess of 10,000 barrels of oil daily, a fourth well ready to be brought on production, and five more drilling wells in various stages of completion. Despite several letters from the Director of Naval Petroleum & Oil Shale Reserves expressing Navy opposition to its plans, Standard has moved ahead at great speed, suggesting in its correspondence that no contractual restraints exist based on its interpretation and further that no physical connections exist."

Neither Navy nor Justice has made any effort to obtain an injunction against SOCAL at Tule Elk, at least until Navy completes its drilling program. Nor, to my knowledge, has any effort been made to press the previous appeal.

Meanwhile, legislation to open the Reserve hastens along. I have advocated that if we open the Reserve, permission should be granted after protection of the public interest is guaranteed by an excess profits tax on Elk Hills oil. Also, that any pipelines carrying Elk Hills Oil should be declared common carriers while doing so, to prevent profiteering by pipeline owners, who are the oil companies themselves. We must not allow those contributing to the energy problem to profit excessively from a situation harming us all.

H.J. Res. 832, introduced for the Administration by request, has been defended as closing loopholes allowing windfall profits to oil companies. I respectfully take issue with such a stand. No fair and open bidding will be possible in light of the lock the majors have on our oil market. No mention is made of boundary drilling. Millions of barrels of government oil will come on the market through the majors, with obvious gains for them.

160,000 barrels daily, as the President suggested, would gross $960,000 at today's prices. Twenty percent of that would go to SOCAL, coming to $192,000 daily. That amounts to about $70 million in a year to one oil company for its 20% interest. Plus Navy's 80 percent, which would fall into their hands as well.

It means the taxpayer will foot at least 80 percent of the bill for a massive extraction, gathering and distribution system at the Reserve, costing at least $30 million.

Today at least nine Federal oil leases are operating within the buffer zone at Elk Hills. Many have been granted by the BLM without Navy permission, under the letter BLM now admits it misconstrued. I have a list with me and include them at this point.

Sacramento lease No.	Lessee	Acres	Location
051077	SOCAL	160	Sec. 10, T30S, R22E.
041855	Sun Oil	160	Sec. 22, T30S, R22E.
064410	General Crude	240	Sec. 22, T30S, R22E.
071813	Ferguson	360	Sec. 26, T30S, R22E.
019311 A&B	Sunset Oil	400	Sec. 6, T31S, R23E.
019378-A	Texaco	160	Sec. 24, T31S, R23E.
019378-B	Mobil Oil	480	Sec. 24, T31S, R23E.
019284A	Union Oil	160	Sec. 20, T31S, R24E.
019284B	do	480	Sec. 20, T31S, R24E.

Leases in Section 20, T31S, R24E and Section 24, T31S, R23E around Elk Hills were apparently in existence prior to establishment of the buffer zone in 1937. However, in the Federal Register of 1937, when the buffer zone was established, there is reference to buffer zone usage since 1924.

There is one other facet of the oil reserve situation, concerning Pet Four, the vast, Indiana-sized Navy oil reserve on Alaska's North Slope, 50 miles away from the Prudhoe Bay oil strike and pipeline being built by major oil companies. I have a 10 page memo from Deputy Defense Secretary Clements, for insertion in the record.

Formerly chairman of the Board of Southeastern Drilling Company, or SEDCO, he owns about $100 million in its stock, which he has refused to place in blind trust. His son is chairman of the board, and SEDCO had as clients all major oil companies involved on the North Slope and around Elk Hills. In fact, Shell is supposed to be its largest client. SEDCO has indicated in its annual report it hopes to participate in construction of the Alaska pipeline. Standard and Poor indicates it has financial capacity to do so.

In his November 17 memo, Clements declared: "I hereby approve the creation of a Defense Energy Policy Council reporting directly to me for the purpose of approving major policies related to energy matters."

On the same day, according to his memo, he approved a Pentagon plan to allow production and exploitation of Navy oil reserves by private industry. The memo says:

"If necessary funding and staffing to support full contractual exploration and development of the reserves cannot be obtained through normal budget processes, the Secretary of the Navy should pursue the development of a procurement strategy that will permit industry participation, on a cost benefit basis to the government, in the exploration, development and production of the Reserves. . . . commit the Congress, upon completion of full exploration of the Naval Petroleum Reserves, to authorize development and production of any oil and gas reserves developed in the reserves which are in excess of defense requirements, as defined by DOD. Any such production would necessarily provide for a fair rate of return to be agreed upon by the government and participating contractors"

It is well known in the Navy and oil business that for years DOD and OMB have prevented Navy from obtaining adequate appropriations to explore and develop Reserves into that state of readiness envisioned when Reserves were created. As far as appropriations are concerned, the Reserves are orphans. Under terms of the memo, if ever implemented, there is virtual guarantee of

these Reserves being opened to development with industry participation.

Hydrostatic imbalances come into play again. If production is ever begun on vast structures and reservoirs at Pet Four, the Navy will be awash in oil in excess of defense needs. Yet production, once commenced, will have to continue or else much oil will be irretrievably lost. What will Navy do in such a situation? There are all those oil companies on the North Slope, 50 miles away at Prudhoe Bay, already commencing their massive pipeline.

At best this is clearly questionable behavior by a person of Mr. Clements' rank and status. At worst it is a conflict of interest we can no longer tolerate, particularly after what has already been revealed during the past year. Mr. Schlesinger's recent announcement that Mr. Clements will no longer be allowed to participate in oil decisions by DOD is belated recognition of how serious this situation is. Mr. Clements, for the good of the Defense Department, should offer his resignation forthwith.

This brings me to my final point. The Naval Oil Reserves are a vast resource. Captain Trunz, head of the Navy's Reserve Office, in a recent speech, indicated the minimum figure of 33 billion barrels of oil in Pet Four is conservative. Pet Four alone may double our existing known reserves. Elk Hills is a $10 billion property.

The oil industry lusts for these riches, and will find a way to get them. In no way can we depend upon the Interior Department to safeguard the public interest, for it has shown itself to be an adjunct of industry in such a manner as to constitute a public disgrace. The Navy is too intimidated to act aggressively against encroachers. The Justice Department is at best today a bulldog with rubber teeth, frightening only to those with an infinite capacity to rationalize.

The solution is to allow Navy to retain control of Reserves, with adequate funding to fully explore and map them, reporting annually to Congress on what these reserves contain. In no way should the Interior Department be allowed to approach or have any say in management of the Reserves.

Finally, the national Oil and Gas Corporation, on the lines of TVA, should be set up to work in tandem with Navy, to administer and prepare Reserves for whatever eventual, inevitable exploitation the nation may desire. In this manner, a yardstick can be created against which to measure behavior and performance of the private oil industry, which I believe today requires more careful control and scrutiny than any other area of American business. Its recklessness, drive for profit, greed, readiness to subvert and ignore the public interest and willingness to bend law for its interests match and surpass any excesses of the Gilded Age. This industry must be brought under control. Perhaps massive Federal intervention may be the only answer eventually. For now, however, the Federal Oil & Gas Corporation is a vital piece of national business which should, I hope, receive a thrust forward as a result of these hearings.

Thank you.

ENDANGERED SPECIES ACT OF 1973—CONFERENCE REPORT

Mr. TUNNEY. Mr. President, I submit a report of the committee of conference on S. 1983, and ask for its immediate consideration.

The VICE PRESIDENT. The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1983) to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The VICE PRESIDENT. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1983), to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, 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 insert the following:

That this Act may be cited as the "Endangered Species Act of 1973".

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FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) PURPOSES.—The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) POLICY.—It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "commercial activity" means all activities of industy and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling.

(2) The terms "conserve", "conserving", and "conservation" means to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(3) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(4) The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

(5) The term "fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(6) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(7) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any

place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(8) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(9) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(10) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this Act and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(11) The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(12) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(13) The term "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish or wildlife resources within a State.

(14) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(15) The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(16) The term "United States", when used in a geographical context, includes all States.

DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

SEC. 4. (a) GENERAL.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(2) With respect to any species over which program responsibilites have been vested in the Secretary of Commerce pursuant to Reorganization Plan Numbered 4 of 1970—

(A) in any case in which the Secretary of Commerce determines that such species should—

(i) be listed as an endangered species or a threatened species, or

(ii) be changed in status from a threatened species to an endangered species,

he shall so inform the Secretary of the Interior, who shall list such species in accordance with this section;

(B) in any case in which the Secretary of Commerce determines that such species should—

(i) be removed from any list published pursuant to subsection (c) of this section, or

(ii) be changed in status from an endangered species to a threatened species,

he shall recommend such action to the Secretary of the Interior, and the Secretary of the Interior, if he concurs in the recommendation, shall implement such action; and

(C) the Secretary of the Interior may not list or remove from any list any such species, and may not change the status of any such species which are listed, without a prior favorable determination made pursuant to this section by the Secretary of Commerce.

(b) BASIS FOR DETERMINATIONS.—(1) The Secretary shall make determinations required by subsection (a) of this section on the basis of the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned is normally found or whose citizens harvest such species on the high seas; except that in any case in which such determinations involve resident species of fish or wildlife, the Secretary of the Interior may not add such species to, or remove such species from, any list published pursuant to subsection (c) of this section, unless the Secretary has first—

(A) published notice in the Federal Register and notified the Governor of each State within which such species is then known to occur that such action is contemplated;

(B) allowed each such State 90 days after notification to submit its comments and recommendations, except to the extent that such period may be shortened by agreement between the Secretary and the Governor or Governors concerned; and

(C) published in the Federal Register a summary of all comments and recommendations received by him which relate to such proposed action.

(2) In determining whether or not any species is an endangered species or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under the jurisdiction of any such nation or political subdivision, or on the high seas.

(3) Species which have been designated as requiring protection from unrestricted commerce by any foreign country, or pursuant to any international agreement, shall receive full consideration by the Secretary to determine whether each is an endangered species or a threatened species.

(c) LISTS.—(1) The Secretary of the Interior shall publish in the Federal Register, and from time to time he may by regulation revise, a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(2) The Secretary shall, upon the petition of an interested person under subsection 553(e) of title 5, United States Code, conduct a review of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review.

(3) Any list in effect on the day before the date of the enactment of this Act of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction shall be republished to conform to the classification for endangered species or threatened species, as the case may be, provided for in this Act, but until such republication, any such species so listed shall be deemed an endangered species within the meaning of this Act. The republication of any species pursuant to this paragraph shall not require public hearing or comment under section 553 of title 5, United States Code.

(d) PROTECTIVE REGULATIONS.—Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants, with respect to endangered species; except that with respect to the taking of resident species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 6(a) of this Act only to the extent that such regulations have also been adopted by such State.

(e) SIMILARITY OF APPEARANCE CASES.—The Secretary may, by regulation, and to the extent he deems advisable, treat any species as an endangered species or threatened species even though it is not listed pursuant to section 4 of this Act if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this Act.

(f) REGULATIONS.—(1) Except as provided in paragraphs (2) and (3) of this subsection and subsection (b) of this section, the provisions of section 553 of title 5, United States Code (relating to rulemaking procedures), shall apply to any regulation promulgated to carry out the purposes of this Act.

(2)(A) in the case of any regulation proposed by the Secretary to carry out the purposes of this Act—

(i) the Secretary shall publish general notice of the proposed regulation (including the complete text of the regulation) in the Federal Register not less than 60 days before the effective date of the regulation; and

(ii) of any person who feels that he may be adversely affected by the proposed regulation files (within 45 days after the date of publication of general notice) objections thereto and requests a public hearing thereon, the Secretary may grant such request, but shall, if he denies such request, publish his reasons therefor in the Federal Register.

(B) Neither subparagraph (A) of this paragraph nor section 553 of title 5, United States Code, shall apply in the case of any of the following regulations and any such regulation shall, at the discretion of the Secretary, take effect immediately upon publication of the regulation in the Federal Register:

(i) Any regulation appropriate to carry out the purposes of this Act which was originally promulgated to carry out the Endangered Special Conservation Act of 1969.

(ii) Any regulation (including any regulation implementing section 6(g)(2)(B)(ii) of this Act) issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or

wildlife, but only if (I) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary, and (II) in the case such regulation applies to resident species of fish and wildlife, the requirements of subsection (b)(A), (B), and (C) of this section have been complied with. Any regulation promulgated under the authority of this clause (ii) shall cease to have force and effect at the close of the 120-day period following the date of publication unless, during such 120-day period, the rulemaking procedures which would apply to such regulation without regard to this subparagraph are complied with.

(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a statement by the Secretary of the facts on which such regulation is based and the relationship of such facts to such regulation.

LAND ACQUISITION

SEC. 5. (a) PROGRAM.—The Secretary of the Interior shall establish and implement a program to conserve (A) fish or wildlife which are listed as endangered species or threatened species pursuant to section 4 of this Act; or (B) plants which are included in Appendices to the Convention. To carry out such program, he—

(1) shall utilize the land acquisition and other authority under the Fish and Wildlife Act of 1956, as amended, the Fish and Wildlife Coordination Act, as amended, and the Migratory Bird Conservative Act, as appropriate; and

(2) is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him.

(b) ACQUISITIONS.—Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section.

COOPERATION WITH THE STATES

SEC. 6. (a) GENERAL.—In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species or threatened species.

(b) MANAGEMENT AGREEMENTS.—The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

(c) COOPERATIVE AGREEMENTS.—In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this subsection, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(1) authority resides in the State agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(2) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(4) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered species or threatened species; and

(5) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened.

(d) ALLOCATION OF FUNDS.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species. The Secretary shall make an allocation of appropriated funds to such States based on consideration of—

(A) the international commitments of the United States to protect endangered species or threatened species;

(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

(C) the number of endangered species and threatened species within a State;

(D) the potential for restoring endangered species and threatened species within a State; and

(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.

(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with the conservation of endangered or threatened species; (C) the estimated cost of these actions; and (D) the share of such costs to be borne by the Federal Government and by the States; except that—

(i) the Federal share of such program costs shall not exceed 66⅔ per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 75 per centum whenever two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of money or real property, the value of which will be determined by the Secretary, whose decision shall be final.

(e) REVIEW OF STATE PROGRAMS.—Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

(f) CONFLICTS BETWEEN FEDERAL AND STATE LAWS.—Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively (1) permit what is prohibited by this Act or by any regulation which implements this Act, or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this Act or in any regulation which implements this Act but not less restrictive than the prohibitions so defined.

(g) TRANSITION.—(1) For purposes of this subsection, the term "establishment period" means, with respect to any State, the period beginning on the date of enactment of this Act and ending on whichever of the following dates first occurs: (A) the date of the close of the 120-day period following the adjournment of the first regular session of the legislature of such State which commences after such date of enactment, or (B) the date of the close of the 15-month period following such date of enactment.

(2) The prohibitions set forth in or authorized pursuant to sections 4(d) and 9(a)(1)(B) of this Act shall not apply with respect to the taking of any resident endangered species or threatened species (other than species listed in Appendix I to the Convention or otherwise specifically covered by any other treaty or Federal law) within any State—

(A) which is then a party to a cooperative agreement with the Secretary pursuant to section 6(c) of this Act (except to the extent that the taking of any such species is contrary to the law of such State); or

(B) except for any time within the establishment period when—

(i) the Secretary applies such prohibition to such species at the request of the State, or

(ii) the Secretary applies such prohibition after he finds, and publishes his finding, that an emergency exists posing a significant risk to the well-being of such species and that the prohibition must be applied to protect such species. The Secretary's finding and publication may be made without regard to the public hearing or comment provisions of section 553 of title 5, United States Code, or any other provision of this Act; by such prohibition shall expire 90 days after the date of its imposition unless the Secretary further extends such prohibition by publishing notice and a statement of justification of such extension.

(h) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(i) APPROPRIATIONS.—For the purposes of this section, there is authorized to be appropriated through the fiscal year ending June 30, 1977, not to exceed $10,000,000.

INTERAGENCY COOPERATION

SEC. 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

INTERNATIONAL ASSISTANCE

SEC. 8. (a) FINANCIAL ASSISTANCE.—As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 15 of this Act.

(b) ENCOURAGEMENT OF FOREIGN PROGRAMS.—In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the conservation of fish or wildlife including endangered species and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

(3) foreign persons who directly or indirectly take fish or wildlife in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife and their habitat.

(c) PERSONNEL.—After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) INVESTIGATIONS.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) CONVENTION IMPLEMENTATION.—The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

PROHIBITED ACTS

SEC. 9. (a) GENERAL.—(1) Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.

(2) Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from, the United States;

(B) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(C) sell or offer for sale in interstate or foreign commerce any such species; or

(D) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by this Act.

(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of this section shall not apply to any fish or wildlife held in captivity or in a controlled environment on the effective date of this Act if the purposes of such holding are not contrary to the purposes of this Act; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity. With respect to any act prohibited by this section which occurs after a period of 180 days from the effective date of this Act, there shall be a rebuttable presumption that the fish or wildlife involved in such act was not held in captivity or in a controlled environment on such effective data.

(c) VIOLATION OF CONVENTION.—(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied,

(C) the applicable requirements of subsections (d), (e), and (f) of this section have been satisfied, and

(D) such importation is not made in the course of a commercial activity,

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

(d) IMPORTS AND EXPORTS.—(1) It is unlawful for any person to engage in business as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained permission from the Secretary.

(2) Any person required to obtain permission under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, or plants made by him and the subsequent disposition made by him with respect to such fish, wildlife, or plants;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish, wildlife, or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require.

(3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(e) REPORTS.—It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (1) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (2) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this Act or to meet the obligations of the Convention.

(f) DESIGNATION OF PORTS.—(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary of the Interior. For the purpose of facilitating enforcement of this Act and reducing the costs thereof, the Secretary of the Interior,

with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary of the Interior, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons if, in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc-4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(g) VIOLATIONS.—It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.

EXCEPTIONS

SEC. 10. (a) PERMITS.—The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species.

(b) HARDSHIP EXEMPTIONS.—(1) If any person enters into a contract with respect to a species of fish or wildlife or plant before the date of the publication in the Federal Register of notice of consideration of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 4 of this Act will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 9(a) of this Act to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of consideration of the species concerned, or shall apply to a quantity or fish or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species of fish or wildlife listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275); and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used in a commercial activity.

(2) As used in this subsection, the term "undue economic hardship" shall include, but not be limited to:

(A) substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of consideration of such species as an endangered species;

(B) substantial economic loss to persons who, for the year prior to the notice of consideration of such species as an endangered species, derived a substantial portion of their income from the lawful taking of any listed species, which taking would be made unlawful under this Act; or

(C) curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) NOTICE AND REVIEW.—The Secretary shall publish notice in the Federal Register of each application for an exemption or permit which is made under this subsection. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(d) PERMIT AND EXEMPTION POLICY.—The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds and publishes his finding in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of this Act.

(e) ALASKA NATIVES.—(1) Except as provided in paragraph (4) of this subsection the provisions of this Act shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Non-edible byproducts of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term "subsistence" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacking, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this Act. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared.

PENALTIES AND ENFORCEMENT

SEC. 11. (a) CIVIL PENALTIES.—(1) Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of this Act, or any provision of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), or (C), (c), (d) (other than a regulation relating to recordkeeping or filing of reports), (f) or (g) of section 9 of this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of any other regulation issued under this Act may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Any person who otherwise violates any provision of this Act, or any regulation, permit, or certificate issued hereunder, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) CRIMINAL VIOLATIONS.—(1) Any person who willfully commits an act which violates any provision of this Act, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F); (a)(2)(A), (B), or (C) (c), (d) (other than a regulation relating to recordkeeping or filing of reports, (f) or (g) of section 9 of this Act shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who

willfully commits an act which violates any provision of any other regulation issued under this Act shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this Act or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this Act or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(c) DISTRICT COURT JURISDICTION.—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this Act. For the purpose of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

(d) REWARDS.—Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(e) ENFORCEMENT.—(1) The provisions of this Act and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this Act may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property or item so seized shall be held by any person authorized by the Secretary, the Secreary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of any action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4) (A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported or imported contrary to the provisions of this Act, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this Act, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to section 11(b)(1) of this Act.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(f) REGULATIONS.—The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of fish or wildlife or plants and evidentiary items seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) CITIZEN SUITS.—(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf—

(A) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof; or

(b) to compel the Secretary to apply, pursuant to section 6(g)(2)(B)(ii) of this Act, the prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1)(B) of this Act with respect to the taking of any resident endangered species or threatened species within any State.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be. In any civil suit, commenced under subparagraph (B) the district court shall compel the Secretary to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(2) (A) No action may be commenced under subparagraph (1)(A) of this section—

(i) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(ii) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(iii) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(B) No action may be commenced under subparagraph (1)(B) of this section—

(i) prior to sixty days after written notice has been given to the Secretary setting forth the reasons why an emergency is thought to exist with respect to an endangered species or a threatened species in the State concerned; or

(ii) if the Secretary has commenced and is diligently prosecuting action under section 6(g)(2)(B)(ii) of this Act to determine whether any such emergency exists.

(3) (A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency.)

(h) COORDINATION WITH OTHER LAWS.—The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles and no proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, without limitation, section 527 of that Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

ENDANGERED PLANTS

SEC. 12. The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of adequately conserving such species, and to report to Congress, within one year after the date of the enactment of this Act, the results of such review including recommendations for new legislation or the amendment of existing legislation.

CONFORMING AMENDMENTS

SEC. 13. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(e)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered species and threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of that Act, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system."

(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s(a)), are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered Species Act of 1973 as endangered species or threatened species,".

(c) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l—9(a)(1)) is amended by striking out:

"THREATENED SPECIES.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction."

and inserting in lieu thereof the following:

"ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered Species Act of 1973, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962, as amended (76 Stat. 653, 16 U.S.C. 460k-1), is amended to read as follows:

"The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

"(1) incidental fish and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the conservation of endangered species or threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section 3(1)(B) thereof and inserting in lieu thereof the following: "Endangered Species Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969" in section 101(a)(3)(B) thereof and inserting in lieu thereof the following: "or threatened species pursuant to the Endangered Species Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b)(3) thereof and inserting in lieu thereof the following: "an endangered species or threatened species pursuant to the Endangered Species Act of 1973"; and

(4) by striking out "of the Interior such revisions of the Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a)(6) thereof and inserting in lieu thereof the following: "such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973".

(f) Section 2(l) of the Federal Environmental Pesticide Control Act of 1972 (Public Law 92–516) is amended by striking out the words "by the Secretary of the Interior under Public Law 91–135" and inserting in lieu thereof the words "or threatened by the Secretary pursuant to the Endangered Species Act of 1973".

REPEALER

SEC. 14. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—668cc-6), is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

(A) not to exceed $4,000,000 for fiscal year 1974, not to exceed $8,000,000 for fiscal year 1975 and not to exceed $10,000,000 for fiscal year 1976, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

(B) not to exceed $2,000,000 for fiscal year 1974, $1,500,000 for fiscal year 1975 and not to exceed $2,000,000 for fiscal year 1976, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.

EFFECTIVE DATE

SEC. 16. This Act shall take effect on the date of its enactment.

MARINE MAMMAL PROTECTION ACT OF 1972

SEC. 17. Except as otherwise provided in this Act, no provision of this Act shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the bill, insert the following: "An Act to provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and for other purposes."

And the House agree to the same.

PHILIP A. HART,
JOHN V. TUNNEY,
TED STEVENS,
FRANK E. MOSS,
MARLOW W. COOK,
Managers on the Part of the Senate.

LEONOR K. SULLIVAN,
JOHN D. DINGELL,
GEORGE A. GOODLING,
Managers on the Part of the House.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Paul Cunningham and Earl Costello, of the staff of the Committee on Commerce, be permitted to be present on the Senate floor during the consideration of this conference report.

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

Mr. TUNNEY. Mr. President, today, the Senate will complete action on the Endangered Species Act of 1973. Hopefully, the measure will soon clear the House and be sent to the President.

As floor manager of the bill last July, and as a Senate conferee, I know how much time and effort has gone into this bill. I believe the staff members of the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee should be commended for their efforts. There were difficult problems to resolve because the legislation was technically and geographically complex. But I believe that the final product will greatly improve our ability to protect species of fish and wildlife which are in imminent danger.

The conferees recognized the fact that the Federal Government simply does not have the resources to implement the act immediately, and thus set up a system of grants-in-aid to the States which will have the initial responsibility for management of resident species.

An important provision of the bill delegates listing of endangered species to the managing agencies—the National Oceanographic and Atmospheric Administration and the Interior Department. The Commerce Department may list species, but is prohibited from delisting without NOAA and Interior concurrence.

The bill established provides stiff penalties for violations.

This bill has been long in coming and is urgent in nature. In this country alone, there are over 100 species listed as endangered. Each provides a service to the environment and represents a part of an immensely complicated ecological system.

Passage of this act means that the Congress has responded positively to the magnitude of the problem and has voiced its concern for the species which we have placed near extinction. The Endangered Species Act responds to our duty to restore and propagate what we have—through carelessness and lack of understanding—nearly destroyed forever.

Mr. STEVENS. Mr. President, I support this conference report.

In conference with the House, agreement was reached on S. 1983 which we recommend to the Senate as a means of providing for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife and plants.

I wish to briefly outline the main provisions of the conference report before us.

First, the bill will define the term "conservation" to include all methods and procedures necessary to bring a threatened or endangered species to a point where the measures provided in this are no longer necessary.

There is an exception allowing exclusion from protection by the act where an otherwise endangered or threatened species of insect presents a serious risk to man. A new definition of "commercial activity" delineates types of activities, including trades and exchanges of animals or animal products involving profit, which are to be treated under the act.

The conference committee discussed at length the proper area of responsibility for the Departments of Interior and Commerce. Consequently, the act specifies that the Departments have responsibilities, in determining and changing the status of the species as endangered or threatened, along the lines of Reorganization Act No. 4 of 1970. The physical act of maintaining the list will remain, as it is now, with the Department of the Interior. The conferees ask that every effort be taken to avoid duplication of effort by the two agencies.

Considerable concern was demonstrated in conference over the necessity for effective Federal consultation with all affected parties in determining a species to be endangered or threatened. The Senate bill required a special advisory committee with heavy State representation, for this purpose. The House did not. The conferees agreed that the Advisory Committee be eliminated from the bill but that consultation be strenghened to include special notification of the Governors of the affected States, along with public notification, and that the State be given a minimum of 90 days to comment.

The conferees strengthened the procedures for public participation by requiring an extended period of public notice of proposed regulation, not less than 60 days, providing for discretionary hearings, and establishing procedures for emergency action.

Recognizing that effective programs for the conservation of endangered species requires the acquisition of habitat crucial to the species, both bills provided such authority. The Senate bill limited that authority to habitat for fish and wildlife alone. The conferees adopted the House version, which extends the authority to include plant habitat. Authority is extended to the Secretary of the Interior, but it is anticipated that he will consult with the Secretary of Commerce in cases involving marine species over which Commerce has sole jurisdiction under Reorganization Plan No. 4. Furthermore, nothing prevents the Secretary of Commerce from seeking specific legislative authority to acquire land needed for NOAA's programs.

Initially, the House bill placed basic responsibility for establishing and administering the endangered species program in the Federal Government, and provided for the development of cooperative programs with concerned agencies.

The Senate accepted this and added a new section 16 onto the bill to shift basic responsibility back to the States. The conferees approved a section giving the States the fundamental roles regarding resident species for up to 15 months, or 120 days after the relevant State legislature has adjourned. This, it is hoped, will encourage the States to develop their own strong programs.

Both bills provided grant programs for the States, but the Senate authorized $10 million over a 3½ year period while the House provision was open-ended. The Senate version was accepted by the conferees.

The House and Senate bills each authorized international endangered species programs, but the Senate restricted the programs to countries where counterpart funds are available. The conferees adopted the House version which stipulates that where counterpart funds are available they will be used in preference to appropriated funds.

The conferees rewrote the section providing exceptions for certain Alaska natives generally following the lines of the Senate bill, which provides similar exceptions for certain non-native residents of native communities. The House receded to the Senate in allowing the State of Alaska to restrict native and non-native taken as part of a State operated endangered species program. Although the native exemption is not intended to supercede the Marine Mammal Protection Act of 1973 it does allow the taking of marine mammals under certain circumstances.

The conferees developed new language in the penalties and enforcement section, mainly to strengthen the delineation of penalties for knowing or commercial violation as opposed to erroneous casual purchase of items by tourists.

House language was adopted providing for agents of the Secretary of the Interior to inspect packages and crates upon importation or exportation, similar to the authority now exercised by customs agents. The Conferees stressed that they are prepared to reexamine this section in the near future, to ensure that the authority is not being abused.

The conferees accepted a House version of the bill assigning the Smithsonian Institution to study any problems in interstate commerce in endangered species of plants.

Mr. President, I ask this Senate to support this conference approved Endangered Species Act of 1973. There should be no further delay in extending protection for those animals which cannot fend for themselves against the destructive actions of mankind.

Mr. COOK. Mr. President, in order that I might make an immediate review of the conference report, would the President of the Senate mind if we had a short quorum call, so that I might see that the report contains the proper language?

The VICE PRESIDENT. Does the Senator suggest the absence of a quorum?

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. COOK. Mr. President, the Senator from Kentucky secured an amendment on this bill, as the Senator from California well knows, having been manager of the bill during that time. I would like to read into the RECORD certain language from page 18 of the report of the managers, which reads as follows:

> The Senate bill contained a section added on the Floor by Senator Cook which would have had the effect of prohibiting the construction of a public road through the Pioneer Weapons Hunting Area in the Daniel Boone National Forest. Opponents of the road fear that its construction will do irreparable damage to the area and urge the construction of a more expensive road to go around the Hunting Area.
>
> By the way, I might say for the benefit of the record that the increased expense, as far as I know, would be in the neighborhood of $65,000, out of a contract totaling approximately $1,990,000.
>
> Proponents of the road respond that it will not destroy the character of the area and will be desirable. The House recently adopted an amendment to the Water Resources Development Act, which, if enacted, would allow construction of the road after public review of the final NEPA environmental impact statement.
>
> In light of the considerable controversy on the subject, the conferees felt that this issue ought not to be resolved by inclusion of this section in the bill, but that it would be more appropriate for full hearings to be held or the question by the proper Committees of Congress. Accordingly the section was stricken from the bill with the understanding and hope that such hearings might be expeditiously completed.

Mr. President, I am totally and completely in accord with the language of the conference report. I merely wished to read this statement into the RECORD for the purpose of reaffirming this Senator's position in regard to this project and its impact.

I thank the Senator from California that, during the course of the conference, we were able to work this arrangement out, and I have no objection to the immediate consideration of the conference report and its immediate passage.

Mr. TUNNEY. Mr. President, I would like to say, as the floor manager of the bill and one of the conferees, that I support hearings on the matter that was raised by the distinguished Senator from Kentucky at the earliest possible date next year. I do not see any reason why we could not do it in either January or February of next year, and then take that bill up in an expeditious fashion after hearings have been held. I know I am not only speaking for myself, but also for the other Senators on the majority side of our committee.

I am convinced that as a result of the understanding of the problem of the conference committee by the Senator from Kentucky, we were able to conclude that conference, and conclude it in a way that I think has justified not only the position of the Senator from Kentucky on the matter that he has related, but also the fact that the Senate and the Congress wanted to have this endangered species bill passed as quickly as possible, before the end of this year.

Mr. COOK. Mr. President, I thank the Senator from California, and I appreciate the indulgence of the President of the Senate.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

QUORUM CALL

The VICE PRESIDENT. What is the will of the Senate?

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATORS HATFIELD, MATHIAS, GRIFFIN, AND ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated:

Senators HATFIELD, MATHIAS, GRIFFIN, and ROBERT C. BYRD.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the orders for the recognition of Senators tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ADDITIONAL SECOND ASSISTANT SECRETARY OF THE INTERIOR FOR INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 620.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 620) entitled "An Act to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist on its amendment to H.R. 620 and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Senators JACKSON, METCALF, ABOUREZK, BARTLETT, and STEVENS conferees on the part of the Senate.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and, at 7:07 p.m., the Senate adjourned until tomorrow, Thursday, December 20, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 19, 1973:

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be colonel, Regular Army and colonel, Army of the United States

Duke, Russell A., [redacted]
Humphrey, James B., [redacted]

To be captain, Regular Army and captain, Army of the United States

Crane, Matthew J., [redacted]

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be major

Bugay, Glenn L., [redacted]
Quatannens, Louis S., [redacted]

To be captain

Bode, Donald D., Jr., [redacted]
Eckert, Richard E., [redacted]
Shegog, James H., [redacted]
Traylor, John A., [redacted]
Young, Timothy R., [redacted]

To be first lieutenant

Blakeslee, Don B., [redacted]
Blaney, Thomas D., [redacted]
Copley, John B., [redacted]
Curl, Walton W., [redacted]
Gandy, Charles E., III, [redacted]
Guinn, John W., III, [redacted]
Hansen, Mark F., [redacted]
Hayes, Brian E., [redacted]
Horne, Daniel W., III, [redacted]
Jones, Robert P., [redacted]
Mason, Richard M., [redacted]
Mooney, Darrel L., [redacted]
Moser, Richard P., Jr., [redacted]
Omeara, Thomas F., [redacted]
Pryor, James E., [redacted]
Roberts, Herbert R., [redacted]
Rollow, John A., IV, [redacted]
Rucker, Tinsley W., [redacted]
Ryan, John B., [redacted]
Schroeder, David E., [redacted]
Smith, David S., [redacted]
Warncke, Ronald M., [redacted]
Wheeler, Bruce R., [redacted]
Williams, Robert K., [redacted]

To be second lieutenant

Moore, John W. M., [redacted]
Roden, William C., [redacted]

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be captain

Albee, Donna J., [redacted]
Alderson, Gerald L., [redacted]
Antonini, Charles J., [redacted]
Arnold, Joseph V., [redacted]
Badger, Gary R., [redacted]
Bailey, Mary A., [redacted]
Baker, Kim J., [redacted]
Beauchamp, Roy E., [redacted]
Brillant, Eugene G., [redacted]
Brockschmidt, Fredric R., [redacted]
Cavaness, George R., [redacted]
Coats, Jacqueline W., [redacted]
Cuddy, John J., [redacted]
Divalentin, Anthony, III, [redacted]
Duckworth, James H., [redacted]
Furukawa, Theodore P., [redacted]
Gabriel, Donald E., [redacted]
Gensler, Ivonna, [redacted]
Hamilton, Robert A., Jr., [redacted]
Heacock, Edgar J., [redacted]
Houston, Brice E., [redacted]
Johnson, Ralph G., III, [redacted]
Johnson, Sandrah W., [redacted]
Lewis, John C., [redacted]
McGarry, Ann D., [redacted]
McManus, Michael D., [redacted]
McQuade, Michael J., [redacted]
Metcalf, Franklin L., [redacted]
Moore, Earnest R., [redacted]
Moses, Morris E., [redacted]
Pohlmann, Bernard H., [redacted]
Pope, Joe T., [redacted]
Rankin, Andrew W., [redacted]
Robertson, David H., [redacted]
Schmidt, William J., Jr., [redacted]
Staley, David H., Jr., [redacted]
Stankewitz, Charles G., [redacted]
Taylor, William S., [redacted]
Wehner, Robert J., [redacted]
Werner, Joan D., [redacted]
White, John R., [redacted]

To be first lieutenant

Anna, David J., [redacted]
Barrows, Paul L., [redacted]
Bednar, Carolyn S., [redacted]
Bell, Deborah A., [redacted]
Berry, George E., [redacted]
Birdsell, Carol J., [redacted]
Bories, Robert F., Jr., [redacted]
Buchheit, Joseph D., [redacted]
Bush, James D., [redacted]
Byrum, James W., [redacted]
Callan, Thomas E., [redacted]
Carr, Lawrence R., [redacted]
Dickerson, Michael D., [redacted]
Dismukes, Julian M., III, [redacted]
Dixon, Ernestine, [redacted]
Ellis, Ida R., [redacted]
Foster, Jean A., [redacted]
Franz, David R., [redacted]
Gaskill, Galynn E., [redacted]
Goethals, Gerald B., [redacted]
Graski, Susan L., [redacted]
Griffith, Harold L., [redacted]
Guttman, Linda, [redacted]
Haas, Larry D., [redacted]
Hamparian, Phyllis B., [redacted]
Herget, Craig N., [redacted]
Irons, Margaret J., [redacted]
Iungerich, Larry R., [redacted]
Jeglijewski, Judith M., [redacted]
Kehrer, James E., [redacted]
Kobasa, Daniel W., [redacted]
Kucera, Raymond P., [redacted]
Lambert, Alan E., [redacted]
Lewis, Jane L., [redacted]
Mader, Roy M., [redacted]
Maloney, John J., [redacted]
Meade, Francis J., [redacted]
Melson, James R., [redacted]
Muldoon, Terrance A., [redacted]
Mullins, Maureen, [redacted]
Muschewske, Robert C., [redacted]
Muskovin, Marie L., [redacted]
Newton, William G., [redacted]
Norris, Jimmy A., [redacted]
Norvell, Charles D., [redacted]
O'Neal, Georgia W., [redacted]
Padden, Terrance J., [redacted]
Puett, Leonard R., Jr., [redacted]
Puhlman, Richard J., [redacted]
Robbins, James H., [redacted]
Ross, Patricia W., [redacted]
Russell, Gladys H., [redacted]
Shoener, Linda M., [redacted]
Smith, Ben E., [redacted]
Smith, Pamela A., [redacted]
Specht, James, [redacted]
Stewart, Patricia L., [redacted]
Story, Dennis C., [redacted]

Strzelecki, Lorna R., xxx-xx-xxxx.
Sweeney, Jane K., xxx-xx-xxxx.
Swinger, Gary L., xxx-xx-xxxx.
Trammell, Alan R., xxx-xx-xxxx.
Tudor, William A., xxx-xx-xxxx.
Tutt, James T., xxx-xx-xxxx.
Vaught, Richard D., xxx-xx-xxxx.
Wall, Evelyn L., xxx-xx-xxxx.
Weaver, George, xxx-xx-xxxx.
Webb, Joseph G., Jr., xxx-xx-xxxx.
Wier, Carolyn R., xxx-xx-xxxx.
Wika, Judith C., xxx-xx-xxxx.
Wong, Elena Y. H., xxx-xx-xxxx.

To be second lieutenant

Anderson, Timothy D., xxx-xx-xxxx.
Boggess, George H., xxx-xx-xxxx.
Corbin, Kathleen C., xxx-xx-xxxx.
Daigle, Wade W., xxx-xx-xxxx.
Edgecomb, Barbara L., xxx-xx-xxxx.
Frank, Robert L., xxx-xx-xxxx.
Gallaway, Barbara S., xxx-xx-xxxx.
Maltas, Judy L., xxx-xx-xxxx.
Menard, Edward J., xxx-xx-xxxx.
Prucha, James F., xxx-xx-xxxx.
Sadler, Freida J., xxx-xx-xxxx.
Skaggs, Terree L., xxx-xx-xxxx.
Sparks, Glenn E., Jr., xxx-xx-xxxx.
Sullivan, Candice J., xxx-xx-xxxx.
Taddiken, Patricia F., xxx-xx-xxxx.
Walsh, Darleen F., xxx-xx-xxxx.
Whitehead, David E., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Army of the United States under the provisions of Public Law 92–129.

MEDICAL CORPS

To be colonel

Ansbacher, Rudi, xxx-xx-xxxx.
Arneson, Leslie A., xxx-xx-xxxx.
Aton, James K., Jr., xxx-xx-xxxx.
Bannister, Gary L., xxx-xx-xxxx.
Bartelloni, Peter J., xxx-xx-xxxx.
Benincaso, Frank V., xxx-xx-xxxx.
Bezreh, Anthony A., xxx-xx-xxxx.
Brott, Walter H., xxx-xx-xxxx.
Bruckman, Joseph A., xxx-xx-xxxx.
Cass, Kenneth A., xxx-xx-xxxx.
Chamlian, Dikran L., xxx-xx-xxxx.
Corby, Donald G., xxx-xx-xxxx.
Diazball, Fernando, xxx-xx-xxxx.
Dycaico, Armin G., xxx-xx-xxxx.
Fagarason, Lawrence, xxxx.
Fearnow, Ronald G., xxx-xx-xxxx.
Feltis, James M., Jr., xxx-xx-xxxx.
Gimesh, John S., xxx-xx-xxxx.
Greely, Robert L., xxx-xx-xxxx.
Haas, John M., xxx-xx-xxxx.
Hardee, Erasmus B., xxx-xx-xxxx.
Hawes, William J., xxx-xx-xxxx.
Hazlett, David R., xxx-xx-xxxx.
Heydorn, William H., xxx-xx-xxxx.
Hill, Paul S., xxx-xx-xxxx.
Holtzapple, Kenneth, xxx-xx-xxxx.
Hutton, John E., Jr., xxx-xx-xxxx.
Isom, Lawrence E., xxx-xx-xxxx.
Kopp, Albert A., xxx-xx-xxxx.
Larsen, Lowell D., xxx-xx-xxxx.
Lennox, Kenneth W., xxx-xx-xxxx.
Lindefjeld, Ole A., xxx-xx-xxxx.
Mansfield, John O., xxx-xx-xxxx.
Mayfield, Gerald W., xxx-xx-xxxx.
Mays, Edward E., xxx-xx-xxxx.
McCarty, Richard J., xxx-xx-xxxx.
Moore, William J., Jr., xxx-xx-xxxx.
Park, Richard, xxx-xx-xxxx.
Patterson, Joseph R., xxx-xx-xxxx.
Pauling, Fred W. III, xxx-xx-xxxx.
Reister, Henry C., xxx-xx-xxxx.
Sakakini, Joseph, Jr., xxx-xx-xxxx.
Scavarda, Angelo, xxx-xx-xxxx.
Schamber, Dean T., xxx-xx-xxxx.
Soriano, Franklin M., xxx-xx-xxxx.
Stansifer, Philip D., xxx-xx-xxxx.
Strader, Lorenzo D., xxx-xx-xxxx.
Stuart, Richard B., xxx-xx-xxxx.
Szymonski, Zdzislaw, xxx-xx-xxxx.
Top, Franklin H., Jr., xxx-xx-xxxx.
Ulisnik, Wayne R., xxx-xx-xxxx.
Vilabalzac, Gilber, xxx-xx-xxxx.
Virtue, Clarence M., xxx-xx-xxxx.
Williamson, Harold, xxx-xx-xxxx.
Winter, Philip E., xxx-xx-xxxx.
Yhap, Edgar O., xxx-xx-xxxx.
Zbylski, Joseph R., xxx-xx-xxxx.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Adams, Mitchell K., xxx-xx-xxxx.
King, Richard C., Jr., xxx-xx-xxxx.
Runge, Charles D., Jr., xxx-xx-xxxx.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1973:

DEPARTMENT OF TRANSPORTATION

Rodney Eugene Eyster, of Illinois, to be General Counsel of the Department of Transportation.

DEPARTMENT OF JUSTICE

Donald E. Walter, of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years.

Denny L. Sampson, of Nevada, to be U.S. marshal for the District of Nevada for the term of 4 years.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Thomas D. Davies, of Ohio, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF STATE

Walter J. Stoessel, Jr., of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of Soviet Socialist Republics.

Helmut Sonnenfeldt, of Maryland, a Foreign Service officer of class 1, to be Counselor of the Department of State.

Robert J. McCloskey, of Maryland, a Foreign Service officer of class 1, to be an Ambassador at Large.

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.

Lloyd I. Miller, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Trinidad and Tobago.

(The above nominations were approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

THE JUDICIARY

Herbert J. Stern, of New Jersey, to be U.S. district judge for the district of New Jersey.

HOUSE OF REPRESENTATIVES—*Wednesday, December 19, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Blessed be the Lord God of Israel, for He has visited and redeemed His people * * * to give light to them that sit in darkness and * * * to guide our feet into the way of peace.*—Luke 1: 68, 79.

Eternal God, our Father, come Thou to new life within us as we worship Thee in spirit and in truth. Illumine our darkened lives with the light of Thy presence and prepare our minds with wisdom for the decisions we must make and the actions we must take. Purify our thoughts, strengthen our spirits, kindle anew within us the attitude of good will, and by Thy spirit fit us for Thy service as we serve our country in this forum of freedom and democracy.

Bless our country with Thy presence as together we seek to find our way through the crisis now upon us. May the oil of integrity and good will lubricate all our relationships and make our life as a nation more smoothly onward toward greater things.

Let Thy spirit rule among the nations that peace may be firmly established for the good of all by the goodness of all. So shall Christmas be a reality in our day.

In the spirit of Christ 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 PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On November 29, 1973:

H.R. 5777. An act to require that reproductions and imitations of coins and political items be marked as copies or with the date of manufacture;

H.R. 7582. An act to amend title 10, United States Code, to entitle the Delegates in Congress from Guam and the Virgin Islands to make appointments to the service academies;

H.R. 8187. An act to amend section 2031 (b) (1) of title 10, United States Code, to remove the requirement that a Junior Reserve Officer Training Corps unit at any institution must have a minimum number of physically fit male students;

H.R. 10366. An act to amend title 10, United States Code, to remove the 4-year limitation on additional active duty that a nonregular officer of the Army or Air Force may be required to perform on completion of training at an educational institution;

H.R. 10369. An act to amend title 37, United States Code, to provide entitlement to round trip transportation to the home port for a member of the uniformed services on permanent duty aboard a ship being inactivated away from home port whose dependents are residing at the home port; and

H.J. Res. 735. Joint resolution authorizing the Secretary of the Navy to receive for instruction at the U.S. Naval Academy two citizens and subjects of the Empire of Iran.

On November 30, 1973:

H.R. 10937. An act to extend the life of the June 5, 1972, grand jury of the U.S. District Court for the District of Columbia.

On December 3, 1973:

H.R. 11104. An act to provide for a temporary increase of $10,700,000,000 in the public