By Mr. CONABLE (for himself, Mr. ULLMAN, Mr. SCHNEEBELI, Mr. CORMAN, Mr. GIBBONS, and Mr. PETTIS):

H.R. 12037. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.R. 12038. A bill to terminate the airlines mutual aid agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. FROEHLICH (for himself, Mr. CONTE, Mr. CRONIN, Mr. BAUMAN, Mr. BLACKBURN, Mr. BURKE of Massachusetts, Mr. CRANE, Mr. DERWINSKI, Mr. HUBER, Mr. KEMP, Mr. KETCHUM, Mr. LOTT, Mr. MINSHALL of Ohio, Mr. OBEY, Mr. PARRIS, Mr. ROUSSELOT, Mr. STEIGER of Arizona, Mr. STEIGER of Wisconsin, Mr. SYMMS, Mr. TREEN, Mr. WYMAN, and Mr. YOUNG of South Carolina):

H.R. 12039. A bill to amend the Economic Stabilization Act of 1970 to exempt groundwood and chemical papermaking pulps from coverage under the act; to the Committee on Banking and Currency.

By Mr. MOSS:

H.R. 12040. A bill to amend the Securities Exchange Act of 1934 to prevent control by foreign persons of American companies engaged in vital industries; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.R. 12041. A bill to amend the Economic Stabilization Act of 1970 to exempt stabilization of the price of petrochemicals from coverage under the act; to the Committee on Banking and Currency.

By Mr. REID of New York:

H.R. 12042. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ROSE:

H.R. 12043. A bill to prevent further increases in 1974 flue-cured tobacco marketing quotas; to the Committee on Agriculture.

By Mr. MATHIAS of California:

H.R. 12044. A bill to modify section 201 of the Flood Control Act of 1962 (76 Stat. 1192) to change the name of the lake to be created by such project from Hidden Lake to Hensley Lake; to the Committee on Public Works.

By Mr. PEPPER:

H.R. 12045. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

By Mr. RIEGLE:

H.R. 12046. A bill to amend the Social Security Act to establish a program of food allowances for older Americans; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 12047. A bill to provide assistance to zoos and aquariums, to establish standards of accreditation for such facilities, and to establish a Federal Zoological and Aquarium Board, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GAYDOS:

H. Con. Res. 404. Concurrent resolution pertaining to the methods used on animals in research; to the Committee on Science and Astronautics.

By Mr. PEPPER:

H. Con. Res. 405. Concurrent resolution expressing the sense of the Congress that the United States, Canada, Great Britain, Western Europe and Japan should act in concert in refusing to sell essential industrial and food products, and medicines to Arab nations boycotting such nations in the sale of petroleum; to the Committee on Foreign Affairs.

By Mr. VEYSEY:

H. Con. Res. 406. Concurrent resolution expressing the sense of the Congress with respect to the urgent need for research, development and demonstration of alternate sources of energy; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 12048. A bill for the relief of David Levi; to the Committee on the Judiciary.

By Mr. EDWARDS of Alabama:

H.R. 12049. A bill for the relief of Jack K. McHenry; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 12050. A bill for the relief of Wilma Selle, Gary Selle, and Deborah Selle; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 12051. A bill to provide for the reinstatement and validation of U.S. oil and gas lease No. U-0140571, and for other purposes; to the Committee on Interior and Insular Affairs.

SENATE—*Thursday, December 20, 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:

Almighty God, the source of all wisdom and strength, grant that we who shoulder the burdens of this Government may accept the Christmas promise that "the government shall be upon His shoulder: and His name shall be called Wonderful Counselor, the Mighty God, the Everlasting Father, the Prince of Peace. Of the increase of His government and peace there shall be no end * * *" (Isaiah 9; 6, 7a). May we so yield ourselves to His spirit that the promised kingdom of truth and righteousness may become the kingdom of all mankind, and that He shall reign forever and ever. 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 20, 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.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1435. An act 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 the 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;

S. 1529. An act to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes;

S. 2493. An act to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile;

H.R. 3334. An act for the relief of Maria Lourdes Rios;

H.R. 3758. An act for the relief of Isabel Eugenia Serrane Macias Ferrier;

H.R. 7352. An act to amend section 4082(c) of title 18, United States Code, to extend the limits of confinement of Federal prisoners; and

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

The enrolled bills were subsequently signed by the Vice President.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, December 19, 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.

REPORT OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 613, Senate Resolution 221.

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

The second assistant legislative clerk read as follows:

S. Res. 221, authorizing the printing of the Seventy-fifth annual report of the National

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Society of the Daughters of the American Revolution as a Senate document.

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

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the Seventy-fifth Annual Report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1972, be printed, with an illustration, as a Senate document.

NATIONAL DIABETES RESEARCH AND EDUCATION ACT

Mr. MANSFIELD. Mr. President I move that the Senate proceed to the consideration of calendar No. 629, S. 2830.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

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

The second assistant legislative clerk read as follows:

S. 2830, 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.

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

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

Mr. SCHWEIKER. Mr. President, the passage of the National Diabetes Research and Education Act, S. 2830 is a landmark by the Congress and represents a major first step in dealing with a chronic disease which afflicts more than 5 million Americans. It will be the first legislation designed to deal with this major health problem. Passage of S. 2830 will assure that for the first time a national program will be inaugurated. For some time, I have been involved in efforts to bring this issue to the forefront of congressional activity. I was pleased to introduce the first Senate bill to deal exclusively with diabetes, and on February 26, 1973, I chaired the first hearings into the problem.

The bill recommended by the Labor and Public Welfare Committee would provide for the establishment by the Secretary of HEW of a national task force on diabetes to formulate a long-range plan to combat diabetes. The task force also will develop a program to expand and coordinate the activities of the National Institute of Arthritis, Metabolism and Digestive Diseases with respect to diabetes and related endocrine and metabolic diseases. Coordination with the programs of other research institutes of the National Institutes of Health is emphasized. The report and recommendation of the task force will be the basis for the Director of the NIAMDD to submit through NIH and HEW to the President for transmittal to Congress a report outlining the action required and the staff requirements to carry out the plan with a request for such additional appropriations as may be needed.

The bill requires the Director of NIAMDD to establish such programs as may be necessary in cooperation with other Federal health agencies, State, local and regional public health agencies, and nonprofit agencies for the control of diabetes.

The Director of NIAMDD is to provide for the development of research and training centers to be established geographically on the basis of population density so that satisfactory diabetes teaching for both professional and lay personnel will be available throughout the Nation. These centers will conduct basic and clinical research into, training in, and demonstration of advance diagnostic, prevention, detection, and treatment methods for diabetes.

Within NIAMDD the bill creates the position of Associate Director for Diabetes who will be responsible for programs in diabetes in the Institute.

The Associate Director for Diabetes will act as chairman of an Inter-Institute Diabetes Mellitus Coordinating Committee established to coordinate the total NIH research activities relating to diabetes. The committee will be composed of representatives of each of the research institutes and divisions in NIH involved in diabetes related research. Finally, the bill requires the Secretary of HEW to establish an Interagency Technical Committee of Diabetes Mellitus to be responsible for coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus. Mr. President, may I emphasize again my strong support for the National Diabetes Research and Education Act.

Mr. President, the need for a national diabetes program as embodied in S. 2830, the National Diabetes Research and Education Act of 1973 is clear. I am especially pleased that the Senate has taken the initiative and lead in inaugurating legislation to provide for a massive national effort to combat diabetes.

My interest in introducing diabetes legislation began some time ago and reached fruition on August 4, 1972, when I introduced S. 3880. This was the first legislative proposal in recent history to address itself to the problem of diabetes. I was prompted to introduce this bill because as ranking Republican member of the Senate Health Subcommittee, I was becoming increasingly aware that as our population was becoming older, fatter, more affluent, and urbanized the incidence of diabetes was increasing at an alarming rate. I was stunned to learn it is estimated that by 1980 1 in 5 Americans will have diabetes or its trait, and that diabetes is the second or third leading cause of death in the United States if you consider it is the major factor causing many chronic and disabling illnesses. These illnesses are primarily cardio-vascular, renal, hypertensive and neurological illnesses. The man who dies of a heart attack, for instance, is listed in the death statistics as a victim of heart disease, but many times he has actually died from diabetes which caused the heart attack and the vascular disease. The same is probably true in cases of kidney disease, stroke, and so forth.

At that point, it became clear to me that we needed much more adequate information on the origin of diabetes, its effects on the human body and the best methods of treating it to prevent long-term complications from developing. In developing my legislation, it became more and more apparent that a vastly-expanded diabetes research program was needed. I learned that diabetes is not a reportable disease. Like other major diseases it should be studied according to population and geographical area so the impact of incidence and heredity can be noted. With the discovery of insulin, diabetics are living longer than ever before. But with that longevity has come complications. The most notable is blindness, of which diabetes is a major cause. I found one of the truly tragic ironies of our time was the fact that diabetes dominates the medical scene, yet little was being done to solve its mysteries.

Therefore, with the convening of the 93d Congress on January 4, 1973, I reintroduced my bill with improvements as S. 17, the National Diabetes Research and Education Act of 1973, to expand and coordinate the research effort against diabetes. It was also designed to advance patient, professional, and public education activities to alert Americans to early indications of diabetes, and emphasize the significance of early detection, proper control, and the complications which evolve from the disease.

On February 26, 1973, I was happy to chair hearings of the Senate Health Subcommittee on S. 17 and S. 648 introduced by Senator GALE MCGEE. This hearing was the first in the history of the U.S. Senate to deal with diabetes. At that time, a broad cross section of witnesses reiterated the great need for diabetes legislation. Experts in the field pointed again and again to studies which show there is a 9 percent increase each year in the diabetic population which is an accelerating increase because each year the diabetic population becomes 9 percent larger. An important factor in this increase are our diabetic children. In 1921, diabetic children died. After the discovery of insulin in 1921, children and young adults survived, grew to maturity and have been producing children with diabetes or with a strong inherited factor for diabetes. There are now approximately 6 to 8 million diabetics with a chance of producing diabetic children.

Last October, the Senate Appropriations Committee, on which I serve, approved a series of my amendments to increase Federal funding for diabetes research as part of H.R. 8877, the Labor/HEW Appropriations bill for fiscal year 1974. These provisions were included in final passage of this legislation and included a recommendation that the National Institutes of Health utilize its resources for interinstitute studies of diabetes, since diabetes afflicts the eyes, heart, brain, and muscular structure. The committee recommended an increase over 1973 operating levels, including a significant increase in funding for diabetic retinopathy; an increase for the National Heart and Lung Institute, a significant portion of this to be used for expanded diabetes/vascular research and an increase for the National Institute of Arthritis, Metabolism, and Digestive Diseases. In approving this $22.8 million increase, the committee gave its support to NIAMDD efforts to support dia-

betes research centers, and specically provided additional funds for the establishment of diabetes centers throughout the Nation. The committee also accepted my recommendation that a new position of Associate Director for Diabetes be created within the Institute. During markup on H.R. 8877, the committee also accepted my recommendation that a committee within the National Institute of Health, composed of representatives of each of the Institutes concerned with health problems relating to diabetes be created. The committee would be chaired by the Associate Director for Diabetes in NIAMDD.

I was particularly pleased that the Appropriations Committee supported my recommendation that the Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases create a position for an Associate Director of Diabetes, a provision included in the pending bill. In accepting my recommendation, the committee commented:

It is felt that because of the wide range of side effects from diabetes that there should be programs on an interinstitute basis to research the effects within the appropriate Institute.

Further, the committee recommended that the Associate Director for Diabetes chair the Interinstitute Committee which was also included in the bill by the labor and Public Welfare Committee.

Mr. President, I also wish to point out that the Committee stated in its report.

Research in diabetes is focused on the prevention of such complications of the disease as accelerated hardening of the arteries, premature heart disease, kidney failure and blindness. Diabetic retinopathy afflicts about one-third of the long-term diabetes patients and is the second leading cause of blindness in the United States today. Because of the national impact of all aspects of diabetes, the Institute is embarking on a program of support for Diabetes Research Centers. It also supports a wide range of other metabolic diseases, including cystic fibrosis. The Committee supports this new initiative and has provided for the establishment of Diabetes Centers throughout the nation to aid in treating and caring for a condition that has such wide ranging social and economic effects.

Recognizing the importance of these recommendations, the Senate conferees included in their report the following statement:

The Conferees are aware that diabetes is a prime example of a disease which affects the work of many of the Institutes. It may afflict the eyes, heart, brain, and muscular and vascular systems. The Conference urges the NIH to establish mechanisms to assure a coordinated program of research by the Institutes concerned with the various aspects of diabetes.

This brings to mind the entire question of the economic impact of diabetes. The loss from disability and premature death and sickness in the diabetic population is conservatively considered to be at least $2 billion annually. Yet we have spent less than $10 million annually in support of all aspects of research in diabetes. During the Senate hearing on my bill, it was stated that we are spending approximately $1.60 per diabetic per year. A statement prepared by the National Institute of Arthritis, Metabolism and Digestive Diseases for initial presentation to the House Appropriations Committee last spring contained the sentence:

Today, with proper treatment, most diabetics can lead a normal life.

Mr. President, I have received numerous letters from physicians, biomedical scientists, researchers in the field of diabetes and diabetics challenging that statement. Some consider it "an extraordinary lack of understanding." Others have referred to it as "at best debatable and at least incorrect."

My point is that from the Federal perspective diabetes has been neglected. The customary method in recent years to create an affirmative program involving a greater national commitment has been to allocate more money to the task. In the case of specific health problems, the recommendation is often "more money for research." Since adequate funds were not available, research in diabetes was neglected. Consequently, our knowledge of the causes or origins of diabetes and its long-term effects on the human body is defficient.

Mr. President, as serious as the problem of diabetes is now, there is every indication that it will become even more so in the years ahead. We cannot legislate a cure for diabetes, but we can certainly establish a framework for a more effective diabetes program and provide the support necessary to carry out such a program.

Mr. JAVITS. Mr. President, I urge the Senate to support the "National Diabetes Research and Education Act," an original bill reported by the Senate Committee on Labor and Public Welfare—of which I am the ranking minority member—which combines and incorporates the best features of diabetes legislation carefully considered by the committee.

The needs of diabetic patients in the United States are not being met at the present time and I believe these needs cannot be met in the future unless the Federal Government expands its leadership role in this area and provides the financial support that is essential to combatting the problems related to diabetes.

Diabetes mellitus is a major health problem in the United States. The disease afflicts approximately 5,000,000 Americans and there are about 325,000 new cases of diabetes diagnosed each year. It is the fifth leading cause of death from disease, and 35,000 deaths are attributed to it annually. Diabetes is the real underlying cause of many thousands of deaths that are officially counted under the heading of "heart disease," "stroke," and "kidney disease." It is the second leading cause of new cases of blindness, and it produces blindness almost 20 years earlier than the leading cause of blindness.

The complications of diabetes mellitus lead to many other serious health problems and uncontrolled diabetes significantly shortens life expectancy.

To establish the appropriate national commitment to launch an attack on diabetes—one of the most important chronic diseases that afflicts mankind—the bill provides:

First. A task force to develop a plan to combat diabetes under the National Institute of Health is established in HEW. The plan to be developed within 9 months, will include research, drug development, field studies, manpower training and data analyses.

Second. The task force is to be composed of 10 persons—6 experts and 4 consumers—2 of whom must be parents of children with diabetes—and $500,000 is authorized for the task force.

Third. The Arthritis Institute at NIH is also required to establish a prevention and control program to combat diabetes and $17.5 million over 3 years is authorized for this purpose.

Fourth. The Arthritis Institute is required to establish research and training centers of excellence throughout the United States and $45 million is authorized for this purpose over 3 years.

I urge my colleagues to support S. 2830 and provide the necessary funding—a total of $63 million over 3 years—to assure the Federal Government mounts an effective attack on diabetes and establishes the necessary coordinated research effort in the field of diabetes—as well as in the closely related fields of metabolism and endocrinology from which much of the newer knowledge concerning the mechanisms underlying the disease is expected to evolve.

Mr. KENNEDY. Mr. President, I rise in strong support of the Diabetes Research and Education Act now pending before the Senate. This legislation is essential if the Nation is to effectively cope with the magnitude and severity of diabetes.

Following the discovery of insulin, virtually everyone believed that a cure for diabetes had been discovered and that diabetes had been eliminated as a significant medical problem. Indeed, the physicians of the 1920's were unaware that many of the patients whose lives were saved by insulin would develop the serious complications involving the eyes, kidneys, heart, nervous system, skin, and blood vessels that we now recognize.

The medical community adopted an unrealistically optimistic point of view, "Follow your diet and take your insulin every day, and you will lead a normal life." Even after the long-term complications of diabetes were recognized and even today there is a tendency to present an overly optimistic picture of the problems facing the patient with diabetes. Although this is understandable from the standpoint of the doctor relating to the individual patient, it has not moved diabetes into its proper place in the public eye in comparison to some of the more dramatic, though far less prevalent, diseases.

Mr. President, this Nation is preeminent in biomedical research. And to a considerable extent that preeminence is a direct result of the success of the National Institutes of Health. The Arthritis Institute of the NIH has become the central focus for diabetes research and training. The committee's bill is designed to enhance the resources of the Arthritis Institute in order to assure a more substantial and hopefully more effective program to combat diabetes.

The Health Subcommittee conducted hearings last February on S. 17 and S. 648. S. 17 was introduced by the rank-

ing minority member of my subcommittee and my friend and colleague, Senator SCHWEIKER. And S. 648 was introduced jointly by the distinguished Senator GALE MCGEE and the distinguished chairman of the Labor and Public Welfare Committee, Senator WILLIAMS.

The bill now before the Senate is an original bill which incorporates the provisions from both S. 17 and S. 648.

The principal features of the bill are as follows: A task force is authorized for the purpose of creating a national plan to combat diabetes to be carried out by the National Institute of Arthritis and Metabolic Diseases. The task force is comprised of 10 individuals, 6 of whom are to be experts and 4 of whom are to be consumers. The plan of the task force is to be completed in 9 months and is to include recommendations respecting biomedical research, drug development, field studies, manpower training, and data analyses.

In addition, the bill requires the Institute to establish prevention and control programs to combat diabetes. These programs are to be analogous to the prevention and control programs which my committee has previously included in the Conquest of Cancer Act and the National Heart, Lung, Blood, and Blood Vessel Act. For these purposes the bill authorizes $17.5 million on a 3-year period. Finally, Mr. President, the bill requires the Institute to establish research and training centers of excellence throughout the United States to improve research, training, and treatment programs in diabetes. In this regard the bill authorizes a total of $45 million of a 3-year period.

The total cost of this bill, Mr. President, is $63 million which I believe to be a prudent amount given the fact that this dread disease affects 10 million Americans. And the incidence of diabetes is increasing. The complications of diabetes are too frequently catastrophic. For example, many diabetics suffer blindness as a consequence of the disease. And a statistical projection indicates that this complication will soon become the No. 1 cause of blindness in the Nation.

Mr. President, every witness who testified before my subcommittee supported necessity for legislation in this area, except the administration. After having reviewed the hearing record and after having analyzed the administration's budget request for the National Institutes of Health for the last several years, I cannot accept the administration's argument. As a matter of fact, I am increasingly concerned that the administration's budget priorities may very well seriously restrict and harm the biomedical research and training programs of several of the Institutes at the National Institutes of Health, including NIAMD.

Lastly, Mr. President, I want to commend the fine cooperation and diligent effort which have been made by my colleagues on this measure. Senators SCHWEIKER, MCGEE, and WILLIAMS have been pioneers in this effort. They deserve great credit for their effort. I believe this to be an excellent bill. And, as chairman of the Senate Health Subcommittee, I urge its adoption.

Mr. McGEE. Mr. President, today the Senate will be considering S. 2830, a bill which the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER) and I introduced to launch a nationwide attack on diabetes.

My distinguished colleague and I have been joined by 30 other Senators in the sponsorship of this legislation.

It is our hope that the Senate could move quickly on this legislation. We could lose valuable ground already gained in coming to grips with this disease if we do not provide the resources necessary to carry on the research which has brought us to the brink of significant breakthroughs.

Diabetes is a major health problem in our Nation, afflicting some 5 to 10 million Americans. Each year 325,000 new cases are diagnosed. Although 35,000 deaths are officially attributed annually to the disease, diabetes is the underlying cause of many thousands of deaths that are officially classified under heart disease, stroke, and kidney disease. It is the second leading cause of blindness, producing blindness nearly 20 years earlier than glaucoma, the leading cause.

With this in mind, there is considerable optimism that a discovery of a cure for the disease in the foreseeable future will be found, if we devote the necessary resources to such a search. This hope is not based upon a single research project, but on the work of a number of American scientists in California, Massachusetts, Minnesota, Missouri, New York, Pennsylvania, and Texas.

Probably the most promising avenue of research, according to the American Diabetes Association, is the work on the transplantation of beta cells, the cells of the pancreas which produce insulin. Some diabetics seem to have too few beta cells to meet the insulin demand of their bodies.

Others may have a normal number, but the cells do not release enough insulin. Still others do not adequately utilize the insulin their beta cells produce. The goal of the transplants is to restore the body's ability to manufacture and release the hormone in sufficient amounts.

Another area of research being undertaken in several laboratories focuses upon new systems for treatment of diabetics that will insure normal blood sugar levels on a moment-to-moment basis. The goal is to produce an artificial pancreas or, more accurately, an artificial beta cell, the insulin-producing cell of the pancreas.

Once again, according to the American Diabetes Association, two devices already have been developed which would be components of such an artificial beta cell that would regulate the blood sugar automatically in diabetics as it is done physiologically in nondiabetics.

One of these is a small implantable sensor capable of measuring the blood sugar continuously. Animal studies are underway now to determine the accuracy, sensitivity and longevity of this component. The other is a minicomputer that can be programed to deliver insulin when the blood sugar rises and glucose when the blood sugar falls. As soon as this phase is completed, hopefully by mid-1974, trials will be begun in human patients.

The computer and the sensor would be linked with a power supply, an insulin pump and a refillable insulin reservoir in a totally implantable system. It is conceivable that such an artificial beta cell would be available to diabetics by 1976.

Thus, with continued research scientists believe that insulin-taking diabetics may be relieved of the necessity for daily injections of the hormone sooner than many people thought possible.

Another area of research has revealed the possibility that what some diabetics inherit is the tendency to, first, become infected with a specific virus, and, second, to respond to that virus with a specific reaction, such as becoming diabetic.

Here again, the American Diabetes Association reports that this raises the possibility that as the genetics of diabetes are studied and the knowledge of its relationship to viral infection increased, it would be possible to prevent diabetes by immunizing the individual against certain viruses.

Yet, in spite of the critical need to provide adequate resources for continued research in finding a cure for the disease and in spite of the fact that we stand on the brink of significant breakthroughs, the administration has launched a Government spending program which drastically cuts back our medical research programs.

Today we are spending a maximum of only $1.60 per diabetic per year in this country on research. With the projected administration cutbacks in medical research, the sum will drop below $1 per diabetic per year. In 1969, for example, we spent $5.9 million on diabetes research. In terms of 1969 dollars, only $4 million was spent in fiscal 1973.

This diminution in funding for research is very detrimental to our efforts to find a cure. Funding cutbacks hurt in the areas of research and training fellowships for doctors who would specialize in work with diabetics where the funding for such programs is already entirely inadequate. These people who are conducting the research projects cannot go anywhere else for funding because there is no diabetes fund like the Heart Fund or the Cancer Fund. The tragedy is that untold millions of Americans will pay the price for a lack of wisdom and foresight on the part of the Federal Government in unleashing our resources to find a cure for diabetes.

Under Senator SCHWEIKER's and my bill, $17.5 million would be authorized for a 3-year period for diabetes epidemiology prevention and control. These funds will be used in an effort to halt the growing incidence of diabetes through prevention, control, diagnosis, and treatment of diabetes in children.

In addition, $45 million would be authorized under our bill to establish a total of 15 national diabetes research and training centers. These centers would be located geographically around the country by population. The centers would engage in basic research and training of physicians and allied health personnel. Another function would be one of public

education. It is hoped that eventually some 50 centers could be established with comparable funding.

In the estimation of Senator SCHWEIKER and myself, we believe the total funding package of $62.5 million is very modest when compared to funding for cancer research, and also heart and lung disease under recently passed legislation.

In essence, under our bill, an attack on diabetes will be launched on four fronts: research, professional education, patient education, and public education and detection.

Patient education is important to keep diabetics fully informed on the need for the methods of proper management of the disease.

Professional education is important to keep physicians and allied health personnel abreast of the latest developments in order to assure continuing improvement in the care and treatment of patients with diabetes.

Public education and detection are important to increase public understanding and awareness of the problem, and to discover the unknown diabetic and alert him to the need for proper treatment.

And, of course, research is important to learn more about the nature and causes of diabetes and its care and treatment. The ultimate goal is to discover a cure for and prevention of the disease.

The bill would focus efforts more sharply on the problems of diabetes with not only increased emphasis within the National Institutes of Health, but also with significant increased funding. The allocation of funds for the national centers in the four areas of concentration would be determined by the national task force which is created in the bill, together with the Director of NIH. The task force would be composed of 10 eminently qualified persons, 6 of whom would be scientists and physicians and 4 from the general public.

It is our hope that the Senate will move quickly on what we believe to be a very critical piece of legislation. We believe our bill to be sound in its approach and one which can enable us to attack the disease in a more adequate manner.

The ACTING PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2830) was ordered to be engrossed for third reading, was read the third time, and passed, as follows:

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 "National Diabetes Research and Education Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) diabetes mellitus is a major health problem in the United States;

(2) diabetes mellitus is the fifth leading cause of death from disease and the second leading cause of blindness in the United States;

(3) uncontrolled diabetes mellitus significantly decreases life expectancy;

(4) the citizens of the United States do not have a full understanding of the nature and impact of diabetes mellitus;

(5) there is convincing evidence that the known prevalence of diabetes mellitus has increased dramatically in the past decade;

(6) the determination of the most effective program for discovering the magnitude of the disease, its causes, cures, and treatments must be given immediate attention;

(7) there is great potential for advancement against diabetes mellitus in the National Institute of Arthritis, Metabolism, and Digestive Diseases, of National Institutes of Health in concert with public and private organizations capable of necessary research and public education in diabetes mellitus; and

(8) the establishment of regional diabetes research and training centers throughout the country is essential for the development of scientific information and appropriate therapies to deal with diabetes mellitus.

(b) It is the purpose of this Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes mellitus.

DIABETES PROGRAM

SEC. 3. Part D of title IV of the Public Health Service Act (42 U.S.C. 201) is amended by adding at the end thereof the following new sections:

"NATIONAL TASK FORCE ON DIABETES

"SEC. 435. (a) The Secretary within sixty days after the date of enactment of this section shall establish a National Task Force on Diabetes (hereinafter referred to as the task force) to formulate a long-range plan to combat diabetes mellitus. Such plan shall develop recommendations for (1) the utilization and organization of national resources for that purpose, and (2) conducting a comprehensive study and survey investigating the magnitude of diabetes mellitus, its epidemiology, its economic and social consequences, and an evaluation of available scientific information and the national resources capable of dealing with the problem. Such plan shall also include related endocrine and metabolic diseases and basic biologic processes and mechanisms, the better understanding of which is essential to the solution of the problem of diabetes mellitus.

"(b) The task force shall also develop a program to expand, intensify, and coordinate the activities of the National Institute of Arthritis, Metabolism, and Digestive Diseases respecting diabetes mellitus and related endocrine and metabolic diseases. Such program shall be coordinated with the other programs conducted or administered by the research institutes of the National Institutes of Health to the extent that such institutes have responsibility respecting such diseases. The program shall provide for—

"(1) investigation in the epidemiology, etiology, prevention, and control of diabetes mellitus, including investigation into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, prevention, and control of diabetes mellitus;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal phenomena associated with diabetes mellitus including abnormalities of the skin, gastrointestinal tract, kidneys, eyes, and nervous system, and shall also include evaluation of influences of other endocrine hormones on the etiology, treatment, and complications of diabetes mellitus;

"(3) research into the development, trial, and evaluation of techniques and drugs used in, and approaches to, the diagnosis, treatment, and prevention of diabetes mellitus;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological, physical, and engineering science to all facets of diabetes mellitus;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, rehabilitative, and control approaches to diabetes mellitus;

"(6) the education and training of scientists, clinicians, educators, and allied health personnel, in the fields and specialties requisite to the conduct of programs respecting diabetes mellitus; and

"(7) a system for the collection, analysis, and dissemination of all data useful in the prevention, diagnosis, and treatment of diabetes mellitus.

"(c) In the development of the plan, required under subsection (a), attention will be given to means to assure continued development of knowledge and dissemination of such knowledge to the public, which would form the basis of future advances in the understanding, treatment, and control of diabetes. Specific recommendations shall be made on the proportion of the effort devoted to individual basic research projects undertaken in the biomedical research laboratories of this Nation.

"(d) The Task Force shall be composed of ten members who are eminently qualified to serve on such Task Force, as follows:

"(1) six members shall be scientists or physicians representing the various specialties and disciplines involving diabetes mellitus and related endocrine and metabolic diseases; and

"(2) Four members from the general public, two of whom shall be parents of children suffering from diabetes mellitus.

"(e)(1) The Task Force shall publish and transmit to the Congress an interim report within six months after the date of enactment of this section and a final report not later than three months thereafter. Such report shall contain a national program as required by subsection (b).

"(2) The Task Force may hold such hearings, take such testimony, and sit and act at such times and places as the Task Force deems advisable to develop a national program to eradicate diabetes mellitus.

"(f) The Director of the National Institute for Arthritis, Metabolism, and Digestive Diseases shall—

"(1) designate a member of the staff of such Institute to act as Executive Secretary of the Task Force; and

"(2) make available to the Task Force such staff, information, and other assistance as it may require.

"(g) Members of the Task Force who are officers or employees of the Federal Government shall serve as members of the Task Force without compensation in addition to that received in their regular public employment. Members of the Task Force who are not officers or employees of the Federal Government shall each receive compensation at the rate of $100 per day for each day they are engaged in the performance of their duties as members of the Task Force. All members of the Task Force shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Task Force.

"(h) There are authorized to be appropriated to carry out the purposes of this section $500,000 for the fiscal year ending June 30, 1974, and such sums shall remain available until expended.

"IMPLEMENTATION OF DIABETES PROGRAM

"SEC. 436. Not later than sixty days after the Task Force submits its report and recommendations to the Congress (as required under section 435), the Director of the National Institute for Arthritis, Metabolism, and Digestive Diseases shall, through the National Institutes of Health and the Department of Health, Education, and Welfare, submit to the President for transmittal to the Congress a report outlining the action

required and the staff requirements to carry out the recommended program with a request for such additional appropriations (including increased authorizations) in such amounts as may be required to pursue immediately the full implementation of the program recommended by the Task Force for which regularly appropriated funds are not available.

"DIABETES EPIDEMIOLOGY PREVENTION AND CONTROL PROGRAM

"SEC. 437. (a) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, under policies established by the Director of the National Institutes of Health, and after consultation with the Advisory Council (established under section 434(b)), shall establish programs as necessary in cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies, in the epidemiology, prevention, control, and evaluation of diagnosis and treatment of diabetes, appropriately emphasizing the prevention, control, diagnosis, and treatment of such diseases in children.

"(b) There are authorized to be appropriated to carry out the purposes of this section $2,500,000 for the fiscal year ending June 30, 1975, $5,000,000 for the fiscal year ending June 30, 1976, $10,000,000 for the fiscal year ending June 30, 1977.

"NATIONAL DIABETES RESEARCH AND TRAINING CENTERS

"SEC. 438. (a) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases, under policies established by the Director of the National Institutes of Health and after consultation with the Advisory Council (established under section 434 (b)) and consistent with the recommendation of the task force, will provide for the development of research and training centers for the study of diabetes and related endocrine and metabolic disorders. Such centers shall be established geographically on the basis of population density throughout the Nation in an environment with proven research capabilities. A center may utilize the facilities of one institution or could be formed from a consortium of cooperating institutions. Each center shall encompass the research and training continuum from fundamental studies to applied clinical investigation and education of physicians and allied health personnel in optimal methods of diagnosing and treating diabetes and its complications. Each center shall develop effective mechanisms for training biomedical investigators needed for research into diabetes and related diseases, clinicians and allied health personnel to deal with fundamental and clinical problems presented by diabetes and its complications. Each center shall also develop effective mechanisms for disseminating contemporary information about diabetes to physicians and allied health personnel who provide primary care for patients with diabetes that live in the geographic area served by the center.

"(b) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year ending June 30, 1975, $15,000,000 for fiscal year ending June 30, 1976, and $20,000,000 for fiscal year ending June 30, 1977.

"ASSOCIATE DIRECTOR FOR DIABETES

"SEC. 439. (a) There is established within the National Institute of Arthritis, Metabolism, and Digestive Diseases the position of Associate Director for Diabetes who shall report directly to the Director of such Institute and who, under the supervision of the Director of such Institute, shall be responsible for programs with regard to diabetes within such Institute.

"(b) The Director of the National Institute of Arthritis, Metabolism, and Digestive Diseases working through the Associate Director for Diabetes shall (1) carry out programs of support for research and training in the diagnosis, prevention, and treatment of diabetes mellitus and related endocrine and metabolic diseases, and (2) establish programs of evaluation, planning, and dissemination of knowledge related to research and training in diabetes mellitus and related endocrine and metabolic diseases.

"DIABETES COORDINATING COMMITTEE

"SEC. 439A. In order to better coordinate the total National Institutes of Health research activities relating to diabetes mellitus, the Director of the National Institutes of Health shall establish an Inter-Institute Diabetes Mellitus Coordinating Committee. This committee will be composed of representatives who can speak for each of the institutes and divisions involved in diabetes-related research. The committee will be chaired by the Associate Director for Diabetes. Such committee will prepare a report as soon after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the committee in coordinating the research activities of the National Institutes of Health relating to diabetes mellitus during the preceding year.

"INTERAGENCY TECHNICAL COMMITTEE

"SEC. 439B. (a) The Secretary shall establish an Interagency Technical Committee on Diabetes Mellitus which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to diabetes mellitus to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director and Associate Director for Diabetes of the National Institute on Arthritis, Metabolism, and Digestive Diseases shall serve as chairman and cochairman respectively of the committee, and the committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities as determined by the Secretary.".

THE VIETNAM REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a commentary entitled "Vietnam Budget: Between the Lines," written by Gabriel Kolko, professor of history at York University, in Canada, and published in the New York Times of December 7, 1973, be printed in the RECORD.

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

VIETNAM BUDGET: BETWEEN THE LINES

(By Gabriel Kolko)

TORONTO.—The Senate Armed Services Committee and House Appropriations Committee hearings on the Pentagon budget until July 1974 are now out, and the traditionally diligent censors released alarming new information on the Nixon Administration's plans for Indochina.

The facts shatter its claims to have ended the Vietnam war, much less to bear no responsibility for the Thieu Government's violations of the Paris Agreements. And if the Administration implements all the contingencies for which the Pentagon has budgeted, as it often did in the past, at the very least it has assured that the existing bloody conflict will drag on—and the worst we can expect is an escalation to direct U.S. participation in the air war.

Last Aug. 1 a Pentagon spokesman disclosed to the House that it had put aside $275 million for the direct use of U.S. airpower, including B–52's, through June 1974. Bombing in Cambodia until the Aug. 15 cutoff consumed $50 million, but the rest was "to keep the area established," and the censor "sanitized" out the number of possible sorties.

The Senate hearings, however, contain the air war cost data that allow anyone to estimate the missing information quite accurately: $225 million will buy about 120,000 bombs delivered by 3,800 B–52 and 16,700 fighter-bomber sorties—an amount far in excess of 1965 air munitions. Meanwhile, the Pentagon budgeted the Seventh Fleet to keep 77 ships and 331 aircraft in Southeast Asia as part of the "less than 250,000 men" now remaining in the East Asia-Pacific area.

The hearings also contain much new data on "civilian advisers." Contrary to far lower Pentagon claims at the time, as of last March 31 there were 8,003 American civilians in Vietnam, and 8,100 are projected to be there at the end of this year. In addition, an undisclosed number of non-Vietnamese foreigners on the Pentagon payroll until mid-1973, a group that has declined only slightly since, provide 11,337 "man-years." "I could not put any termination date on it," then Secretary of Defense Richardson confesses when queried about all these advisers, but estimates of three to five years were later mentioned despite the fact the exact date remains classified. But contracts for such services increased $63 million in two months to $218 million last May 31.

Meanwhile, President Thieu's army is now scheduled to spend an annual $277 million on munitions, "a continuation of the level of recent consumption" that the Pentagon's officials on Aug. 3 assured the House they fully controlled. That sum will buy nearly 140,000 tons of explosives.

The cost of Saigon and Laotian forces to the U.S. this year will come to $1.8 billion in outlays, one-third more than the Nixon Administration asked Congress to appropriate. The balance will be taken from earlier, unexpended budgets, and the total will include 71 F–5E aircraft for Thieu's aviators. This plane, which the Administration insists is legal under the replacement proviso in the Paris Agreement, nevertheless costs over twice as much as the earlier model and is far more advanced.

Full Southeast Asia outlays for the U.S. this fiscal year, including only military costs for itself and its three dependents, will amount to $4.6 billion should the Congress approve the Pentagon's requests. And what Congress will not appropriate for Indochina, provisos such as Section 735 of the 1973 Defense Appropriation Act allow the Pentagon itself to determine when the "national interest" requires shifting additional funds to the war. In 1973 it obtained $492 million in this manner.

Last September, when Western journalists confirmed that Saigon was using its vast supply of arms to initiate the current upsurge of fighting in Vietnam, the danger of renewed U.S. air war increased as well. If American men are also called upon to utilize the contingency plans and equipment the Nixon Administration has in place, then our worst fears will come to pass.

WHY THE ARMS RACE?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that an article entitled "Why the Arms Race?" written by David R. Inglis, and published in War/Peace Report, be printed in the RECORD. Mr. Inglis is one of the generation of physicists who created the atomic bomb, and is professor of physics at the University of Massachusetts.

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

WHY THE ARMS RACE?

(By David R. Inglis)

(The need to provide jobs, not security, is now the primary spur for the U.S. in the arms race, argues this physicist. But this is unnecessary, he says, for there are many better alternatives, including programs to solve the impending energy crisis.)

The Cold War, and the great arms race that grew out of it, have dominated international politics for the last quarter of a century. Perhaps begining with the Cuban missile crisis of 1962, when the world realized that nuclear deterrence might indeed fail and bring on ineffable destruction, and the above-ground nuclear test ban of the following year, when it became evident that serious arms control agreements were possible between the two super-adversaries, there has been widespread hope that the tide might turn against the uncontrolled arms race, the effort by both sides to achieve "superiority" over the other. But now, a decade later, the trend of the arms race still seems to be ominously upward, only slightly deflected by recent agreements.

The broad range of possibliities is easy to outline: at the idealistic end is G.C.D. (general and complete disarmament); in the middle is some form of stabilized deterrence, or balance of terror; and at the other, hawkish end is an arms race not seriously inhibited by the SALT agreement, with the opponents seeking to gain the upper hand through qualitative improvements of weapons under control and through research and new deployment of weapons not covered by the agreement. The basic question may be whether the form of balance of terror moves lower in the direction of G.C.D., or higher, toward a renewal of stiff military competition, with the two superpowers leading the way and all the other nations following at their own maximum potential.

Adam Roberts, writing in the Jan./Feb. issue of *WPR*, comments on the lip service given to G.C.D. in the preamble of the SALT agreement as follows: "It is a strange paradox that the ritual promise to achieve general and complete disarmament . . . occurs in the very treaty which . . . enshrines the principle that the road to security lies through a controlled and institutionalized system of mutual terror." While the beautiful dream of G.C.D. remains valid as an ultimate goal, there are also important historical reasons for this reference.

In the early years of the nuclear age, disarmament conferences seem in retrospect to have served mainly as an artificial showcase for competing good intentions while the two major nuclear powers pursued the serious competition of getting the nuclear race well under way. The showpiece of the U.S. was the Baruch plan for avoiding a nuclear arms race by internationalizing atomic know-how under a system of strict control. It was originally proposed seriously, not as a showpiece. If accepted it could have meant much to the world, but it was kept as a showpiece long after it became apparent that it was unacceptable to the U.S.S.R. and doubtful if it was acceptable even to the U.S.

The countervailing showpiece of the U.S.S.R. was G.C.D. In a world newly faced with the nightmare of possible nuclear devastation, it seemed to friendly observers perhaps the only reasonable course. However, to Westerners haunted by fears of communist aggression in the early phases of the Cold War, it appeared to be a trap proposed by a would-be aggressor. After years of propaganda for G.C.D., Soviet leaders gradually have come to appreciate the magnitude of the disarmament problem and the desirability of measures short of G.C.D. Nevertheless, it would be difficult for them to abandon completely their earlier stated goal.

It is diplomatically realistic for the U.S. to recognize that any arms control agreements it makes are quite consistent with G.C.D. as an ultimate goal, even though it has no expectation that G.C.D. will be achieved within the lifetime of living men. Other goals as well, short of G.C.D., are recognized in the SALT I preamble: "cessation of the nuclear arms race and . . . effective measures toward reductions in strategic arms, nuclear disarmament and G.C.D." Such recognition in a preamble need not detract in the least from the serious intent and practical effect of the articles of agreement. The effectiveness of SALT I can be judged on its own merits, and as a real limitation on one link of the chain reaction of the arms race it has some merit. If it proves to be a step toward further measures really stopping the arms race, its merit will be much greater. Beyond just stopping the arms race, there lies the prospect of moving down to a controlled balance at lower levels of nuclear weaponry, with the attendant reduction of tensions resulting from greater stability and reduced useless expenditures. All this should have the important effect of making nuclear war less likely. The very real difficulties of achieving and maintaining G.C.D. might seem less formidable from the perspective of a low-level stabilized deterrent.

DIFFERING WILLS

It has frequently been said—for example, by the Swedish representative at the Geneva disarmament conference, Mrs. Alva Myrdal—that there is no disarmament because there is no will to disarm. Indeed, there generally has been no national will to disarm on the part of the superpowers. But a nation is made up of many people and on few subjects is there a truly national will. In each of the two superpowers there are people with a will to disarm, either partially or completely. They are opposed by people with a will to carry on the arms race. The statement of a will to disarm in a treaty preamble is to some extent a compromise between these groups of people, and may serve the useful purpose of advertising the concept of steps toward disarmament and thus perhaps spreading the will to disarm.

The will of the Nixon administration with regard to the arms race, while ambivalent, seems generally to be for business as usual. True, the slightly restrictive terms of the SALT I agreements were forged during Nixon's presidency, but they came very slowly largely because great care was taken not to transgress unduly on the Pentagon's desires. The Arms Control and Disarmament Agency has been seriously cut back and its new head, Fred Charles Ikle, has expressed views favoring development of far more sophisticated nuclear weaponry.

During the recent summit meetings with Leonid Brezhnev, President Nixon signed documents including some lofty platitudes, such as the declaration of the obvious intention to avoid nuclear war. At least one point, however, may have important substance—the instruction to the SALT II negotiators to consider limitations on developing strategic missiles, presumably meaning MIRVs (multiple warhead missiles). The most troublesome of the Pentagon requirements backed by the administration was the insistence on development of MIRVs even while the SALT talks were in progress; the negotiation might have been much more fruitful if the administration had held back on MIRV development. Both sides had cooled on ABMs and the agreement not to deploy them widely was the solid achievement of SALT I. But the whole purpose and originally-stated motivation for MIRVs was to penetrate widespread ABM deployment. Now that, from the arms control point of view, the administration has made the mistake of developing and even to some extent deploying this unnecessary complication of the arms race, it remains to be seen whether anything can come of the Nixon-Brezhnev declaration on the subject.

SALT I places a temporary numerical lid on most strategic weapons considerably above present levels. It may be that the administration's goals for SALT II go no further than to confirm this ceiling. Lacking more far-reaching accords, the arms development race continues unabated, leaving each side striving for the technological breakthrough that could destabilize deterrence and perhaps even bring on nuclear war. As an indication of the administration's lack of will to cut back on arms, it is significant that many established civilian programs have been eliminated to make way for enormous military demands on the budget, including those perpetuating the arms race. James R. Schlesinger, the new secretary of defense, told a Senate committee hearing on his confirmation that it would be "impossible" to reduce the defense budget in the years ahead and it would probably have to rise "just to stay even."

Indeed, it has become increasingly apparent that these large expenditures are the main purpose and motivation of the arms race, as the military justification has become more and more questionable in the recent years of overkill capabilities. The huge arms expenditures have a large constituency in American politics, in both business and labor. It is very difficult politically for legislators to resist the pressure for arms race spending in their home districts. Paper plans for reconversion of plants and jobs to non-military production are less convincing than continued dependence on Department of Defense procurement.

Here among the American people is where the will to disarm is perhaps most seriously lacking. The Department of Defense quite naturally has a will to continue arming and is in a well-heeled position to saturate the populace with a mixture of conjecture, information and misinformation, favorable to its point of view. The opposing argument that funds released from military expenditures could benefit the civilian needs by creating other jobs, has no such powerful advocate.

Perhaps the primary culprit is the productivity of technology, a phenomenon that should be a boon to mankind. In spite of the just claim that technology creates many new types of employment, such as the building and servicing of computers, many of these jobs require specialized training, and the overall effect is to eliminate more employment than is created. Many of the marvelous labor-saving devices do save labor—and put people out of work. "How are you going to keep them down on the farm" when agricultural machines are so efficient? This is the nature of rapidly advancing technology, unless it is matched by equally rapid changes in distributing goods among people. To some extent, the per capita time saved by technology could be distributed more or less evenly to all workers, keeping roughly the same percentage of the people doing the jobs that need to be done, but doing them in fewer working hours so that everyone enjoys more leisure. The length of the shorter average work week should be adjusted to keep productivity high enough so that everyone can work at a living wage. This wage needs to provide incentive enough to get the work done, and people need to learn to enjoy more leisure alternating with a moderate amount of work.

But that is not what is happening. In real life, in which everyone is looking out first for himself, that ideal is not achieved. Those who have good jobs have more influence in politics than those who do not. With our present system of incentives, the person with a job wants a fairly long work week so as to receive a good wage. This shuts others out and means unemployment arising from technological productivity. If one's work is even remotely associated with military production, one wants continued military pro-

duction. If there should be general reconversion to production for civilian needs, a worker might fear, if he thinks of it at all, that his skills would not give him priority and others might get his job. The virtues of arms control and disarmament are far from the average worker's thoughts.

As long as remuneration is based on performance of a full work week, the productivity of machines places a premium on socially useless output. As make-work of this sort, military production is attractive. It involves technical skills and large expenditures. Directly or indirectly, it involves large numbers of people, large enough to be politically effective, but not large enough to prevent widespread unemployment.

As things stand, there are so many socially necessary tasks waiting to be done that we could do much more than simply cut back on military expenditures and carry on the same production in the civilian sector—but with more people doing the identical work in jobs of shorter hours and higher wages. There are immense opportunities to improve our way of living through efforts in the fields of health, education, transportation, nutrition and the environment, to mention a few possibilities. As an example of the kind of program that might be undertaken, let me discuss one major area in which an important part of the resources going into the military sector could be most usefully absorbed—the production of energy.

A MORE LIKELY DANGER

A highly probable danger—far more likely than some of the perils adumbrated by the Pentagon—is a future serious power shortage. This does not require any postulated suicidally mad and omnipotent dictator to make the threat a reality. Yet to meet this threat we are expending only a small fraction of the effort spent on the arms race. Furthermore, we are pushing only two of the possible solutions, only one of them really hard, and neither is without objectionable features. They are nuclear fission and fusion. The former brings with it a variety of dangers and the latter remains a gleam in the scientist's eye.

Among the dangers of the fission route to future power, the one most closely associated with the arms race, is the likelihood that the plutonium that it will create in large quantities will encourage the proliferation of nuclear weapons not only to many countries but also to disruptive organizations. If we think the activities of terrorist groups are tragic now, imagine what they could be in a future plutonium age. Such a scenario is no more implausible than the suicidally mad dictator whose ghost spurs on the nuclear arms race.

Solar power, wind power, ocean thermal power—these are possible ways to meet our future power needs based on virtually unlimited sources of energy, good for many centuries. Geothermal energy and coal gasification are other options that could be very important in meeting our needs for the next century or so, although they are based on more limited sources. Any one of these, given intense research, might be ready to take over the load on a time scale as short as that for the plutonium breeder reactor—some of them in less than a decade.

Consider wind-generated electricity, perhaps to be converted through electrolysis into an easily transported fuel, hydrogen. First generation windmills were developed and thoroughly tested in the 16th century, but not for generating electricity. The second generation prototype in this country (if we skip over small farm windmills) did generate useful amounts of electricity and feed into a commercial power grid. It was built and operated in Vermont in the period 1941–45. It was about 200 feet high and generated about a thousand kilowatts. Because of the use of substitute materials in wartime, it failed structurally but not until it had provided useful experience. At just the time of its failure, the early and overoptimistic prospect of power from the atomic nucleus arose and has since absorbed almost all the country's efforts in the power development field, so a third generation windmill has yet to be built. There have been a few somewhat smaller windmills of the second generation set up in Europe.

There has thus been experience with a quite large windmill, but not enough experience to justify constructing thousands of much larger windmills to take over a serious part of the national power load. What is needed now is the design and construction of at least one very large power-generating windmill to serve as a prototype for future extensive production. Construction of several prototype windmills of different designs would be still better, as a part of a comprehensive effort, including construction of prototype solar plants and other energy producers, to determine soon what would be the most satisfactory power sources for the future as our present fuels run low and the power prices rise. It is far from a foregone conclusion that plutonium will be the best answer. Indeed, if the vested interests in the plutonium route can be circumvented to obtain support for broadly based developmental work, it seems likely that at least one of these others will be better and permit us to avoid the dangers of plutonium power.

With exciting prospects like these before us, why should we still be using the trumped-up need for an arms race to provide make-work activities to bolster the economy and employ labor? What better way to provide for the future strength of our country than to invest a few billions into competing power sources, so as to find the right source for the future, not just the one that arises naturally from present vested interests? With reasonable initiative, the present vested-interest groups should themselves be able to join in on the new developments. Think of rescuing an airframe company from its cost-overrun problems by giving it contracts to design and build a dozen or more prototype windmills each much bigger than any bomber it ever built!

Thus the opportunity is upon us to slow the arms race drastically and to channel our resources into useful instead of wasteful activity. The opportunity is both bilateral, with the Soviet Union, and unilateral, in Washington.

Bilaterally, circumstances are good to put a workable freeze on the arms race through SALT II. The new agreement should include stopping MIRVs, eliminating killer submarines (which if built could possibly destabilize deterrence), control missile test firings and establish a complete nuclear test ban.

Unilaterally, the U.S. could abandon futile military expenses for the Trident submarine, B–1 bomber, new carriers, and other redundant and superfluous weaponry having little significance for the balance of terror, which already has unimaginable overkill weighted on both ends of the scale. And the funds and effort saved could be directed toward the many other problems cited earlier—particularly the question of future energy, for which the sector of industry now devoted to the military would be especially well equipped.

WILL THE U.S. SPEND $91 BILLION FOR UNNEEDED WEAPONS?

This fiscal year the Pentagon is asking for $18.8 billion for procurement of new weapons, $1 billion more than last year. Research and development is also up about half a billion for new weapons, to a total of $8.7 billion. R&D is up 50 per cent as a proportion of the funds provided for procurement in the 1970 fiscal year. The R&D programs deserve detailed attention because of their influence on future procurement spending.

According to a Center for Defense Information study, many of the weapons systems are of marginal utility because they do not add to current U.S. military strength. Their total cost for fiscal 1974 alone is $9.6 billion. Through 1980 they will require spending an estimated total of $91 billion.

In particular, the Center recommends reappraisal of the following:

Strategic weapon systems

[Amounts requested for 1974 in millions]

Poseidon submarine conversion and missiles	$498.2
Minuteman III missiles	768.1
Trident submarine and missiles	1,712.0
Safeguard ABM	401.5
B–1 bomber	473.5
SCRAM missiles	139.1
SCAD missiles	72.2
Strategic cruise missiles	15.3
Site defense of Minuteman	170.1
Airborne warning aircraft	209.5
Airborne command post	83.1
Total	4,542.6

Conventional weapon systems

CVN–70 carrier	$657.0
F–14 aircraft	615.8
Phoenix missile	100.3
S–3A aircraft	546.3
LHA ship	192.0
F–15 aircraft	1,148.0
C–5A	43.1
UTTAS helicopter	108.1
SAM–D missile	194.2
SSN–688 submarines	921.6
DD–963 destroyers	590.9
Total	5,117.3

The Center also recommends reappraisal of the following as Defense Department data remains inadequate for determining their utility:

Strategic weapon systems

[Amounts requested for 1974 in millions]

Advanced ballistic missile reentry systems	$95.3
Advanced ballistic missile defense research	100.0
Total	195.3

Conventional weapon systems

Harpoon missile	$85.6
AV–8A aircraft	58.2
A–10A aircraft	142.4
Mark 48 torpedo	191.2
Patrol frigates	6.8
Surface effect ships	72.8
Sea control ships	29.3
P–3C patrol aircraft	155.6
Total	741.9

The Center for Defense Information, Washington, D.C., is associated with the Fund for Peace.

THE CHINA TRADE

Mr. MANSFIELD. Mr. President, one of the most valuable, succinct, and worthwhile reports to come out of China has just been completed by Mr. K. H. J. Clarke. It is entitled "The China Trade." It was presented at the National Industrial Conference in San Francisco on September 20, 1973. It contains an enormous wealth of fact which has not been available to this country in any great detail. It contains historical material relative to the China trade in the past, going back almost 4,000 years.

Mr. President, I ask unanimous consent, because of the increasing interest in relations between the People's Republic

of China and the United States of America, and the need for a better understanding on our part of just what China is and is not, that the text of the report be printed at this point in the RECORD.

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

THE CHINA TRADE

(By K. H. J. Clarke)

(All figures referred to do not appear in the Record.)

I THE PAST

(a) *To 1949 A.D.*

The Chinese, with a civilization which is one of the oldest in the world, having a documented history of almost 4,000 years, have been trading with the Western World for a long, long time. The first trade caravans from China to Iran over the "Old Silk Road" date from 106 B.C.

Silk, which was a Chinese secret and monopoly, until the silk worm was smuggled into Europe in 550 A.D., was traded for "bloodsweating" thoroughbred horses, coloured glass, myrrh, wool and linen. Caravans destined for Rome, carrying mainly silk, but also skins, cinnamon bark and rhubarb[1] set out at Sinae Metropolis (Loyang) in the lower Yellow River region. The road led, by diverse routes, across the deadly desert of Sinkiang and over the Pamir range of Afghanistan through the forbidding plains and mountains of Central Asia, converging in Persia, and then on to Syria and hence by ship to Rome, a hazardous step-by-step journey of over 5,000 miles. (Figure 1, page 6). Very few Chinese made it all the way to Rome; the Persians, by any means at their disposal, including forcible restraint, being very successful in keeping the Chinese from direct contact with the ultimate Roman customers. To the Persians, as middle men, the "silk" trade was a most profitable business. An interesting facet of the trade was a large imbalance in China's favour made up by bullion or specie payments with which Persian merchants bartered their local goods for delivery to China in lieu of cash returns.

In 120 A.D. and again in 166 A.D., the Romans sent missions of jugglers and merchants by sea directly to Peking with a wide variety of trade merchandise.

Subsequently, Chinese trade relations were opened directly with all the major ports along the southern coast of Asia. Along with the opening of trade came increasing knowledge of the outer world and this developed rapidly to the seventh century A.D. Chinese embassies were opened in many countries in the Mediterranean and the Middle East and a brisk two-way trade in art objects began in turn to influence Chinese art design. During this period, Persian merchants were particularly active dealing in "magical" gems, carpets and aromatics.

Strangely, the period from 900 A.D. to 1200 A.D. was one in which trade with the outer world increased very rapidly but Chinese travel decreased. The greatly expanded and thriving overseas trade during this period coincided with the rise of the Islamic Arab shipmasters and for the most part was conducted directly by Arab merchants. The Arabs continued to hold a most important position in Chinese commerce with colonies established at major trading points.

Chinese trade with Japan, Korea, Asia and India began to play a greater role in the Chinese economy than at any time, exceeded only by development of trade with Europe in the late seventeenth century.

In the first half of the thirteenth century Ghengis Khan conquered the whole of China. Under him and his successors, the most famous being his grandson, Kublai who founded the Mongol or Yuan dynasty in 1280, all of China, Korea, Central Asia, India, Persia, much of Asia Minor and most of Russia were consolidated into one empire. Extensive and safe travel under the protection of the firm rulership of the Khan became possible and envoys from the entire world headed for Peking. This was the time of Marco Polo who, with his father, Niccolo, and his uncle, Maffio, travelled overland from Venice, stayed for 17 years in the court of Kublai Khan, and returned by sea along the coasts of India and Persia. His famous account of the great court and China's people and its thriving cities was the first major record of Asia by a European. It was thoroughly disbelieved and Marco Polo fell into disgrace. "A prophet is not without honour, save in his own country."

At this time, China was ahead of most parts of the world in technology. Among the profusion of technical developments attributable to China are the horizontal warp loom and silk fabricating machinery, the cross bow, the wheelbarrow, the kite, the mastery of cast iron, (1,000 years ahead of Europe), canal lock gates, gunpowder and cannons, the magnetic compass, paper, porcelain, and printing and movable type.

In 1368 A.D. the Ming dynasty overthrew the Mongols and launched large overland explorations. The early part of the fifteenth century also saw great sea-going Chinese expeditions of discovery and trade development under the leadership of brilliant eunuch admirals. These explorations included Malaya, Java, Sumatra, Ceylon, Burma and the coasts of India, the Philippines, the Persian Gulf, the south coasts of Arabia and Aden, into the Red Sea and down the coast of East Africa to Zanzibar. Many overseas trading bases were established. At the mid-point of the fifteenth century, China, as a result of Mandarin jealousy of the admirals and civil service and administration conservatism, turned inwards and lost its opportunity for trade and political leadership in the explored areas, opening the way, a mere 75 years later, to Portuguese exploration and political initiative. This would appear to be one of the turning points in world history.

Vasco da Gama reached India in 1498 via the Cape and a direct route to the East was opened. The Spaniards, Dutch and English set their sights on Asia.

The Portuguese capture of Goa in 1510 and Malacca in 1511 gained control of the gateway to the spice lands of Malaya and the East Indies. Contact with Chinese traders who had come with silk, satins, chinaware and pearls to exchange for spices, ginger, incense and gold thread led the Portuguese to turn their attention to China.

In 1516, Perestrello, a Portuguese sea trader, arrived in Kwangchow (Canton) and the long and contentious era of European involvement in China began. The Portuguese who followed made a very unfavourable impression and the response of the Chinese was conservative and aloof. The Mings limited trade to one port, Kwangchow (Canton) which was closely controlled by the Portuguese by virtue of their established base at Macao. Diplomatic relationships were refused and embassies unwelcome. The opportunity at hand to learn about Europeans and their civilization was lost.

The Spanish, after having conquered Mexico, had direct access from Pacific ports from which they attacked the Portuguese colonies, finally seizing the Philippine Islands. From this base Spanish-Chinese trade flourished using Mexican and Spanish dollars as exchange, resulting in an influx of these currencies into China.

The Dutch arrived in China in 1604, thirty years after the Spanish and ninety years behind the Portuguese. Though arriving late they achieved great success in trade and empire building. They seized Sumatra, Java and Malacca from the Portuguese, and in 1619 the Batavian Government was established in Java which then became the centre of Dutch activities in the East.

After the Manchus conquered the Mings in 1644, they went further in obstructing foreigners and prohibiting travel and emigration, to some extent due to distrust of their subjects in the south. It was not until the early part of the nineteenth century that labourers, mostly from southern areas, were allowed, under European political pressure, to emigrate to Indonesia, Malaysia and Indochina, and not until late in the nineteenth century that China established diplomatic missions in Europe and the United States and that the first Chinese students were permitted to study abroad.

Because of conflicts of interest with the Dutch in the East Indies and the Portuguese in Macao, the British had focused their activities in India. However, in 1637, in open defiance of the Portuguese, direct contact was made with Kwangchow (Canton) but without much commercial or political success. It was not until 1685 that the ban on sea trade was lifted and in 1699 formal British-Chinese trading relationships were established.

By the late eighteenth century there was an extremely active three-way trade between England, China and India. Ninety-five percent of the exports to England consisted of tea, with raw silk, chinaware, rhubarb, lacquered ware and cassia making up the balance. Imports from England, although limited in quantity, included woollens, lead, tin, iron, copper, furs and linen. Exports to India consisted of Nankeen cloth, alum, camphor, pepper, vermilion, sugar, drugs and chinaware, while imports included raw cotton, ivory, and sandalwood, silver and opium.

Because of the small demand for British goods in China the balance of trade was unfavourable to Britain. It was at this time that the British realized that opium, which had been introduced by the Arabs and which could be grown readily in India, was being used increasingly in China, mostly for medicinal purposes. The habit-forming effects of the drug increased the demand so rapidly that the trade balance changed dramatically. Opium purchases more than quadrupled between 1817 and 1830. By 1830 the share of opium in total imports was 56%, cotton 21%, woollen goods 11%, and metals 3%. Tea accounted for 60% of the exports and raw silk and silk goods 23%. Total value of exports was 17.60 million Spanish silver dollars, and imports 26.81 million, resulting in an unfavourable balance of trade of 9.21 million. (Table 1, below).

To greatly oversimplify a most complicated situation, the large outflow of silver which had developed, and the debilitating effects of opium on the people, led to the Manchus banning the opium trade. Smuggling became rampant and the Chinese began to seize contraband shipments. The British sought compensation and increased trade access. The Chinese refused and the "Opium War" of 1840 began. The Chinese capitulated and in 1842 the optimistically named "Treaty of Eternal Peace" or the Treaty of Nanking was signed.

One of the most important results of the Opium War settlement was the ceding to the British of the Island of Hong Kong which has continued for over 100 years as a base for engaging in the China trade. The real era of the Treaty Ports had started. The United States and France signed their own separate treaties with China in 1844.

Twenty-one million ounces of silver which were paid to the British by the terms of the Treaty of Nanking and many additional factors relating to the decline of the court prestige and power, resulted in high taxes and internal weakness and unrest. In 1850, as a result of the aftermath of the Opium War

[1] For more than 2,000 years the Chinese have considered rhubarb to be a powerful aphrodisiac.

and subsequent poverty, the Tai P'ing Rebellion broke out. After many years of severe internal strife, the rebellion was over, but the Manchu government had been severely weakened and the process of economic decline and influence was accelerated.

Table I.—Kwangchow (Canton) Trade, 1830

(Millions of Spanish silver dollars)

Exports: 17.60 Imports: 26.81 Balance: —9.21

Exports (Commodity Composition) Tea: 60% Raw Silk: 10% Silk Goods: 13% Other: 17%

Imports: Opium[2]: 56% Cotton: 21% Woollen Goods: 11% Metals: 3% Other: 9%

(Source: Eckstein).

In 1856 Britain and France, dissatisfied with the results of the Treaty of Nanking, and as a result of many clashes, bombarded and captured Kwangchow (Canton). In 1858 the Manchu Court agreed to the Treaty of Tientsin and ten more Treaty Ports were opened to trade. In 1859 the Chinese tried to repudiate the Treaty. At the same time, the Russians had become active, particularly in political intrigue, and in 1859 laid claim to the Maritime region of Siberia with the capital Vladivostok.

The "Middle Kingdom" was now thoroughly on the defensive caught in a north-south pincer movement. In 1860 the British and the French attacked, captured Peking and burned the Summer Palace. By a new peace settlement with Britain and France and the suppression of the Tai P'ing Rebellion in 1864, the dynasty obtained a momentary reprieve. With stability and the opening of the new Treaty Ports, trade began to improve. The Chinese launched their "self-strengthening" program. The Suez Canal was finished in 1869 and the route to Europe shortened. Telegraphic communication was established between Shanghai and London in 1871. These developments greatly facilitated trade.

The period of the 1870's and 1880's coincided with intensified foreign activity. The Japanese invaded Formosa in 1874 and in 1879 annexed the Lui-ch'iu Islands. The Russians occupied Ili in Sinkiang from 1871–1881 and the French seized Annam or Vietnam in 1884–1885.

However, in spite of the trouble, both imports and exports doubled between 1870–1895. At this time India and Japan began to compete with China for the world tea trade, but silk exports continued to increase, and by 1890 silk displaced tea as China's leading export product. New export products such as raw cotton, vegetable oils, hog bristles, skins, hides and egg products were now added. The 1890 trade pattern was: exports—silk and silk goods 33.9%, tea 30.6%, and raw cotton 3.4%; and imports—cotton goods and cotton yarns 35.5%, opium 19.5%, cereals and flour 9.6%, and metals 5.7%. (Table 2, page 12). By 1895 imports amounted to[3] $140 million and exports to $115 million. Another important development was the rise of imports of kerosene for household illumination—"Oil for the Lamps of China".

The increase in foreign trade generated a demand for modern banking facilities, an increase in shipping, and the construction of ship repair and shipbuilding yards.

Foreign trade and other economic activities in the Treaty Ports were dominated by foreign firms; however, the Chinese merchant class was accumulating wealth, much of which found outlets in real estate, warehousing and speculation.

In 1877 China established in London its first foreign legation abroad. In the next two years legations were established in Paris, Berlin, Madrid, Washington, Tokyo and St. Petersburg. By 1890 China had taken her place in the family of nations.

On the eve of the Japanese aggression in Korea and the 1894–1895 Sino-Japan war, in spite of the self-strengthening program, there was very little modern industry in China, and the turning point in China's economic growth can be traced to the 1895 Treaty of Shimonoseki by which the Japanese received the rights to own and operate industrial establishments in the Treaty Ports. The other powers also exercised their rights and as a result industrial capacity, railroads, shipping and foreign trade grew.

Table 2.—Commodity composition of China's exports and imports, 1890

Exports

Silk and Silk Goods: 33.9% Tea: 30.6% Raw Cotton: 3.4% Other: 32.1%

Imports

Cotton Goods and Cotton Yarn: 35.5% Opium: 19.5%

Cereals and Wheat Flour: 9.6% Metals: 5.7% Other: 29.7%

(Source: Eckstein).

In 1900 there was another violent uprising. The Boxer Rebellion began mostly as a reaction to the Germans. The Boxers killed the German minister and laid seige to the foreign ministries in Peking. An international force, including the United States, captured Peking and an eight-power occupation took over. The Manchus, although maintained in office, were reduced in influence and power even more. In 1908 the contentious Empress Dowager Tz'u-hsi died. She had ruled for fifty years. A new rebellion under the leadership of Sun Yat-sen broke out in 1911, and in 1912 the dynastic system was abolished for the first time in 4000 years. In spite of all the strife, foreign trade had trebled between 1895 and 1913.

Trade expansion was slowed by World War I and in general the rate of growth was considerably slower from this point onwards. China had an unfavorable balance of trade during the overall period 1895–1936, financed by capital imports in the form of foreign loans and investments.

Growing diversification was the most important change in China's foreign trade in the first half of the twentieth century. By 1931 silk and tea exports fell to 17% from nearly 95% in 1868. They were replaced by soy beans and cake, vegetable oils, hides and skins, eggs and egg products, coal, and ores of antimony and tungsten. The textile industry demands, consisting of raw cotton, finished textiles and textile machinery, dominated the import pattern. Additional import items were cereals and flour, sugar, chemicals, metals, tobacco and kerosene. (Table 3, below).

From the fall of the Manchus in 1912 to the founding of the People's Republic of China in 1949, China was in a troubled and violent state. In 1916 after abortive attempts to reinstitute a monarchy, the warlord era began. It lasted from 1916 to 1925 and resulted in the almost complete collapse of the country. Trade was confined to the Treaty Ports.

In 1931 the Japanese attacked and in five months had taken over all of Manchuria. In 1932 the Japanese opened a second front in Shanghai to divert attention from Manchuria, resulting in a truce later that year.

The struggle for power between the Nationalists and the Communists, resulting in 1934 in the Communists' 6000 mile "long march" of indescribable hardship, left the country weakened.

TABLE 3.—*Commodity composition of China's exports and imports, 1931*

EXPORTS

Soy Beans and Bean Cake: 21.4%. Silk and Silk Goods: 13.3%.

Seeds and Oil: 8.4%. Raw Cotton and Cotton Goods: 7.8%.

Hides and Skins: 4.1%. Eggs and Egg Products: 4.1%. Tea: 3.7%.

Coal: 3.0%. Ores and Metals: 1.6%. Other: 32.6%.

IMPORTS

Raw Cotton and Cotton Goods: 20.5%. Cereal and Flour: 12.6%.

Chemicals and Pigments: 8.0%. Sugar: 6.0%. Metals: 6.2%.

Tobacco: 4.4%. Kerosene: 4.5%. Machinery: 3.1%. Other: 34.7%.

(Source: Eckstein.)

In 1937 the Japanese attacked in force in the Peking region. For the Chinese, World War II had started. August 1945 ended the war against Japan but the war for control of China continued. By the middle of 1946 Civil War between the Nationalists under Chiang Kai-shek and the Communists led by Mao Tse-tung was in full force. In two years the Nationalists had been driven from the mainland to Taiwan. In Peking on October 1, 1949, the People's Republic of China was proclaimed.

(b) *1949 A.D.–1972 A.D.*

When the Chinese Communists took over in 1949, China was a war torn, devastated and inflation-ridden economy with a GNP of possibly $50 per capita, a population of between 500–550 million with, at most, 3 million workers employed in modern-type industry. Most of the economy was in agriculture, with very low labour productivity. Industrial production was small, constituting about 10% of the national product. Transportation and communication facilities were badly disorganized and the country had little accumulated capital. The economy was divided into three separate and distinct broad entities. One, the traditional underdeveloped agricultural based sector; two, the modern Treaty Ports, Shanghai and contiguous areas; and three, industrialized Manchuria.

Within a year of its founding, the People's Republic of China was involved in the Korean War. In spite of the effects of this war, the economy was restored to working order in a relatively short period of time. By 1951 the rate of inflation was under control and fiscal and monetary stability was restored. The basis for increased industrialization had been established.

By 1953 the Chinese were ready to launch their first 5-year plan, but long term planning on a comprehensive scale did not commence until about mid-1955. By the end of 1956 the process of nationalization of the economy was completed. During this period stress was placed on industrialization, particularly heavy industry. Following completion of the first 5-year plan, during which industrial production is estimated to have doubled, reaching a level of four times that of 1949, the "Great Leap Forward" was launched. This plan emphasized labour intensive efforts to improve irrigation, flood control and land reclamation to improve agricultural yields with minimum capital input. First results led to over optimism, but bad harvests in 1959 and 1960 caused economic problems.

Up to this point, Soviet credits, technical assistance and capital equipment, including more than 150 complete industrial plants on 10-year credits, had helped considerably in the promotion of industrial growth, but developing quarrels led to Soviet withdrawals of technical aid in 1960–1961. The Soviet credits were paid in full by delivery of commodities at a time when the economy was severely strained.

The causes and short and long term economic effects of the "Cultural Revolution" of 1966–1967 are too recent to fully assess.

The second and third 5-year programs

[2] Opium probably higher percentage due to smuggling.

[3] Dollar figures in this tract are expressed in United States currency unless otherwise stated.

were completed and the fourth 5-year program was started in 1971. Through these programs, the national economy was completely socialized and emphasis has again been placed in recent years on industrial development, particularly steel, petrochemical and fertilizer production.

In terms of official Chinese Communist policy, foreign trade has three objectives: to facilitate rapid industrial growth; to promote self-reliance, for example, if necessary, by importing entire plant facilities in order in turn to develop independent domestic sources of supply; and to serve as an instrument for implementation of foreign policy objectives.

There has been a noted change in China's trading patterns since the early days of the Communist regime. For example, there has been an almost continual decline in China-U.S.S.R. trade, which was at its peak in 1959. The trading pattern has changed from sole dependency on the communist bloc toward expanded trade with non-communist countries. In addition, a need for increased imports of foods and raw materials changed China from a net exporter of foodstuffs to a net importer. This has required a large amount of foreign exchange, impeding imports of capital goods. External trade began to level off from 1955–1957, but began to climb again in 1958. It declined in 1960–1962, due in large part to the economic setback caused by poor harvests and the suspension of Soviet economic and technological assistance. A sharp upturn took place in 1963.

China's international trade was at a peak of $4,270 million in 1959. It fell to $2,675 million in 1962 but recovered by 1970 to $4,225 million consisting of $2,060 million exports and $2,165 million of imports. By 1970 two-way trade between China and the Soviet Union was reduced to a mere $47.0 million. In November 1970 a payments and trade agreement resulted in an increase in China-Soviet trade to $154.1 million in 1971 and an estimated $300 million in 1972. However, since the early 1960's China has been placing increasing importance on her trading relationships with non-communist countries. (Table 4, below.)

TABLE 4.—TRENDS IN CHINA'S TRADE WITH COMMUNIST AND NON-COMMUNIST COUNTRIES, 1951–72

[Millions U.S. dollars]

	Total trade	Communist countries		Non-Communist countries	
		Trade	Percent	Trade	Percent
1951	1,895	975	51.5	920	48.5
1952	1,890	1,315	69.6	575	30.4
1953	2,295	1,555	67.8	740	32.2
1954	2,350	1,735	73.8	615	26.2
1955	3,035	2,250	74.1	785	25.9
1956	3,120	2,055	65.9	1,065	34.1
1957	3,025	1,935	64.0	1,090	36.0
1958	3,735	2,350	63.0	1,385	37.0
1959	4,270	2,960	69.4	1,310	30.6
1960	3,975	2,605	65.5	1,370	34.5
1961	3,015	1,680	55.7	1,335	44.3
1962	2,675	1,410	52.7	1,265	47.3
1963	2,755	1,245	45.2	1,510	54.8
1964	3,245	1,125	34.7	2,120	65.3
1965	3,695	1,125	30.5	2,570	69.5
1966	4,205	1,100	26.2	3,105	73.8
1967	3,860	800	20.7	3,060	79.3
1968	3,710	800	21.6	2,910	78.4
1969	3,885	785	20.2	3,100	79.8
1970	4,225	840	19.5	3,385	80.5
1971	4,600	1,050	22.8	3,550	77.2
1972	[1] 5,500	[1] 1,150	20.9	[1] 4,350	79.1

[1] Estimated.

Sources: 1951–69—JETRO 1970–72—private estimates.

In 1969, Chinese trade with Japan and western industrialized countries, West Germany, Britain, France, Italy and Switzerland reached $1,499.6 million, with a trade balance unfavorable to China of $195.6 million.

The wheat exporting countries of Australia and Canada, on sales to China of $244.5 million and imports of $57.5 million, had a positive trade balance of $187.0 million. (Table 5 below).

Trade with Southeast Asian countries, Hong Kong, Singapore, Malaysia, Ceylon and Pakistan reached a peak level of $890.3 million due to large increases in export of foodstuffs, with a balance favourable to China of $522.1 million. (Table 5, below).

TABLE 5.—CHINA TRADE AND TRADE BALANCES MAJOR COUNTRIES AND AREAS, 1969—Continued

[Millions U.S. dollars]

	Export	Import	Total	Balance	Percent trade non-Communist countries
Japan	234.5	390.8	625.3	−156.3	23.2
Britain	90.6	124.6	215.2	−34.0	8.0
West Germany	88.2	157.9	246.1	−69.7	9.1
France	71.2	41.9	113.1	+29.3	4.2
Italy	64.1	56.3	120.4	+7.8	4.5
Belgium-Luxembourg	12.4	16.4	28.8	−4.0	1.1
Switzerland	19.0	14.4	33.4	+4.6	1.2
Denmark	9.1	1.3	10.4	+7.8	.4
Netherlands	27.9	23.0	50.9	+4.9	1.9
Sweden	18.3	11.6	29.9	+6.7	1.1
Norway	5.9	4.8	10.7	+1.1	.4
Austria	9.9	4.0	13.9	+5.9	.5
Yugoslavia	.9	.6	1.5	+.3	.1
Total Western industrialized countries	652.0	847.6	1,499.6	−195.6	55.7
Argentina	0.7	0.3	1.0	+0.4	
Canada	16.4	122.4	138.8	−106.0	5.2
Australia	34.7	117.2	151.9	−82.5	5.6
New Zealand	5.7	4.6	10.3	+1.1	.4
Total wheat exporting countries and others	57.5	244.5	302.0	−187.0	11.2
Hong Kong	445.5	6.1	451.6	+439.4	16.8
Singapore	136.7	57.1	198.3	+79.6	7.2
Ceylon	40.4	47.4	87.8	−7.0	3.3
Pakistan	26.4	28.9	55.3	−2.5	2.0
Maylaysia	57.2	44.6	101.8	+12.6	3.8
Total (South East Asian countries)	706.2	184.1	890.3	+522.1	33.1
Total	1,415.7	1,276.2	2,691.9	+139.5	100.0
Total foreign trade	2,060.0	1,825.0	3,885.0	+135.0	

Source: JETRO.

China's domestic economy under the 5-year plan is making steady progress and the scale of her foreign trade is on a rising curve.

China competes with the Soviet Union for second place behind the United States in the value of agricultural commodities produced. It produces more rice, millet, sweet potatoes, sesame and rapeseed than any other nation and ranks second or third in soy beans, tobacco, wheat and cotton. It is the world's largest consumer of cotton, and is the largest producer of cotton textiles, with more than 200 mills, 15.5 million spindles and 450,000 weaving machines. 1971 textile production was 9.3 billion yards. More hogs are raised in China than in any other country.

The composition of Chinese goods imported and exported is determined by demands of economic development based in turn on the principles of self-sufficiency and industrial and agricultural growth. Therefore, imports are confined to absolute necessities that meet the stated criteria. As a rule, consumer goods are not imported, but capital goods and industrial materials in short supply receive a priority against foreign exchange availability. There are some exceptions, for example, emergency food supplies, some re-export items and occasional imports for political reasons.

The pattern of imports and exports has changed with changing conditions. During the 1950's, machinery and equipment ranked first, followed by iron and steel, non-ferrous metals, textiles, chemical products, petroleum and petroleum products, rubber and foodstuffs. During the 1960's there was an overall decrease in machinery and equipment as well as industrial raw materials, particularly mineral fuels and petroleum products, whereas the agricultural sector received a priority resulting in increased imports of cereals and chemical fertilizers in very large quantities. (Table 6.)

With regard to the composition of exports, during the 1960's, foodstuffs accounted for 20–30% of total exports. Major items were pork, beef, poultry, canned meat and mushrooms, rice, corn, fruit, vegetables, fish, dairy products, sugar, tea and feed. Textiles, including raw silk and wool and clothing products are important exports although dropping from 40% to close to 20% of the total during the decade. Pig iron is an important export item and exports of iron and steel products have increased. The position of oil-bearing seeds such as soy beans, peanuts and sunflowers has been maintained. (Table 7.)

By 1969 the composition of China's imports was: iron and steel 17.0%, wheat 16.1%, chemicals and fertilizers 16.1%, machinery 13.7%, non-ferrous metals 8.8%, rubber 6.6%, and textile yarn and fibre 6.6%. (Table 8) (Figure 4). 1969 exports included: textiles and clothing 28.9%, foodstuffs and animals 28.2%, and industrial products 16.7%. (Table 9) (Figure 5).

Trade balance is particularly important in China's international payments. Principle revenue items are profits from trade balances (mostly favourable) with Hong Kong and Southeast Asia, and remittances from expatriates. Because China has maintained its freedom from external or internal debts, foreign trade has been kept roughly in balance, although China has imported food on a deferred payment basis and industrial plants are currently being negotiated on the same basis.

TABLE 6.—COMPARISON COMPOSITION OF CHINA'S IMPORTS, 1960–66

[Millions of U.S. dollars]

	1960 [1]		1966 [2]		Plus or minus
	Value	Percent	Value	Percent	
Food, live animals, cereals	38.3	2.5	436.6	26.1	+398.3
Machinery	561.7	37.4	351.7	21.0	−210.0
Chemicals and fertilizers	86.8	5.8	211.3	12.6	+124.5
Textiles and textile products	166.8	11.1	149.9	8.9	−16.9
Rubber and rubber products	95.9	6.4	105.3	6.3	+9.4
Iron and steel	183.6	12.2	206.3	12.3	+22.7
Nonferrous metals	81.8	5.4	57.7	3.4	−24.1
Mineral fuels and petroleum and petroleum products	115.9	7.7	2.9	.2	−113.0
Unclassified	172.4	11.5	153.7	9.2	−18.7
Total	1,503.2	100.0	1,675.4	100.0	+172.2

[1] Represents 74 percent of estimated total imports.
[2] Represents 82 percent of estimated total imports

Source: JETRO.

TABLE 7.—COMPARISON COMPOSITION OF CHINA'S EXPORTS, 1960–66

[Millions of U.S. dollars]

	1960 [1]		1966 [2]		Plus or minus
	Value	Percent	Value	Percent	
Foodstuffs including live animals, rice, cereals, fruit, tea	351.5	21.9	590.2	30.1	+238.7
Textiles and textile products	609.6	37.9	400.5	20.5	+209.1
Animal and vegetable materials	102.9	6.4	127.2	6.5	+24.3
Seeds and oil seeds	113.6	7.1	102.2	5.2	−11.4
Chemicals	34.5	2.1	63.3	3.2	+28.8
Ores	76.3	4.7	57.0	2.9	−19.3
Iron and steel	22.8	1.4	50.8	2.6	+28.0
Nonferrous metals	74.2	4.7	22.6	1.2	−51.6
Building materials	20.1	1.2	16.1	0.8	−4.0
Unclassified	203.0	12.6	528.9	27.0	+325.9
Total	1,608.5	100.0	1,958.8	100.0	+350.3

[1] Represents 82 percent of estimated total exports.
[2] Represents 90 percent of estimated total exports.

Source: JETRO.

TABLE 8.—COMPOSITION OF CHINA'S IMPORTS, 1969

[Millions of U.S. dollars]

	Value	Percent
Iron and steel	310	17.0
Wheat	295	16.1
Chemicals and chemical fertilizers	295	16.1
Machinery and equipment	250	13.7
Nonferrous metals	160	8.8
Rubber	120	6.6
Textile yarn and fibre	120	6.6
Other crude materials	120	6.6
Other	155	8.5
Total	1,825	100.0

Source: JETRO.

TABLE 9.—COMPOSITION OF CHINA'S EXPORTS, 1969

[Millions U.S. dollars]

	Value	Percent
Textiles including yarn and clothing	595	28.9
Foodstuffs and animals	580	28.2
Other industrial products	345	16.7
Crude animal materials	110	5.3
Oil seeds	90	4.4
Chemicals	90	4.4
Iron and steel	15	0.7
Non-ferrous metals	10	.5
Others	225	10.9
Total	2,060	100.0

Source: JETRO.

As far as detailed current imports are concerned, China has rapidly increased her self-supporting capability regarding machinery. Although a wide range of mechanical equipment has been imported over the years, emphasis has been placed of late on aircraft, office machines, power transportation and distribution equipment. Also, China is giving particular support to truck and tractor production and to shipbuilding.

Agriculture-supporting chemical products, such as fertilizer, account for the largest part of chemical imports. Although fertilizer production is growing, it will likely be a long time before the country is self-sufficient.

China has become the world's largest importer of nitrogenous and other fertilizers and, as a consumer, is exceeded only by the Soviet Union and the United States. A recent estimate has placed China's needs for fertilizers at more than 50 million tons per year compared with 1970 availability of 14 million tons. China's soil is said to be potassium rather than nitrogen deficient.

Iron and steel imports will continue to be an area of intensive competition. Nonferrous imports have increased rapidly, with nickel, copper, aluminum, platinum metals and zinc continuing to be in good demand, probably due to a steady and substantial growth in industrialization. The wheat situation is complicated and the future unclear. China has imported 4-7 million tons of wheat each year since 1962 except for 1971 when 3.2 million tons were purchased. With 2 million tons from the U.S., over 2.5 million tons from Canada, and 1 million tons from Australia already purchased, it is clear that China's wheat imports in 1973 will be significantly above the 4.5 million ton average for the 1960's. Concurrently with wheat imports, China has been exporting fairly large quantities of rice, with a higher unit price than wheat, and processed food with value added.

And now we have come to the end of a 2,000-year journey through China's trade and economic history. The big questions now are: What is China's position today? What are the prospects for future import-export trade with China?

II THE PRESENT

(Conduct of trade between China and foreign countries—Today and in Prospect)

The foreign trade of China is a state monopoly and is completely controlled by the state-owned trading corporations and the Bank of China—all government organizations. China's trade policy is highly protectionist and is designed to protect and develop domestic industries. Priority is given to those imports which will aid in rapidly building China's industrial capacity.

Regarding operating detail, the Ministry of Foreign Trade sets import and export quotas and operates a network of nine state trading corporations organized by commodities. It has exclusive responsibility in this area. (Figure 6). All external relations in China's planned economy are under State control. Each trading corporation has a head office in Peking with branch offices in various industrial centres near their major end users in the case of imports, or supply sources for exports. Each corporation is totally responsible for the import and export of its particular commodities. Import procurements are based entirely on specific end user needs as approved by the Ministry of Foreign Trade.

In addition to the nine trading corporations, there are several organizations providing support services such as foreign trade relations, shipping, insurance and banking, for example: the Office for Economic Relations with Foreign Countries, the China Committee for the Promotion of International Trade, the China National Chartering Corporation, the China National Foreign Trade Transportation Corporation, the China Ocean Shipping Company, the China Ocean Shipping Agency,

the People's Insurance Company of China and the Bank of China which handles all banking arrangements and has offices in commercial centres such as London, Singapore, Karachi and Hong Kong.

The first step in making business contacts in China is to determine the trading corporation handling specific products of interest and to make formal proposals. Major decisions regarding imports and exports are made by the head office of the corporation. The corporations require comprehensive information regarding the selling company and its products in order to be able to properly evaluate propositions.

With nine central trading corporations handling all of the import and export business with more than 100 countries and simultaneously coordinating import demands and export programs of hundreds of producers and end users, possible delays in replies can be appreciated.

Once a corporation shows a real interest in a firm and its commodities, communications become easier and business expedited.

Visits to China for direct negotiations are initiated by the trading corporations and generally begin with visits to the twice-yearly Kwangchow (Canton) Export Commodities Trade Fair, which runs from April 15–May 15 and from October 15–November 15. The "Canton Fair" was designed to be a showplace for Chinese agricultural and industrial achievements and products for export, but in actual fact it is an international market place bringing together buyers and sellers from all corners of the world to compete for Chinese import and export business. It presents a unique opportunity to meet in person representatives of the Chinese trading corporations and to engage in practical business discussions. Trade officials indicated that there were about 23,000 foreign visitors from almost 100 countries in attendance at the 1973 Spring Fair and there were over 30,000 Chinese products on view. Indications are that up to 50% of China's annual foreign trade is negotiated at the combined Spring and Fall Fairs.

Attendance at the fair is by "invitation only" from a trading corporation. Owing to the great increase in the number of requests for invitations, they are confined to firms with which the trading corporations either have working relationships or consider the development of relationships to be desirable.

Contracts are important in trading with China and because the Chinese insist on using their own standard forms, the terms contained give maximum protection to the trading corporations. Strict adherence is required. Chinese import and export contracts usually conform to normal business practice. Alterations or addition of new terms, if reasonable, can be negotiated.

Trade settlements are made chiefly through letters of credit but rarely letters of guarantee. The Bank of China handles the settlement of accounts in accordance with correspondence agreements concluded with the foreign exchange banks of the trading countries.

Under normal conditions it is not possible to obtain a confirmed letter of credit because China does not follow the accepted international practice of having its credits confirmed by a bank in the seller's country. But the Bank of China has established a reputation for scrupulously honouring its commitments. Documents are usually negotiated in China by the exporter's bank.

For imports from China, the terms usually specify payment by confirmed irrevocable letter of credit without recourse, with payment in a Western currency, often pounds sterling or Swiss francs. The letter of credit may be negotiated through the Bank of China against presentation of documents. In some instances, the Chinese trading corporations will accept payment by confirmed letter of credit through the Bank of China in London or Hong Kong.

China's reputation for meeting its financial obligations is among the highest in the world. China has been moving toward more flexible settlement formulae, including partial adoption of long-range barter trade, deferred installment payments for large wheat imports and deferred medium-range payment contracts for purchase of plant, machinery and equipment. Contracts are often negotiated in Chinese currency and several chartered banks have made arrangements with the Bank of China to handle Renminbi accounts.

China, in implementing its protectionist trade policy, has numerous regulations covering all customs matters including international shipping and rail and air freight, cargo in transit and tourism. Complete and proper documentation is of great importance in accomplishing satisfactory trade relations. China is now concentrating on movement of goods by sea in its own vessels and in direct charters, due probably to the great increase in trade with non-communist countries.

A Commodity Inspection and Testing Bureau operating under the Ministry of Foreign Trade checks both imports and exports. It has over 50 offices in major ports and trade centers.

The Chinese prefer claims to be settled, if possible, by consultation and agreement between the parties to a contract. If the dispute cannot be resolved through consultation, the contract usually calls for it to be referred to arbitration conducted by the Foreign Trade Arbitration Committee of the China Council for the Promotion of International Trade.

Under certain conditions, the trading corporations will accept arbitration in the country of the defendant or in a third country. Past experience shows the Chinese are fair with claims, which can usually be negotiated.

While no international commercial practices have been established for the overall protection of "intellectual property" such as patents and industrial design, recently China has entered into several bilateral agreements which enable foreign firms to register trademarks.

Entry into and exit out of China are all rigidly controlled. No market research activities can be carried out within China.

As to current economic conditions, in spite of bad weather which adversely affected agriculture last year, China appears to have made considerable economic progress in 1972 and to date this year. There has been a concerted effort to develop trade and economic relations with practically all countries of the world.

Although precise statistics are difficult to obtain, the Chinese economy is continuing to develop at a satisfactory rate. Record production levels have been indicated, particularly in industry. Significant expansion of the country's energy resources has been recorded, with coal production in 1971 estimated at 325–350 million tons; petroleum at 23–25 million tons; and electric power at 70–75 billion KW hours. Steel production reached an estimated 23 million tons, and pig iron 24 million tons.

As indicated, the one area in which progress slowed was agriculture, which suffered an estimated four per cent decline in production in 1972. This resulted in increased imports of wheat, with Canada again the main supplier, although additional tonnage was purchased from the United States and Australia. Wheat imports, which totalled 3.2 million tons in 1971, and 5 million tons in 1972, have already exceeded 5.5 million tons in 1973.

Chinese authorities continue to emphasize the general principle of "self-reliance". Increasing emphasis is being placed on efficiency in management, quality control and adherence to the call for "realism" in economic planning. The central authorities, under the current fourth 5-year economic plan, are concentrating on developing those sectors considered vital to the economic success of the country. These include expansion of iron and steel production capability, increases in coal and petroleum production; development of mineral resources and improvement of transport facilities; air, marine, road and rail, and petrochemicals, synthetics and fertilizer.

Purchases of jet aircraft from Britain, the United States and the Soviet Union have equipped China to operate an international air service. Air agreements have been reached with a number of countries and it is expected that China will rapidly expand overseas operations.

In the marine sector the Chinese have been buying large numbers of general cargo ships and they are having ships built in many countries, primarily in Europe and Japan. Improvements of the country's communications systems also has a high priority under current planning. The most significant aspect of this program is the purchase of telecommunications equipment and the establishment of satellite communication stations in Shanghai and Peking.

China's economic aid to other countries continues to expand and now exceeds $1.2 billion. This usually takes the form of 10–30 year, interest-free loans with repayment after 5–10 year grace periods through delivery to China of goods or equipment.

China's foreign trade in 1971 reached $4.6 billion. In 1972 trade reached an all time high of $5.5 billion, a 19.5% increase over 1971. This included $1.1 billion two-way trade with Japan and $92 million with U.S. Although in 1971 exports grew by 15 per cent to $2.36 billion, imports increased only 3 per cent to $2.24 billion. The main reason for this would seem to be China's efforts to balance trade after incurring an estimated deficit of approximately $100 million in 1970.

With a population expanding by approximately 2 per cent annually and agricultural and industrial output channelled first to meet domestic requirements, it can be expected that the availability of foreign exchange for purchase of imports will develop slowly. It is unlikely that the Chinese will change their policy of depending as much as possible on their own resources. Therefore, China's ability to import more will depend largely on its export performance and the goods which can be made available for export from industry and agriculture.

The main Chinese exports will continue to be agricultural products such as rice, soy beans, walnuts, groundnuts, fresh and canned fruits and vegetables, oils and seeds, meat and fish products. Other major export items include textiles, clothing, silks, nonferrous metals such as antimony, tungsten, manganese, mercury and tin, chemicals, arts and crafts and consumer goods of all kinds. The demand for Chinese porcelain, jade and ivory carvings, glassware, furnishing, toys, sporting goods, cameras, hand tools and radios is high. However, dealings at the most recent Fair in Kwangchow (Canton) indicates that production units have been unable to meet the full demand.

Imports should continue to follow basically the same pattern established during the last few years. Purchases of raw materials such as wheat, sugar, rubber, cotton fibre, jute, synthetic fibres and wool should increase. Purchases of traditional items such as scientific and medical equipment, wood pulp, synthetic rubber, jade, tallow and animals for breeding purposes should continue to increase. Despite increased local production of chemical fertilizers, imports of fertilizers will continue. Imports of plastic materials, dyestuffs, pharmaceuticals, lubricants and agriculture chemicals should continue at present

levels. Imports of machinery and transport equipment should increase. These will include diesel and electric locomotives, heavy duty and specialty trucks, ships, aircraft, power generation equipment, machine tools, electrical machinery and mining equipment. Purchases of metals and minerals, including nickel, aluminum, copper, zinc, lead, platinum, and diamonds should increase, with steel and steel products continuing in a major position. The market should also remain steady for pulp, paper and liner board. There will be little foreign exchange available for the purchase of consumer goods from abroad.

China gets all of its imports of grain, rubber, textiles, fibres and yarn and 95% of its iron and steel, non-ferrous metals and chemical fertilizers from non-communist countries. Also, these countries are the sources of most of the imports of machinery and technology, including precision instruments and special alloys. From the communist countries China imports machinery and equipment, foodstuffs other than grain and crude materials other than rubber and textile fibres.

From 1963 to 1966 China contracted for more than 50 complete plants from the developed non-communist countries. In 1973 China's foreign trade has featured an import expansion program of whole plant imports purchased on a deferred payment basis. Since December 1972 the Chinese have purchased 13 whole plants in the petrochemical field with an estimated total value of $300 million. Included are three ammonia plants valued at $75 million and three urea plants valued at $34 million, supplied by U.S. and Dutch firms. The remainder have been purchased from various Japanese companies, and it is anticipated that contracts for additional plants and equipment could be completed this year; probably concentrated in chemical fertilizer, synthetic fibre, synthetic rubber, iron and steel, vehicle production, mining and metallurgy, power generation and telecommunications. Re-establishment of the China National Technical Import Corporation as a separate entity confirms China's interest in this field and the development of this program. Much could depend on whether the Chinese make use of the medium and long term credit facilities which are being offered to them. These are indications that the Chinese are considering again the advisability of entering into longer term 2–5 year contracts covering both purchases and sales.

Before World War II the United States accounted for 20% of China's foreign trade. Current U.S.-China trade began with the 1971 mid-year lifting of the U.S. embargo. U.S. imports were valued at only $5 million in 1971 with no exports. In 1972 U.S. sold a $2.9 million communications satellite ground station for installation in Shanghai, some aerial navigation and railway safety electronic equipment. In addition, technical expertise in connection with the manufacture of vinyl chloride and synthetic fibres was initiated.

In 1973 China-U.S. trade will increase many times. A figure in excess of $900 million was recently indicated. China will probably import at least $535 million worth of U.S. agricultural commodities; 2 million tons of wheat at $240 million; 800,000 tons of corn at $225 million; 350,000 tons of soybeans at $150 million; 700,000 bales of cotton at $105 million; and 500,000 tons of soybean oil at $15 million. In addition, U.S. will export to China $75 million in aircraft and $25 million in other items. U.S. imports from China should reach $60 million.

Hong Kong's importance to the China trade, particularly as a source of foreign exchange, is highlighted by its huge imbalances on trading account, amounting to $539.3 million in 1971. Substantial quantities of foodstuffs and consumer goods are exported to Hong Kong which also acts as the "clearing house" for banking, insurance, and shipping services. It is also the major take-off point by rail to Kwangchow (Canton) and "The Fair". Many thousands of visitors travel through Hong Kong each year.

It is Japan, however, currently China's principal trading partner, accounting in 1971 for 13% of China's exports and 28% of its imports, which is making a major bid for increased trade relations. China can expand imports only to the extent exports can be expanded or credit accepted. China has huge resources of iron ore, coal, hydro electric potential and crude oil. Japan has high technology, cultural affinity with the Chinese, geographical proximity and an almost insatiable need for raw materials. In August 1972 China and Japan agreed to use their own currencies to settle accounts, making large scale capital transactions possible. Japan has offered long term loans and deferred payment arrangements at fixed interest rates. Negotiations are under way for petrochemical plants, equipment and technological assistance in oil and resource development projects and undersea drilling rigs. A proposal is under study to build an express railway from Peking to Kwangchow (Canton) which, including technology and equipment, will cost over $200 million. Japan is in turn promoting increased imports from China. Included are bicycles, soybeans, meat, raw silk, metals, lumber, pulp and large quantities of semi-processed and finished textile products. One of the most important long range projects is the proposal to import 1,000,000 tons of crude oil, the possible forerunner of regular large scale shipments. Some optimistic Japanese predict a doubling of 1971 China-Japan two-way trade to $1,800 million in 1973, $5,000 million by 1977 and almost unbelievable $10,000 million by 1980.

Recently China has launched a major drive to earn more foreign exchange, both by increasing the volume and quality of its exports, and by increasing its prices. China's world trade during the first quarter of 1973 has shown marked increase over 1972. Trade with Japan, Hong Kong, Germany, Britain and France combined has shown increases in two-way trade of 42%. Exports to these countries rose 39% and imports increased by 45% over last year.

The People's Republic of China does not regularly publish internal economic or demographic data but a consensus seems to indicate a 1972 Gross National Product of about $140–150 billion, with a population of 825 million, plus or minus 25 million, and foreign exchange reserves of about $850 million, with a GNP/capita range of $165–185.

The potential of the China import market is hard to assess. As mentioned previously, volumes of imports will be determined by China's internal economic activities, earnings from exports and acceptability of short and long term credits. Estimates for maximum internal growth indicate potentials of 6–8 per cent during the 1970's. The degree of dependency on imports in relation to Gross National Product is around 4 per cent, almost the same level as that of the Soviet Union. China's imports are necessities to meet needs and national objectives, already well screened by the Ministry of Foreign Trade and the trading corporations, and it is expected that the ratios indicated should continue.

Although all the indicators lead to the conclusion that China trade growth can be quite rapid, the export mix of foodstuffs, textiles, light manufactures, and agricultural products such as meat, pig bristles, hog casings and canned fruits and vegetables is limited. Therefore, a major effort will be required by the Chinese to increase production of industrial raw materials such as coking coal, petroleum and special metals and minerals. Also, and most significant of all, to what extent, and at what rate will the Chinese be willing to accept readily available short and long-term credits.

Some predictions based on recent trade patterns indicate compounded annual average trade growth levels of about 9 per cent through the 1970's and 1980's.

In summary, trading with China takes time, patience and understanding, the future is unknown, but the subject is fascinating, the potential is enormous and the rewards can be most gratifying.

Figure 6.—China's foreign trade corporations—their principal exports and imports

China National Cereals, Oils and Foodstuffs Import and Export Corporation, 82 Tung An Men Street, Peking, Cable: Cerolifood Peking

Cereals, vegetable oils both edible and industrial, oil seeds, seeds, oil cakes and feeding stuffs, salt, livestock and poultry, meats and meat products, animal fats, eggs and egg products, fresh fruits and fruit products, fresh and dried and deep frozen vegetables, salted and preserved vegetables, aquatic and marine products, canned goods, sugar and sweets, wines, spirits, beverages, dairy products, rice products condiments, etc.

China National Native Produce and Animal By-Products Import and Export Corporation, 82 Tung An Men Street, Peking, Cable: Chinatuhsu Peking

Tea, coffee, cocoa, tobacco, bast fibre, timber, resin, feeding stuffs, forest produce, spices, essential oils, nuts and dried vegetables, patent medicines and medicinal herbs and other native produce, bristles, tail hairs, castings, hides, leathers, furmatress, fur products, bristle brushes, carpets, wool, goat hair, goat wool, camel wool, rabbit hair, feather and feather products and other animal by-products, animals for breeding purposes.

China National Textiles Import and Export Corporation, 82 Tung An Men Street, Peking, Cable: Chinatex Peking

Raw cotton, cotton yarn, raw silk, tussah silk, wool, man-made fibres, grey sheetings, bleached sheetings, dyed goods, printed and yarn-dyed fabrics, various kinds of blended fabrics of polyester and other materials, worsted and woollen goods, plush, interlining woollens, silk piece goods, rayon piece goods, mixed silk-rayon piece goods, tussah silk piece goods, synthetic fibre piece goods, spun rayon piece goods, garments for men and women and children, suits, overcoats, shirts, overalls, embroidered blouses, pajamas, morning gowns, woollen sweaters, vests, cotton interlock singlets and trousers, cotton sweaters and trousers, swim suits, socks, bath towels, bed sheets, woollen blankets, cotton blankets, kerchiefs, woollen knitting yarns, various kinds of sewing threat, drawn-work and embroidered table cloths, pillowcases, handkerchiefs, gloves, table towels, woollen needlepoint tapestry, etc.

China National Light Industrial Products, Import and Export Corporation, 82 Tung An Men Street, Peking, Cable: Industry Peking

General merchandise, paper and paper boards, building materials, electrical appliances, radio and TV sets, photographic and cinematographic equipment and supplies, stationery, musical instruments, sport goods, toys, leather shoes and other leather goods, pottery and porcelain, human hair, pearls, precious stones and jewelery, ivory and jade carvings, lacquer ware, cloisonne, plaited articles, furniture, artistic and other handicrafts for daily use.

China National Chemicals Import and Export Corporation, Erh Li Kou, Hsi Chiao, Peking, Cable: Sinochem Peking

Chemicals, rubber, rubber tires and other rubber products, petroleum and petroleum products, chemical fertilizers, agricultural chemicals and insecticides, pharmaceuticals and medicines, chemical reagents, medical instruments and supplies, surgical dress-

ings, dyestuffs, pigments, paints, printing inks, etc.

China National Machinery Import and Export Corporation, Erh Li Kou, Hsi Chiao, Peking, Cable: Machimpex Peking

Mechanical processing equipment, metallurgical machinery, mining equipment, transportation equipment, building machinery, agricultural machinery and implements, hoisting equipment, tools, ball and roller bearings, machinery for light industry, electric equipment and materials, telecommunication equipment and devices, various kinds of measuring and testing instruments and meters and other industrial equipment and supplies.

China National Metals and Minerals Import and Export Corporation, Erh Li Kou, Hsi Chiao, Peking, Cable: Minmetals Peking

Tungsten ore, antimony regulus, antimony sulphide (crude antimony), antimony trioxide (antimony white), antimony ore, tin, mercury, pig iron, steel products, cement, anthracite coal, bituminous coal, borax, nonferrous metals, precious rare metals, ferrous and non-ferrous mineral ores, hardware, etc.

China National Complete Plant Export Corporation, An Ting Men Wai, Peking, Cable: Complant Peking

Export of complete plants and construction projects.

China National Technical Import Corporation, Erh Li Kou, Hsi Chiao, Peking, Cable: Techimport Peking

Import of complete industrial plants and technical know-how; organization of technical exchanges.

CHRISTMAS MESSAGES

Mr. HUGH SCOTT. Mr. President, the Christmas cards we are receiving this year as Members of the Senate contain, it seems to me, many more messages than usual—messages of hope or messages of despair, messages indicating the public concern with the state of the Union, messages desiring better days for us to come, messages adjuring us to do our duty. But I think I have never seen so many messages as there are this year on the Christmas cards.

Of course, a few, missing the spirit of the times, use the gentle sentiments of the Christmas message to add some note of hostility, or worse; but these, fortunately, are rare indeed.

There is an occasional message which has an especial meaning, as one does to me which I received from a Mrs. E. J. Spratt, Jr. I submit it now as evidence of what our constituents, it seems to me, wish for us in the pursuit of our often difficult duties. She writes:

May God make your year a happy one—not by shielding you from sorrow and pain, but by strengthening you to bear it if it comes; not by making your path easy, but by making you sturdy enough to tread any path.

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

Mr. HUGH SCOTT. I am glad to yield.

Mr. MANSFIELD. Mr. President, I have noticed the same phenomenon this year in the Christmas cards which have been coming in. They quite often contain messages beyond messages covering the season of good cheer—and I use those words advisedly. But I do think it indicates an interest on the part of the people and a concern about the way things are going in this most troublous of years. I point out that that concern applies to Democrats as well as to Republicans. The people are looking at us, watching what we are doing, taking note, toting up the figures—and I think it is all to the good.

Mr. HUGH SCOTT. So do I. I thank the distinguished majority leader.

There is a considerable emphasis in many of these messages on the almost universal yearning toward peace in the world and a yearning for better times and better conditions, and often in a very warm and sympathetic understanding of the problems we face.

So Christmas has a special meaning for us this year.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from Oregon (Mr. HATFIELD) for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 183—NATIONAL DAY FOR HUMILIATION, FASTING, AND PRAYER

Mr. HATFIELD. Mr. President, I send to the desk a joint resolution.

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

The second assistant legislative clerk read as follows:

A joint resolution to proclaim April 30, 1974, as a National Day for Humiliation, Fasting, and Prayer.

Mr. HATFIELD. Mr. President, I have sent to the desk a joint resolution which is modeled primarily after a resolution adopted in 1863 and as written by Abraham Lincoln, because I believe we have been living through days that try the soul of the Nation and test the resiliency of the Republic. We are all troubled by the continual erosion of the American people's faith and trust in their leadership in all parts of life. The current fuel shortage has caused us to reevaluate the legitimacy of our excessive use of the world's natural resources. We witness a country torn apart with division and lacking the spiritual foundation that would restore its vision and purpose. We, as a people, through our own acquiescence to corruption and waste, have helped to create a moral abyss that produces a disdain for honesty and humility in high levels of national leadership.

Those of us who hold positions of leadership, and the people whom we represent, must confront these tragic affairs and learn their meaning for us as a nation. These are not matters that can be covered up in the hope they will be forgotten, even though it is always easier to hide our wounds than to heal them.

It is more comfortable to believe in the spiritual symbols of righteousness than to acknowledge the reality and presence of evil, in ourselves and in our corporate life. So we become adroit at manipulating religious impulses in our land to sanctify our national life.

We tend to put our country beyond the reach of God's judgment. The words on back of our Great Seal read, "God hath ordained our undertakings." Our money is emblazoned with "In God We Trust." Our leaders solemnly invoke the name of God in their political speeches. We earnestly want to believe that ours is God's chosen land, that we are His chosen people, and that the leaders we have are divinely chosen and given special wisdom.

This impulse is born out of our own lives. We would rather believe that we merit God's blessing than admit that we stand under His judgment, and in need of His forgiveness. But however difficult it is to admit our sin, the evidence of it is all around us, in the personal dilemmas of our lives and in the crises that afflict our nation. St. John reminds us that—

If we refuse to admit that we are sinners, then we live in a world of illusion and truth becomes a stranger to us. (I John 1: 18).

Continued belief in national self-righteousness, therefore, no matter what we as a nation do, only leads us into greater peril.

We acknowledge that God requires justice, but we have tended to turn our corporate backs to the injustices of racism that continues to threaten the very fabric of our society. We condone by our inaction inhuman conditions in our cities and rural areas where millions are trapped in ever deepening ruts of poverty.

We have become gluttons of the world's resources at a time when much of the world does not know the source of its next meal. This nation, composing only 6 percent of the world's population, last year consumed 40 percent of all energy used on this planet.

Many believe that our security comes through our materialism, our wealth, and our gross national product. So we despoil our environment and neglect the quality of man's spirit in order to expand our materialistic self-indulgence.

We are now capable of destroying most of the world's population in a few moments through the power of nuclear warfare. We operate on the assumption that human life is expendable, and rationalize this axiom on the sole basis that this is what our enemy believes, so this must be our belief also.

We are in need of repentance. Our claims of righteousness, as individuals, and as a Nation, deceive only ourselves. We should remember the words of the prophet Amos:

I hate, I despise your feasts, and your solemn assemblies, I will not accept them: neither will I regard the peace offerings of your fat beasts. Take away from me the noise of your songs, for I will not hear the melody of your viols. But let justice roll down like water, and righteousness like an ever-flowing stream. (Amos. 5: 21–24)

President Abraham Lincoln had a profound sense of the sovereignty of God. He knew how the Nation stood accountable to God's judgment. In the midst of the Civil War, the U.S. Senate requested, and Lincoln responded on three separate oc-

casions to a resolution setting aside a day for national humiliation, fasting, and prayer.

One such occasion was on April 30, 1863, 3 months after the Emancipation Proclamation, and 3 months before the battle of Gettysburg. The resolution grew out of bitter disappointments and dark days of 1863, the crushing defeat at Fredericksburg only a few days past. The whole land was burdened with taxes, stricken with sorrow, and harrowed by treason. Public credit had reached the lowest point in our history as a result of an ever-increasing national debt. Many regiments in the Army of the Potomac had gone without pay for 6 months. Its morale was lost and 600 desertions were reported daily. Any hope for an early end to the hostilities had been virtually destroyed. Northern newspapers were demanding peace at any price. Horace Greeley reflected national sentiment when he sent the President a note:

I venture to remind you that the bleeding, bankrupt, almost dying country longs for peace.

Seeing the effects of a nation torn apart, President Lincoln did not appeal to any pretentious image of national self-righteousness; rather, he called the Nation to repentenance. He believed that only through the acknowledgement of our corporate guilt and confession of national sins that the country could regain its national purpose and unity. Lincoln recognized that though the Nation had prospered, "we have forgotten God." Because the Nation had begun to believe that it had flourished through its own superior wisdom and virtue, Lincoln stated,

It behooves us . . . to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness.

Today our Nation has once again been torn apart by a crisis from which there appears little relief. Our refusal to acknowledge our dependence and need for a power beyond ourselves has severely damaged our national soul. I believe that only a national confession of corporate guilt can save us from the worship of our own finite power and the tragedies that this worship creates. Therefore, today I am introducing a congressional joint resolution calling for a National Day of Humiliation, Fasting, and Prayer. This resolution is modeled after that declared by Abraham Lincoln on April 30, 1863, and incorporates much of his original wording.

I would suggest that April 30, 1974, be chosen for that day, which would coincide with the same date when President Lincoln issued his historic proclamation. Our Government and the other institutions of our society would all cease business as usual, as I envision it, so that we all would be free to consider actions appropriate to a time that would symbolize national repentance.

It is my firm conviction that a genuine spirit of repentance, infecting the climate of our Nation at all levels, can heal the wounds that presently afflict us. Reconciliation of the divisions and animosities that exist among our people can occur once there is a mutual acknowledgment of this need for contrition, which allows human compassions to grow.

There is hope for a land and a people who have the capacity to recognize their sins and their faults, and turn from them. Repentance means precisely this—to turn the other way. In so doing, we recognize that past events and present conditions cannot be rationalized or justified; rather, they must be repented of, so a whole new way can be sought. This is how individuals and how our land as a whole can seek authentic renewal and transformation. So it is with this hope that I commend to the Senate this resolution calling for a Day of Humiliation, Fasting, and Prayer in our land.

Mr. President, I ask unanimous consent to have printed in the RECORD a very succinct and poignant statement written by Richard C. Halverson, published in Perspective on December 12, 1973, which emphasizes the situation of the moment and why this resolution would have a very important bearing on solving some of these conflicts of the day.

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

STATEMENT

DECEMBER 12, 1973.

DEAR FRIEND, What if the U.S.A. does not survive . . . what are your alternatives . . . where does your hope lie?

You say it can't happen here?

Rome fell . . .

Historians have pointed out often that conditions which led to the fall of Rome are present in our land today.

Edward Gibbon gave his life to the subject . . .

He wrote that it was "impossible to replace Rome's greatness on a permanent basis, without restoring public virtue, ancient principles and manners, and the oppressed majesty of the laws."

". . . great numbers of provincials rather chose to live as exiles and outlaws than to support the weight of civil society."

"The citizens of the Roman republic first abandoned leadership responsibility to an aristocratic and eventually autocratic class and then that class gradually lost its moral and intellectual distinction and capacity to lead."

C. L. Sulzberger of the New York Times (7/16/71) commenting on the above wrote, "Almost inevitably decadence follows an era when a country has become excessively prosperous and, consequently overconfident, has extended its authority beyond the realm of its capacity."

(Imagine if the followers of Christ in apostolic days had pinned their hopes on Rome!)

Do you have any hope outside the survival of the U.S.A.?

Is your religion—if you have any—only a civil religion which depends on the success of a particular nation?

Then, whatever you call it, it is not the faith of our Lord and Savior Jesus Christ!

"Seek first the Kingdom of Heaven and its righteousness. . . ." (Matthew 6: 33)

Cordially,

RICHARD C. HALVERSON.

The PRESIDING OFFICER (Mr. CHILES). Does the Senator wish to have the resolution referred to committee?

Mr. HATFIELD. Yes.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the joint resolution: Senators HUGHES, RANDOLPH, BARTLETT, CHILES, FANNIN, STENNIS, ALLEN, JOHNSTON, NUNN, DOMENICI, and HANSEN.

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

Mr. HATFIELD. Mr. President, how many more minutes do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. HATFIELD. Mr. President, I yield the remainder of my time to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I reserve the time.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized for not to exceed 15 minutes.

Mr. HATFIELD. Mr. President, if the Senator will yield, I have cleared the following request with the leadership. I would like to ask for the immediate consideration of the joint resolution.

Will the Senator yield for that purpose?

Mr. MATHIAS. I am happy to yield.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the joint resolution.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered and, without objection, the joint resolution will be considered to have been read the second time at length.

The joint resolution (S.J. Res. 183) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas, it is the duty of nations, as well as of men to owe their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentence will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations are blessed whose God is the Lord; and

Whereas, we know that we have been the recipients of the choicest bounties of Heaven; we have been preserved these many years in peace and prosperity; we have grown in numbers, wealth and power as no other nation has ever grown; but we have forgotten God; and

Whereas, we have forgotten the gracious hand which preserved us in peace, and multiplied and enriched us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own; and

Whereas, intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us; and

Whereas, we have made such an idol out of our pursuit of "national security" that we have forgotten that only God can be the ultimate guardian of our true livelihood and safety; and

Whereas, we have failed to respond, personally and collectively, with sacrifice and uncompromised commitment to the unmet needs of our fellow man, both at home and abroad; as a people, we have become so absorbed with the selfish pursuits of pleasure and profit that we have blinded ourselves to

God's standard of justice and righteousness for this society; and

Whereas, it therefore behooves us to humble ourselves before Almighty God, to confess our national sins, and to pray for clemency and forgiveness: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, that the Congress hereby proclaims that April 30, 1974 be a National Day of Humilitation, Fasting and Prayer; and calls upon the people of our nation to humble ourselves as we see fit, before our Creator to acknowledge our final dependence upon Him and to repent of our national sins.

Mr. HATFIELD. Mr. President, I thank the distinguished majority leader, the distinguished acting minority leader, and the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

THE CONSTITUTION VERSUS THE NATIONAL SECURITY STATE AND SOME PROPOSALS TO STRENGTHEN DEMOCRACY

I. WATERGATE AND NATIONAL SECURITY

Mr. MATHIAS. Mr. President, I am happy to follow the eloquent and deeply felt statement of the distinguished Senator from Oregon. I join with him in the very moving appeal he has made to both the Senate and the Nation. Although we did not plan it this way, what I wanted to say to the Senate this morning very logically follows the appeal he has made.

I think we very properly have adopted in the Senate this resolution which calls for a day of fasting, humiliation, and prayer, but we also need to perform works of grace.

I wish to discuss a little bit some of the things we can do. One of our greatest predecessors in the Senate, one of the towering figures who served in this body, was Daniel Webster. On the occasion of the birthday of the centennial of the birth of George Washington, February 22, 1832, Webster said:

Other misfortunes may be borne, or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolute and lay waste our fields, still under a new cultivation, they will grow green again, and ripen to future harvests. It were but a trifle even if the walls of yonder Capitol were to crumble, if its lofty pillars should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with State rights, individual security, and public prosperity? No, if these columns fall, they will be raised not again. Like the Coliseum and the Parthenon, they will be destined to be a mournful, a melancholy immortality. Bitterer tears, however, will flow over them than were ever shed over the monuments of Roman or Grecian art; for they will be the remnants of a more glorious edifice than Greece or Rome ever saw, the edifice of constitutional American liberty.

We approach the end of the year and the end of a session of Congress. It has been a tragic year and a turbulent session. But the focus of our attention must now be on what we can do next year and next session. We cannot wait to begin thinking about what we shall do when we return to the Capitol next month. We cannot put off even for a month what must be done. The past may haunt us, but the future crowds us. We must look forward to the decisions that must be taken in January and the succeeding months. The tragic past is our road to the future and must be taken into account as we make our plans.

From the rhetoric of the inaugural address last January 20 to the courtroom confessions of the summer and autumn has been a steady descent into political crisis of such depth that we now are faced with serious constitutional questions. The intensity of the problems that have beset us have caused serious men to consider seriously whether democracy can survive or whether national security as narrowly defined will supersede the Constitution. This debate must be resolved and the issue must never be in doubt.

As we look to a new opportunity for doing better in the future we can take some comfort from the durability of our institutions despite the unprecedented pressures that could not have been anticipated, much less prepared for.

II. THE CONSTITUTION VERSUS THE NATIONAL SECURITY STATE

The fourth amendment to the Constitution of the United States of America provides:

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Many constitutional lawyers believe that for 5 days this fundamental guarantee of the Bill of Rights was suspended by the mandate given the secret Houston plan. Some legal scholars think that for 5 days between July 23 and July 28, 1970, authoritarian decisions had superseded the Constitution. There is some uncertainty as to whether the provisions of the Bill of Rights were suspended for a longer period of time, but there seems to be little dispute about the violation of article IV of the Bill of Rights between these dates, because we have the President's own word for it. In his statement of May 21, 1973, the President said:

On July 23 [1970], the agencies were notified by memorandum of the options approved. After reconsideration, however, prompted by the opposition of Director Hoover, the agencies were notified five days later, on July 28, that the approval had been rescinded. The options initially approved had included resumption of certain intelligence operations which had been suspended in 1966. These in turn had included authorization of surreptitious entry—breaking and entering, in effect—on specified categories of targets in specified situations related to national security.

This apparent invasion of article IV of the Bill of Rights was done in secrecy. That it was concealed from open public scrutiny and not subject to constitutional accountability makes it doubly dangerous.

A somewhat similar suspension of a provision of the Constitution comes to mind that took place during the Civil War. An attempt was made to deny the right of habeas corpus even in those areas that were not in the immediate theater of war. That denial of the constitutional protection of habeas corpus so aroused Chief Justice Taney that he overcame obstacles of age, difficult travel, and severe political hostility to go to Baltimore to hear the petition of John Merryman, whose rights had been abridged. In striking down the abridgment of this constitutional guarantee, Chief Justice Taney said:

I had supposed it to be one of those points in constitutional law upon which there was no difference of opinion, that the privilege of the writ could not be suspended, except by act of Congress.

With such provisions in the constitution, expressed in language too clear to be misunderstood by any one, I can see no ground whatever for supposing that the president, in any emergency, or in any state of things, can authorize the suspension of the privileges of the writ of habeas corpus, or the arrest of a citizen, except in aid of the judicial power. He certainly does not faithfully execute the laws, if he takes upon himself legislative power, by suspending the writ of habeas corpus, and the judicial power also, by arresting and imprisoning a person without due process of law.

Nor can any argument be drawn from the nature of sovereignty, or the necessity of government, for self-defense in times of tumult and danger. The government of the United States is one of delegated and limited powers; it derives its existence and authority altogether from the constitution, and neither of its branches, executive, legislative or judicial, can exercise any of the powers of government beyond those specified and granted; for the tenth article of the amendments to the constitution, in express terms, provides that "the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people."

We in the Senate and the Congress are faced with the following situation: President Nixon by his own statement approved a plan in effect for at least 5 days—the plumbers' activities went on for much longer—which illegally abridged a basic constitutional guarantee and gave authority to deprive citizens of the United States of their legal birthright without due process.

In my view, this action constitutes a most serious assault against our democratic system.

This attempt to suspend the basic rights of our citizens, requires the Senate, the House of Representatives, and all our people to consider what corrective action should be taken to prevent such an illegal abridgment of the Constitution from occurring again.

The potential suspension of article IV of the Bill of Rights by Presidential order and the abridgment of our constitutional government for at least 5 days was justified as being in the interest of national security.

We must first consider if, in fact, our national security was in jeopardy. National security is, of course, a prime ob-

ligation of the Government, but this obligation means different things to different people. I think national security means the preservation of the well-being and safety of our Nation and all our people. It means protecting against arbitrary rule by one man or cabal.

Further, it is my belief that what is necessary to assure domestic tranquility or to preserve national security, or indeed, even to determine what national security is, in the joint responsibility of the Congress, the President, the courts, and all others charged with a public trust. It is specifically the joint duty of the legislative and executive branches to decide, in accordance with their respective established procedures of due process, what is necessary to protect the integrity and well-being of the Nation.

The discovery of the Watergate burglary laid bare a much larger threat to our basic rights. Consequently, the broader Watergate scandal has raised vital questions about the fundamental duty of our Government to preserve our national security. But the main question that arises is: Should any single authority be allowed to transgress the boundaries of the law and to violate provisions of the Constitution in order to carry out, largely in secrecy, what is perceived by a particular official to be necessary for national security? A related question, in view of the revelations that have been brought to light by Watergate is: Do our present laws provide adequate means to assure our national security and at the same time maintain our constitutionally guaranteed system of due process, deliberation and consultation between the two branches of Government?

The term "national security," as it has been used in recent years, has in fact the opposite of its real meaning of peace or tranquillity. The evocation of national security as it has been used in recent times has as its purpose, the dramatizing of tension, which in turn induces fear, fear of some foreign or domestic threat whose dimensions are unknown but whose magnitude is hinted at darkly as being beyond existing statutory or constitutional capabilities to meet that threat.

The most extreme form that this emotional technique has taken is in the familiar formula, "If you knew what I know, then you would realize that it was necessary to do what I have done." Watergate has revealed that exhortations to protect national security all too often are based on flimsy grounds and are justified not by reason but through the techniques of emotional persuasion.

In my view, the preservation of the integrity of the Nation is a legitimate concern of the Government, but only if it is provided and maintained through proper due process established by the body of laws built upon the Constitution.

Secrecy and national security are not the same thing. As the unfolding Watergate revelations tell us, and as the record of the Pentagon papers have informed us, secrecy can, in fact, damage the integrity of our Nation. Very few would argue that we can do without some measure of secrecy. The role of secrecy as a tool of national security, when used properly, has a necessary place in our democracy. But secrecy used to further bureaucratic or political power, has proven to be one of the greatest threats to our democratic government. In fact, one of this country's most respected advocates of a strong defense establishment, Dr. Edward Teller, the inventor of the hydrogen bomb, has declared repeatedly in recent years that secrecy as it is now practiced by the Government of the United States has adversely affected scientific progress and military technology, and in some cases, has only served to benefit our potential enemies.

One positive benefit of Watergate has been to strengthen and reaffirm the view so powerfully expressed in Chief Justice Taney's decision in the *Merryman* case that whatever is done in the name of national security should be carried out only in conformity with the Constitution and the body of statute law and through properly designated instrumentalities.

Mr. President, the decision of the Supreme Court in the Youngstown Steel Seizure case of 1952, that even though the United States was at war in Korea the President could not seize the steel mills to act on his own perception of a danger to national security when remedies and procedures in law to settle disputes were already in existence, further supports the view that what national security is can be determined only by the several branches of the Government acting jointly.

Our system of maintaining order by legal means is accepted by the people. First, our military forces are authorized and organized to protect the Nation against the threats posed by foreign military forces. They are not to be used in any way against the American people. We have created the Federal Bureau of Investigation, the FBI, to protect our people in carefully prescribed ways against foreign espionage, organized crime, and domestic violence; the CIA and related intelligence organizations in other agencies have as their main function the gathering of information about the various activities of foreign nations. They are authorized by our laws with careful limitations to counteract espionage efforts, and to undertake some covert operations abroad.

From the time of the Constitution, the citizens of the United States have agreed that domestic order should be maintained in all cases except those rare instances of overwhelming danger by State and local police in accordance with explicit State and local laws. In order to meet the exigencies of some situations of violence, the National Guard can be called out by States or the President, but only when local or State police cannot meet a particular situation and only in accord with statutory guidelines.

These are the main ways in which we maintain our national security. A failure to use these agreed upon means of assuring domestic tranquility and an effective defense against potential foreign enemies as prescribed by law, and to create other secret mechanisms outside the law can only lead to a loss of national security and toward a national security state. Watergate serves as a severe warning of the dangers implicit in the use of arbitrary power.

Watergate indicates how a failure to adhere to the Constitution and the law and the proper due process of full consultation and deliberation between the branches of government has resulted in severe damage to the structure of our democratic government. The actions of highly placed and powerful officials as we now know from documentary evidence, in conscious violation of the law, has weakened our democracy.

Under the security blanket of "national security," attempts were made to subvert the FBI and CIA. A private force was created in the White House and given authority by the President, without any constitutional or statutory basis, to bug, burgle and to act in other unlawful ways. It is without question that the creation of "the plumbers," and their direction by highly placed officials, have done much to destroy the credibility of the administration and undermine its positive achievements.

We know that a powerful group within the White House launched a frontal attack upon the FBI and its Director, J. Edgar Hoover. We know that J. Edgar Hoover resisted and the secret police force was not able to carry out its plans although both the FBI and the CIA were seriously undermined by the pressures brought upon them by a group of high officials in the White House.

Two principal custodians of our law, the Directors of the FBI and the CIA, were asked to act illegally for reasons determined by a single authority alone. The consequences of this attempt, successful for a time, to subvert the FBI and the CIA, are becoming more clear each day.

Given this serious state of affairs, it would seem that our genuine concern for national security—that our democratic institutions remain free and responsive to the public will—requires not only immediate action to punish those who have abridged our rights, but it will require the closest cooperation, trust and respect for the law by both the legislative and executive branches in the future. Respect for the law is a primary requirement because in recent years extra-legal approaches have split the Government apart. Because the people do not trust their leaders, this growing series of unlawful acts has demonstrably weakened the ability of our public officials to lead our people when genuine danger or emergencies in fact occur.

There are constructive measures to prevent the abuse of power and the misuse of the public trust that can be taken now by the Congress and the executive branch jointly. They are measures that should be taken as soon as possible if we are to restore public confidence in our Government. The first is to reexamine the statutory guidelines of our national security instrumentalities. The Constitution provides that the Congress shall make rules and regulations for the use of our military forces. The War Powers Act, I am hopeful, will provide

effective and constitutionally proper guidelines for the future use of our Armed Forces in hostilities.

The former Attorney General, Mr. Elliot Richardson, in his hearings before the Senate prior to his confirmation, said that he would work with the Congress to establish clear statutory guidelines for the operations of the FBI with regard to domestic surveillance. Mr. Kelley, the FBI Director, has also agreed to work with the Congress. The Attorney General designate, Senator SAXBE, has recognized this problem and has given his pledge to do his best to correct the situation. In my view, it would be extremely helpful for the Judiciary Committees of both Houses, to examine a number of Senators' suggestions that the FBI be given statutory character so that it is more insulated from political pressure from whatever source, but responsive to oversight and direction from both the executive branch and the Congress.

The public exposure of recent illegal activities by the CIA in domestic affairs has caused profound dismay in the country. The investigations that have been conducted thus far will result, I am confident, in legislation to insure that the CIA and other intelligence agencies do not, in the future, become involved in any way in domestic matters. It is already evident that the operations of the intelligence agencies are now being more carefully monitored by the existing oversight committees of the Congress. Equally important, legislation proposed by Senator ERVIN, Senator MANSFIELD and myself has been introduced and will be sent to the Senate floor for action early next session which will insure that the valuable information gathered by the CIA and all of the Departments and Agencies of the Government will be available to the Congress as a matter of legal right so that the Congress can better carry out its responsibilities of making the law and sharing in the setting of national goals for this Nation.

Watergate has underlined the view that anything that undermines confidence in our established institutions, of necessity, weakens our true national security. There is a skepticism and cynicism about our electoral process. There is a widespread belief that our campaign and election procedures are corrupt and, by direct transference, that those involved in the political process are corrupt as well. Electoral and campaign reform legislation are vitally needed to prevent future Watergates. At a minimum, laws must be enacted which will assure full disclosure of the source of all contributions; there must be a limitation on the amount that can be received from any person or organization, and we must have an equitable system of public financing of all elections. I intend to conduct my own campaign for reelection in accordance with these guidelines.

While secrecy cannot be equated with national security, a workable system of protecting from potential enemies those matters which should be protected is an urgent legislative and executive priority. We need a valid classification system, yet it should be so structured that it protects our national secrets from our enemies but does not deny necessary information to those in public office. A democratic government such as ours requires full and open discussion on all policy matters. It is both an advantage and a disadvantage of democracy that government by cabal is difficult to achieve; democratic government is sometimes slow and cumbersome and it is difficult to carry on secret negotiations, but such shortcomings are a price worth paying for an open and free society.

These are the main areas in which the legislature and the executive must work together and work together now to strengthen our national security. Our national security is no stronger than the confidence our people have in our Government of laws and in those elected and appointed to carry out the laws agreed upon by the people.

So we must act, and act now, to restore that confidence.

The Government of the United States has often been described as the best example of the contract theory, that all powers of the Government derive from The people. The ultimate contract of every official, whether he is a President or a general or a Senator, is to obey the Constitution and the laws of the land. This is a contract which no official in conscience or in law can evade. Yet, in Watergate we have witnessed a blatant example of high officials violating their public trust. Watergate has revealed the necessity for all our people and all our officials to redefine for themselves our hierarchy of values.

The oath of office to defend the Constitution is the highest obligation of all those who serve in the Government and it is the obligation of all citizens. It is a higher duty than loyalty to one's superior no matter who he may be. Watergate illustrated in a painful if very human way, a conflict of loyalties. As we have learned from Watergate, personal loyalties, all too often subverted the oath to defend the Constitution.

Watergate should be a forceful if disturbing and continuing reminder that the American Revolution took place when the government of laws under which the American colonists agreed to abide was not observed by George III and his ministers. The American Revolution was fought to reestablish a government of agreed laws under which both the governors and the governed are bound.

The tragic insights into the inner workings of the highest reaches of our Government that Watergate has given us, provides at the same time a purpose and an opportunity to rebuild our national security system. We can work to provide real security and to reestablish confidence in our system of justice. We can work together to insure once again that the purpose of our Government is not to perpetuate the political power of any group but to extend domestic tranquility to all our people, to provide for the common defense, and promote the general welfare through the due process of our Government of laws derived from the consent of the governed.

III. SOME PROPOSALS TO STRENGTHEN OUR DEMOCRACY

Whether Richard Nixon is cleared of all charges, or if the facts warrant impeachment or if he resigns the Presidency, the United States, nonetheless, will be faced with the question of establishing goals for the next 3 years and the next three decades. The present failure of leaders in the executive branch and in the Congress, to lead the United States to meet the great challenges that face our country and the subsequent loss of faith and trust in government by the people of the United States has called into question the purposes of our country. Our people have lost confidence and trust in our leaders and our basic institutions are in doubt. This loss of faith and confidence constitutes the most serious crisis faced by our democratic Republic throughout all its history—certainly since the Civil War.

As we approach the 200th anniversary of the founding of this democratic Republic we are measuring our progress against the facts of history to see how far we have come in the two centuries of our national existence. As one citizen, I would like to set forward some conclusions I have about the present state of our democratic government.

In my view, the first and most crucial question we must answer is whether we have preserved and strengthened our democracy as envisaged by the Founding Fathers. Despite some very significant gains over the years in universal sufferage, civil rights, and breathtaking economic and technological progress, it is arguable that we have less democracy today than in 1776. The mathematics of our system of representation alone confirms this assertion. In 1776, each Representative spoke for 23,000 people. Now each Representative speaks for a half million people. Our Nation now numbers 211 million and this vast number is represented by 537 elected officials, that is, 100 Senators, 435 Representatives, a President and a Vice President. This growing disproportion between those that hold office and those who elect them is reflected on the State, county, and local level as well. This circumstance dictates that the Representatives of our people are increasingly distant from those who elect them. If we are to remain a democracy, there must be more participation by the people of the United States in their government at all levels than is presently the case.

The inability of our federal system to meet the needs of our people is increasing even though the United States has become the most powerful nation in the world. It has created through the exploitation of its intellectual and natural resources, the most advanced technological industrial base in the history of the world. Through the benefits of economic affluence, has molded a civilization of unparalleled wealth with the potential ability to provide for all its citizens the means to a life of physical well-being, peace and domestic tranquility, as hoped for by the patriots who created the United States in 1776. Yet despite these

resources, despite this awesome capability, a large proportion of our citizens are in great want. We have failed to provide for all of our citizens adequate health, education, housing, food, law and order, care for the aged, disabled and infirm; in short, all of our social services have proved inadequate to the need.

It has been evident for decades that our Government has failed to devise a system of providing from the Federal level through State and local constituencies the means to adequate health services, education, housing, food, care for the aged, disabled and infirm, and effective law and order. Even though we have long recognized the challenging needs of our people and even though we possess the means to meet these challenges, why have we failed to meet so apparent a need? Why have we permitted our cities to decay and choke in the pollution of the environment and the hostility of violence, bred by desperation and need? Why have we ignored the discontent registered with increasing concern by our people who call upon the Government to correct these and other obvious failings?

If our Government has become more remote from the people, it has also become more complex and secretive. In both the Congress and the executive branches, there is a compelling necessity to make government more open. The United States, if it is to remain a democracy rather than an authoritarian national security state, cannot tolerate any longer the making of decisions in secrecy; it cannot continue to permit vital national policies to be made by a few in secrecy; nor can we tolerate any longer practices which remove high officials from accountability to the Congress, the courts and the people.

From the earliest days of the Republic, indeed, as forcefully expressed in the debates of the constitutional convention, there has been a struggle between what is known as the King's party, those who have for various and as the years have gone on, for changing reasons, believe the Chief Executive alone should make the vital decisions, challenged only by those who through two centuries have believed that a representative democratic government can, through reasoned, collective judgment, arrive at sound judgments, This latter view, of course, is the essence of our constitutional government. Yet, the King's party, through the years and in various forms, has been a powerful force in our Government. The King's party maintains that Congress is too slow, too diffuse and cumbersome to rule effectively. It has supported policies that would enable a single man or a few men to make the crucial national decisions because they believe that the complexity and the speed required by these perilous modern times can only be made by a small ruling elite. This, of course, is the argument that has been used by all cabals and dictatorships in the past and it must be resisted. Thomas Jefferson warned against the King's party influences saying that:

> Even under the best forms of Government those entrusted with power have in time and by slow operations have perverted it into tyranny.

Watergate has revealed the pretentions of the King's party and how close we have come to the perversion Jefferson feared. The turn of fate called Watergate makes it possible for those who continue to believe in representative democratic government to take the steps necessary to return the Government of the United States to a rule of law.

The return of the Government of the United States to a rule of law under constitutional process will not be realized unless the Congress acts decisively to meet its obligations prescribed by the Constitution. As Members of the Congress and Senate our first and fundamental constitutional duty is to make the law. It is distressing, but nonetheless true, and we must acknowledge this, that most of the laws passed by the Congress are, in fact, drafted by the executive branch. Under present circumstances, it would be very difficult for the Congress to do otherwise. For it is also unfortunately true that the Congress has failed to insist upon receiving from the executive branch the necessary information to be able to make the law as the Constitution intended. Unless the Congress makes it a matter of law, a matter of legal right, that it shall receive whatever information is necessary to write the law, none of the obvious reforms that the United States must have to survive as a democracy can be carried out.

As one Senator, I know that it is not enough to point out the fact that we are in a deep constitutional crisis, that our Government must choose between continued existence as a democratic constitutional state or decline into autocracy—I know that it is not enough to exhort my colleagues to action, for I know that if the Congress is to be something more than an empty cave of winds, we must both prescribe and administer specific remedies. So I intend to introduce in the next session a number of proposals which I believe will help meet our needs and I would like today, before this session ends, to discuss some of these proposals which include some basic reforms which I expect to introduce as legislation early next year.

In order to remedy some of the most blatant abuses of the law revealed by Watergate, I intend to introduce early in the next session a Bill of Rights Procedures Act. This act would strengthen the guarantees of the first, fourth, fifth, and ninth amendments and limit exceptions to court orders issued upon probable cause of crime in accordance with strict procedures and reporting requirements. It is my view that Congress has a constitutional duty to protect the national security and that national security would not be impeded in any way by the requirement that any exception to the fourth amendment and other constitutional protections must be based upon a court order issued upon probable and reasonable cause.

I will introduce as a bill early next year a plan for a pilot program that embodies a proposal made by Thomas Jefferson for the creation for a new basic unit of government that he called "Little Republics." Watergate surrounds us all with the reminder of the danger our country is in, and, yet, we intend to celebrate the Bicentennial of our Republic as though our Government was functioning in the spirit hoped for by Washington, Jefferson, Madison, Mason, and the other Founding Fathers. Great plans are underway for new coins to be minted, parades with colonial costumes and elaborate fanfare; visitor centers are being readied for the celebrations to be held throughout the 50 States. But these celebrations will be empty trappings if we fail to shore up our democratic institutions.

There is a growing desire throughout the country among the people to be involved in government: it is a desire so deep that it has sometimes unfortunately resulted in acts of violence such as have occurred during some antiwar protests and civil rights demonstrations; but it is a hope as old as the Republic itself. This desire has grown as our country has grown almost in direct proportion to the rise in education, wealth, and leisure, and as these benefits have been extended to a larger and larger segment of the people. And yet it is distressingly true that the ability of the people to participate in their own government has lessened. Correspondingly, the ability of those elected to office, to respond to local desires and needs, has lessened, too. The mathematics of our system of representation is evidence of this, but another more fundamental factor is the failure of both Houses of Congress to adapt their procedures and structures to the necessities of making laws and overseeing the execution of the laws in a superstate of growing size, complexity, and power.

What is at issue here is how to give citizens in local constituencies the ability to involve themselves directly in and have a meaningul voice in the matters that most affect their everyday lives.

Growing unrest and the prevalence of an attitude of general distrust of government in the country reflected in every poll indicates that an increasing number of people believe that their interests are not adequately served in the White House or in the Halls of Congress nor in the statehouses across the land, nor in the county seats of government or in the courthouses, nor in any of the traditional seats of power that have grown up in the course of the Nation's history. There is only one exception—a romantic vestige perhaps—and that is the system found in towns and villages that have remained relatively constant in size.

I have been struck by an experience which I am sure has been shared by tens of millions throughout the country that the place where political life most impinges upon every citizen and the place where every citizen has the opportunity immediately at hand to affect in some small way the quality of his life is at the local school. An increasing number of Americans are beginning to believe that the cities are too big, that farm life too remote. They have created for themselves a new middle way. In a sense, modern technology has created a new form of life, the suburb with a host of new problems. Unfortunately, many suburbs have no integral center of government except insofar as they are attached either to a city or to a rural county government. In

most respects these older forms of government do not meet the need of the modern suburbs and because of the growth of the cities and the flight from the farms do not serve their traditional constituencies.

I have gone, as tens of millions of others have gone, to PTA meetings, to Boy Scout meetings, to Cub Scout meetings, meetings on roads, sewers, law and order, pollution, parks, recreation, celebrations, and a host of meetings on small incidents that go into everyday life. Many of these meetings take place at the local school. The local school is most often the polling center for local, State, and National elections. It is certainly the one communal building where the citizen, almost all citizens, can participate in government.

Over the past 4 years I have also witnessed in Congress and particularly in the Senate, the struggle over the issue of getting more revenue to local communities either through revenue sharing, aid to education, or a host of specific local projects, ranging across the whole spectrum of American life from sewers to sex, and it is my view that the several 6-inch thick bills with their hundreds of conflicting amendments, reflect the lack of an underlying principle of how local government should function in a modern superstate democracy.

Sometime ago I was reading Jefferson's letters and found that he, too, early in the 19th century, was concerned that the Republic needed a fundamental reform to give to the people the means to have direct participation in government. In a long and thoughtful letter to Mr. Samuel Kercheval, written in 1816, on the subject of necessary reforms, Jefferson wrote of the dilemma then facing democratic government in the United States; it is a dilemma no less pertinent now than it was in 1816:

This corporeal globe, and everything upon it, belong to its present corporeal inhabitants during their generation. They alone have a right to direct what is the concern of themselves alone, and to declare the law of that direction; and this declaration can only be made by their majority. That majority, then, has a right to depute representatives to a convention, and to make the Constitution what they think will be the best for themselves. But how collect their voice? This is the real difficulty. If invited by private authority, or county or district meetings, these divisions are so large that few will attend; and their voice will be imperfectly, or falsely pronounced.

Jefferson's solution to this problem was as follows:

But follow principle, and the knot unties itself. Divide the counties into wards of such size as that every citizen can attend, when called on, and act in person. Ascribe to them the government of their wards in all things relating to themselves exclusively. A justice, chosen by themselves, in each, a constable, a military company, a patrol, a school, the care of their own poor, their own portion of the public roads, the choice of one or more jurors to serve in some court, and the delivery, within their own wards, of their own votes for all elective officers of higher sphere, will relieve the county administration of nearly all its business, will have it better done, and by making every citizen an acting member of the government, and in the offices nearest and most interesting to him, will attach him by his strongest feelings to the independence of his country, and its republican Constitution. The justices thus chosen by every ward, would constitute the county court, would do its judiciary business, direct roads and bridges, levy county and poor rates, and administer all the matters of common interest to the whole country.

These wards, called townships in New England, are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation. We should thus marshal our government into, 1. the general federal republic, for all concerns foreign and federal; 2. that of the State, for what relates to our own citizens exclusively; 3. the county republics, for the duties and concerns of the county; and 4. the ward republics, for the small, and yet numerous and interesting concerns of the neighborhood; and in government, as well as in every other business of life, it is by division and subdivision of duties alone, that all matters, great and small, can be managed to perfection. And the whole is cemented by giving to every citizen, personally, a part in the administration of the public affairs.

Jefferson believed that the "Little Republics" would be the best way to address national issues to the people and provide a method of referring fundamental questions to the people for their vote. Imagine how much more useful than opinion polls Jefferson's system would have been for determining the public will on the issue of Vietnam or of race or impeachment? He suggested:

Here, then, would be one of the advantages of the ward divisions I have proposed. The mayor of every ward, on a question like the present, would call his ward together, take the simple yea or nay of its members, convey these to the county court, who would hand on those of all its wards to the proper general authority; and the voice of the whole people would be thus fairly, fully, and peaceably expressed, discussed, and decided by the common reason of the society. If this avenue be shut to the call of sufferance, it will make itself heard through that of force, and we shall go on, as other nations are doing, in the endless circle or oppression, rebellion, reformation, again; and so on forever.

In other letters, the idea of the "Little Republics" was developed in somewhat more detail. Writing Maj. John Cartwright in 1824, commenting on some views of constitutional theory, Jefferson said:

Our Revolution commenced on more favorable ground. It presented us an album on which we were free to write what we pleased. We had no occasion to search into musty records, to hunt up royal parchments, or to investigate the laws and institutions of a semi-barbarous ancestry. We appealed to those of nature, and found them engraved on our hearts. Yet we did not avail ourselves of all the advantages of our position. We had never been permitted to exercise self-government. When forced to assume it, we were novices in its science. Its principles and forms had entered little into our former education. We established, however, some, although not all its important principles.

The constitutions of most of our States assert, that all power is inherent in the people; that they may exercise it by themselves, in all cases to which they think themselves competent (as in electing their functionaries executive and legislative, and deciding by a jury of themselves, in all judiciary cases in which any fact is involved), or they may act by representatives, freely and equally chosen; that it is their right and duty to be at all times armed; that they are entitled to freedom of person, freedom of religion, freedom of property, and freedom of the press.

In the structure of our legislatures, we think experience has proved the benefit of subjecting questions to two separate bodies of deliberants; but in constituting these, natural right has been mistaken, some making one of these bodies, and some both, the representatives of property instead of persons; whereas the double deliberation might be as well obtained without any violation of true principle, either by requiring a greater age in one of the bodies, or by electing a proper number of representatives of persons, dividing them by lots into two chambers, and renewing the division at frequent intervals, in order to break up all cabals.

Virginia, of which I am myself a native and resident, was not only the first of the States, but I believe I may say, the first of the nations of the earth, which assembled its wise men peaceably together to form a fundamental constitution, to commit it to writing, and place it among their archives, where everyone should be free to appeal to its text. But this act was very imperfect.

The other States, as they proceeded successively to the same work, made successive improvements; and several of them, still further corrected by experience, have, by conventions, still further amended their first forms. My own State has gone on so far with its premiere ebauche; but it is now proposing to call a convention for amendment. Among other improvements, I hope they will adopt the subdivision of our counties into wards.

The former may be estimated at an average of twenty-four miles square, the latter should be about six miles square each, and would answer to the hundreds of your Saxon Alfred. In each of these might be, first, an elementary school; second, a company of militia, with its officers; third, a justice of the peace and constable; fourth, each ward should take care of their own poor; fifth, their own roads; sixth, their own police; seventh, elect within themselves one or more jurors to attend the courts of justice; and eighth, give in at their folk-house, their votes for all functionaries reserved to their election. Each ward would thus be a small republic within itself, and every man in the State would thus become an acting member of the common government, transacting in person a great portion of its rights and duties, subordinate indeed, yet important, and entirely within his competence. The wit of man cannot devise a more solid basis for a free, durable and well-administered republic.

Jefferson's proposal for a new basic unit in American government, closer to the people is based upon his ideas for public education which he developed in the days prior to the Constitutional Convention. The germ of the idea is in "A Bill for the More General Diffusion of Knowledge" presented in 1788. He developed this idea further in a letter to John Adams dated October 28, 1813. He wrote:

At the first session of our legislature after the Declaration of Independence, we passed a law abolishing entails. And this was followed by one abolishing the privilege of primogeniture, and dividing the lands of intestates equally among all their children, or other representatives. These laws, drawn by myself, laid the axe to the foot of pseudo-aristocracy. And had another which I prepared been adopted by the legislature, our work would have been complete. It was a bill for the more general diffusion of learning. This proposed to divide every county into wards of five or six miles square, like your townships; to establish in each ward a free school for reading, writing and common arithmetic; to provide for the annual selection of the best subject from these schools,

who might receive, at the public expense, a higher degree of education at a district school; and from these district schools to select a certain number of the most promising subjects, to be completed at an university, where all the useful sciences should be taught.

Worth and genius would thus have been sought out from every condition of life, and completely prepared by education for defeating the competition of wealth and birth for public trusts. My proposition had, for a further object, to impart to these wards those portions of self government for which they are best qualified, by confiding to them the care of their poor, their roads, police, elections, the nomination of jurors, administration of justice in small cases, elementary exercises of militia; in short, to have made them little republics, with a warden at the head of each, for all those concerns which, being under their eye, they would better manage than the larger republics of the county or State. A general call of ward meetings by their wardens on the same day through the State, would at any time produce the genuine sense of the people on any required point, and would enable the State to act in mass, as your people have so often done, and with so much effect by their town meetings . . .

There are two subjects, indeed, which I shall claim a right to further as long as I breathe, the public education and the subdivision of counties into wards. I consider the continuance of republican government as absolutely hanging on these two hooks. Of the first, you will, I am sure, be an advocate, as having already reflected on it, and of the last, when you shall have reflected. Ever affectionately yours.

I think the country is ready now in a way that it has not been for 200 years for Jefferson's proposed reform of American democratic government that would directly embody "the genuine sense of the people." Jefferson very clearly understood the respective roles of the Federal, State, and county governments. I have drawn upon Jefferson extensively because in a clear and a foresighted way he understood the necessity for the creation of a new basic unit of government. I suggest that Jefferson's proposal can be practicably adopted and it would do much to strengthen the fabric of participatory democracy.

There are those who maintain that giving power to the people would be dangerous, inefficient and corrupt. They base this view on examples of inefficiency, wastefulness and corruption that have taken place at local government in the past. But no level of government is exempt from grievous examples of inefficiency, waste, and corruption. It is before our eyes everyday. At the same time, at every level of government including the local level, there have been examples of government operating efficiently, in an economical fashion and with full probity. In my view, a government is no better than the people who are in the Government and in the case of the United States, are no better than the people who elect them to office. What is at issue here is to broaden the ability of citizens to directly control the quality of their own lives.

We have chosen democracy as our political system; but for democracy to be a reality it requires the maximum participation of the people in ruling themselves.

The Federal Government would still establish laws and patterns and overall standards for every citizen below which the State or county or wards could not go. For example, questions of civil liberties, civil rights, ethical standards for dispensing and accounting for funds, foreign policy and defense, are a proper Federal concern. The States, in turn, have their area of responsibility concerning matters affecting citizens within a State jurisdiction. There is no reason why a State, a county or a ward cannot establish higher standards, but it cannot in any way abridge the law of all the land.

There is no reason why a local jurisdiction, in size somewhat equivalent to some local school districts, or about 10,000 people, should not have the final say in peculiarly local concerns. Our country is made up of diverse peoples who have come from every country in the world, our geography has affected the way in which people live; and in an age of homogenization and uniformity, many of these differences are of value, not only to the individuals who hold them, but also to the heritage of the country as a whole.

There is no reason why the most democratic, most fortunate and most educated country in the world cannot, for its own betterment, have effective participatory local government. Jefferson provided the formula and the time is right now for the country to debate and consider his wise proposal.

We are all witnesses to the twilight of parliaments and the decline of democratic representative governments in the world. Recent history bears out the contention that democratic governments are becoming the exception among nations. We are all gradually awakening to the danger that the United States, if it continues in the pattern of the last 40 years, could become an authoritarian state.

Watergate is the turning point in our Nation's history. If we turn our backs to the grievous attacks that have been made on the Constitution and the laws of the land under the vague incantations of one man's view of national security, we will have lost our right to hold the precious gift of freedom won for us almost 200 years ago by men of courage, integrity, and intelligence.

Mr. HATFIELD. Mr. President, will the Senator from Maryland yield?

Mr. MATHIAS. I yield.

Mr. HATFIELD. Mr. President, I would just like to commend the Senator from Maryland because, as he indicated in his introductory comments, we seem to be in an interesting legislative coupling this morning. Having made some comments with respect to our having made an idol of national security, the distinguished Senator from Maryland has probably put together one of the most scholarly and careful documents I have read in the current day, as it relates to the things that have been done under the name of national security, which have really in effect threatened the liberties of the people. And in addition there is a further evidence of our interest in a national self-righteousness. However, we are talking about the faith of the people in the comments being made now by the Senator from Maryland and evidences where the political leadership has become so arrogant that it has taken unto itself not only great authority to challenge the rights of the people, but has also demonstrated in a very strong way its lack of faith in the people. After all, complete truth is the source of sovereignty in this country.

And there has been this sort of a patronizing, paternalistic attitude that, "We know what is best for the people, and we shall do as we please; this is in the best interest of the people."

I cannot help but be moved to say at this time that the Senator has not only set forth the situation in a very clear way, but he has indicated further in his presentation some of the answers. It is one thing to identify problems, but it is another thing to offer solutions, and I commend the Senator for his commitment to decentralization because here again it shows similarity—I suppose of like minds—to a proposal for neighborhood government that I have made, as I see his proposal coming for little republics.

I think this document should not only be distributed to our colleagues through the CONGRESSIONAL RECORD, but as a former educator I would like to see every student in our universities, colleges, and high schools given an opportunity to read it. I do not know when I have been so much impressed by such detail, such scholarly and academic preparation, as that which has gone into the Senator's statement; not in any other statement on this floor in my memory.

I just wanted to express my appreciation.

Mr. MATHIAS. The Senator is very kind and very generous. I appreciate his support, and feel that whatever merit is contained in this statement is an expression of the concerns and interests that he and I have shared over many years.

Mr. MANSFIELD. Mr. President, I wish to quote a sentence from the most significant and highly appropriate speech just made by the distinguished Senator from Maryland (Mr. MATHIAS), as follows:

We cannot wait to begin thinking about what we shall do when we return to the Capitol next month. We cannot put off even for a month what must be done. The past may haunt us, but the future crowds us.

I thank the distinguished Senator from Maryland.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. ROBERT C. BYRD) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the distinguished majority leader.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business with statements limited therein to 3 minutes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD (for Mr. CANNON), from the Committee on Rules and Administration, without amendment:

S.J. Res. 178. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac (Rept. No. 93-660).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 316. A bill to further the purposes of the Wilderness Act of 1964 by designating certain lands for inclusion in the national wilderness preservation system, and for other purposes (Rept. No. 93-661).

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. 2754. A bill to prohibit all military assistance to Greece until it is determined that Greece is fulfilling its obligations under the North Atlantic Treaty (Rept. No. 93-662).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following executive report was submitted:

By Mr. ROBERT C. BYRD (for Mr. EASTLAND), from the Committee on the Judiciary:

Charles D. Loos, of Indiana, to be U.S. marshal for the Southern district of Indiana.

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

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 or passed, as indicated:

By Mr. ERVIN:

S. 2836. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes. Referred to the Committee on the Judiciary.

By Mr. HART (for himself, Mr. HUGH SCOTT, Mr. CASE, and Mr. CLARK):

S. 2837. A bill to regulate the interstate and foreign commerce trading of futures contracts in order to prevent unfair and deceptive acts and practices. Referred to the Committee on Agriculture and Forestry.

By Mr. DOMINICK:

S. 2838. A bill for the relief of Michael D. Manemann. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2839. A bill for the relief of Graciela Castillo. Referred to the Committee on the Judiciary.

S. 2840. A bill to authorize the Secretary of Commerce to conduct a study of foreign direct and portfolio investments in the United States and for other purposes. Referred to the Committee on Commerce, by unanimous consent.

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

S. 2841. A bill to amend the Chesapeake & Ohio Canal Development Act so as to expand the boundaries of the Chesapeake & Ohio Canal National Historic Park to include certain lands within the areas from North Branch to Cumberland, Md. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 2842. A bill to provide for the continuing availability of capital for economic growth and the creation of new jobs and to provide for greater competitiveness in our economy by amending the Internal Revenue Code of 1954 to impose limitations on institutions holdings of securities and to encourage individuals to invest in securities. Referred to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. FONG):

S. 2843. A bill to declare Kuapa Pond, Hawaii, as not a navigable water of the United States. Referred to the Committee on Public Works.

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

S. 2844. A bill to amend the Land and Water Conservation Fund Act, as amended, to provide for collection of special recreation use fees at additional campgrounds, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. NELSON:

S. 2845. A bill to amend the Federal Food, Drug, and Cosmetic Act in order to protect consumers against food additives which have mutagenic or teratogenic effects on man or animals. Referred to the Committee on Labor and Public Welfare.

By Mr. HART (for himself, Mr. MAGNUSON, Mr. CHILES, and Mr. EASTLAND):

S. 2846. A bill to protect the flow of interstate commerce from unreasonable damage to environmental health by assuring an adequate supply of chlorine and other chemicals and substances which are necessary for safe drinking water and for waste water treatment. Referred to the Committee on Commerce, by unanimous consent.

By Mr. BAYH:

S. 2847. A bill for the relief of Barbara Olivia York. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. HUGHES, Mr. DOMENICI, Mr. HANSEN, Mr. NUNN, Mr. JOHNSTON, Mr. ALLEN, Mr. FANNIN, Mr. STENNIS, Mr. BARTLETT, Mr. CHILES, and Mr. RANDOLPH):

S.J. Res. 183. Original joint resolution to proclaim April 30, 1974, as a National Day for Humiliation, Fasting, and Prayer. Considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN:

S. 2836. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes. Referred to the Committee on the Judiciary.

Mr. ERVIN. Mr. President, on June 24, 1971, I introduced S. 2156, a bill to protect the American people against the invasion of their privacy through the use of the polygraph. Today I reintroduce this measure.

The technological era is not one of unmixed blessings. We all can take great pride in our American ingenuity which has made the United States the world's greatest industrial Nation. However, only recently have we awakened to the dangers of permitting expediency to dictate the course of our economic and social progress. Our great industrial and technological revolution has been not only at the expense of the quality of the air we breathe and water and food we consume, but at the expense of the uniqueness and dignity of all of us as individuals.

I refer specifically to the trend to use this new technology to promote controversial behavioral science theories which are supposed to help us obtain and measure truth. One such theory which has found currency in the employment field is that if one can only acquire sufficient information in advance on an individual, then one can predict and control behavior, so "truth verification" devices have been developed. The most widely used device is the polygraph or so-called lie detector.

Increasingly, traditional employment practices are being abandoned in favor of polygraph examinations. This instrument is being used to determine the fitness of individuals for employment, for promotion, for dealing with security information, or to determine ethical misconduct or violations of personnel regulations. And they are being used despite the fact that there is no clear scientific proof that they prove anything or predict anything for employment purposes.

During a polygraph examination it is common practice for the operator to probe into many personal details of an individual's life, unrelated to his employment. In fact, personal, controversial, or stimulating questions are deliberately asked in order to form a basis of "norm" for measuring reactions to "relevant" questions. Consequently, polygraph reports contain such personal information as how the subject thinks; how he behaves in his personal life; what he reads; what his conduct and attitudes are in sexual matters; how he relates to his parents and family; and what he dreams about.

As long as these machines are permitted in employment situations, they will be a perpetual danger to the freedom which is most cherished by us all—our right to privacy.

The Constitution itself creates a right to privacy which is designed to assure that the minds and hearts of Americans remain free. The bulwark of this constitutional principle is the first amendment. The first amendment was designed to protect the sanctity of the individual's private thoughts and beliefs. It protects the individual's right to free exercise of conscience; his right to assemble to petition the Government for redress of grievances; his right to associate peaceably with others of like mind in pursuit of a common goal; his right to speak freely what he believes; and his right to try to persuade others of the worth of his ideas.

The fourth amendment guarantees "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." In addition to the privacy of one's home and personal effects, the privacy of his person—or bodily integrity—and even his private telephone conversations are protected by the fourth amendment. The fifth amendment guarantees that an individual shall not be forced to divulge private information which might incriminate him. It also

protects individual privacy by preventing unwarranted governmental interference with the individual's person, personality, and property without due process of law.

The ninth amendment's reservation that "the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people" clearly shows that the Founding Fathers contemplated that certain basic individual rights not specifically mentioned in the Constitution—such as privacy—should nevertheless be safe from governmental interference.

The Supreme Court has held many aspects of individual privacy to be constitutionally protected. In recognizing that "specific guarantees in the Bill of Rights have penumbras formed by emanations from those guarantees that help give them life and substance" (*Griswold* v. *Connecticut*, 381 U.S. 479, 484) the Court has found that those penumbras protect the right to give and receive information, the right to family life and child-rearing according to one's conscience, the right to marriage, the right to procreation, the right to contraception, and the right to abortion.

All Americans can testify to the power of those protections of the individual's rights. The Constitution assures these rights to all citizens whether their exercise is pleasing to Government or not. And by the same token, it assures the individual the converse of these rights: the right not to speak what he believes, whether his silence is pleasing to Government or not; and his right not to act, not to associate, not to assemble, whether his inaction is pleasing to Government or not.

During the study of privacy which the Constitutional Rights Subcommittee has been conducting, we found that the number and kinds of privacy invasions are limited only by the ingenuity of human beings and by their technical capacity for committing them. It is sometimes hard to find rhyme or reason to some actions. This is why the subject of privacy is a very difficult field in which to draft legislation to protect individual rights.

If I were forced to find one comman denominator for all of these techniques and practices, I would say it is the effect they have on the individual's free exercise of his mind and his freedom to seek his own destiny.

Probably no instrument in modern time so lends itself to threats to constitutional guarantees of individual freedom as the polygraph or so-called lie detector. The threat of its use or the intimidation inherent in its use restricts free expression and communication of ideas; intrudes on an individual's subconscious thought; makes him fear to speak his thoughts freely; or compels him to speak against his will.

To my mind the entire purpose of these machines is to invade a man's mind and find what lurks in the innermost part of his mental consciousness for reasons which have nothing to do with his ability to perform a job. If the right of privacy means anything at all, and if it is a right to be cherished in our society, it means that people should be entitled to have thoughts, hopes, desires, and dreams that are beyond the reach of a bureaucrat, an employer, or an electronic technician. This is something which enthusiasts for these machines do not seem to understand. They do not understand and they do not appreciate how important privacy is to each American and as long as that lesson is not understood, we all will find our right to privacy constricted, if not abrogated entirely.

I propose this legislation to ban the use of the polygraph for employment purposes in the hopes that Congress will pause for a moment, step back, and take a long look at the issues involved in the unrestrained use of the polygraph. Legislation is necessary to bring some order and control to the practice.

Just what is a polygraph? Contrary to popular belief, it is not a "lie detector." Bells do not ring and lights do not flash automatically when a person lies or tries to deceive. A polygraph is a machine which records one's physical response against the statements he makes. A pneumatic tube is placed around the subject's chest, a blood pressure cuff around his upper arm and sensors are attached to his palm or finger tips. The recording units track the subject's blood pressure and pulsations, his breathing patterns, and his galvanic skin responses on a continuous graph. The galvanic skin response or GSR is the amount of electric resistance in the skin which is affected by the subject's sweat gland activity.

The premise behind the use of the polygraph is the assumption that lying leads to conflict; conflict causes tension; this tension can be accurately recorded and measured by the polygraph; and the operator by studying these reactions can tell whether the subject is being deceptive or truthful. However, no regular relationship between lying and physical responses has yet been established.

What is recorded, therefore, is not the subject's veracity, but his physiological responses to the examiner's questions. The graphs recorded by the "lie detector" are worthless unless "interpreted" by the examiner.

In interpreting the results, the examiner makes personal judgment as to what may have produced a tension response. A tension response can be induced by fear, anxiety, love, hate, hostility, frustration, conflict, or physical discomfort as well as by guilt. A negative reaction can be caused by resentment at the impertinent questions being asked, but we must rely on the training of the examiner to decide whether the response indicates a lie. Furthermore, differences in heredity, environment and background will influence an individual's mental, emotional and motor behavior, further obscuring the reason for a tension reaction, or lack of reaction, during a polygraph examination.

Thus, the interpretation process is not the mechanical function which some would have us believe. The examiner interprets the recorded tension reactions based upon his subjective judgment concerning the subject's motivation, honesty, and reliability. Since another examiner can and frequently does reach an opposite conclusion after reviewing the same graph, this form of truth verification can hardly be called an exact science. In fact, I have likened it to 20th century witchcraft and I have seen no documentation to alter my view.

There are too many variables involved in polygraphy. There are too many subjective judgments required in polygraphy. Bear in mind that it is not the machine or some demonstrated scientific fact which determines that the subject is being deceptive. It is solely the examiner's interpretation of the readings. As such, the polygraph examination is quite different from the types of comparisons involved in fingerprint identifications, ballistic tests, or even blood-alcohol tests. The late J. Edgar Hoover rejected the idea that the polygraph was a "lie detector" and declared that—

> Ninety percent of the polygraph's usefulness depends on the careful evaluation of the results by experienced examiners.

And even then certain categories can fool the most experienced operators: the brazen liar or hardened criminal; the dull-witted or "supercool"; or a person with no cultural belief about right or wrong. At the same time, an innocent, honest, introspective, sensitive person might register "deceptive" reactions because he is nervous or hostile to the test.

Nevertheless, proponents of the polygraph have made extravagant claims as to its value as a test of deception in routine uses. Attempts at proving the reliability of the polygraph as a lie detector have not sustained the virtual infallibility claims by its proponents.

First of all, independent tests to verify polygraph determinations are susceptible to the same criticism as the polygraph test itself. Such verification generally consists of having a group of polygraph examiners independently review selected cases to determine if the examining operator was correct in his judgment. Whether running the actual polygraph test or reviewing test results, each operator brings with him his own set of values, interpretation and methods of arriving at his conclusions. Therefore, any such study more accurately measures the extent of agreement or consistency among examiners and not whether the judgments are correct. Unfortunately it is possible to be both consistent and wrong.

Despite this criticism, the accuracy rates established during independent verification studies do not sustain the use of the polygraph as a lie detector. In 1965 the Department of Defense established a joint services group on a coordinated R. & D. program of lie detection research to study the reliability of the polygraph chart as the sole basis for judging deception. Their preliminary findings released on August 28, 1968, indicated a "reliability" rate between 30 and 93 percent depending upon the type of polygraph examination reviewed. It is interesting to note that during this same period of time the number of polygraph examinations given by the Defense Department in criminal cases dropped from 5,626 in 1965 to 1,445 in 1967.

However, even a 99-percent accuracy figure is of little comfort to an individual falsely accused as a result of "failing"

a polygraph test. I received a letter from an attorney in Seattle who described the unreliability of polygraphs in terms of his own personal experience.

I ask unanimous consent to have his letter printed at this point in the RECORD.

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

SEATTLE, WASH.,
January 29, 1973.

HON. SAM J. ERVIN,
U.S. Senate Old Senate Office Building, Washington, D.C.

DEAR SENATOR ERVIN: I happened to read in the January 13 issue of Business Week an article regarding pre-employment screening with polygraphs, and I noted that you are sponsoring a Bill to severely limit or prohibit the use of that device for screening job applicants. I would first like to applaud your efforts and indicate my strong support for the Bill, and secondly, relate to you an experience I recently had which will perhaps explain my attitude.

First, I am an attorney practicing here in Seattle, Washington. A large part of my practice consists of representing people accused of crimes. In April of 1972, I was representing a young woman incarcerated in the City Jail and charged with a felony. On April 15, her husband came into my office and asked if I might be going over to see his wife that afternoon. I indicated I hoped to, and he asked me if I would drop off some cigarettes for his wife. He tossed two sealed packages of cigarettes on my desk when I indicated I would do so. We talked for awhile about his wife's case and he opened one of the packs of cigarettes and smoked several cigarettes from it. Then he left.

After a bit, my partner came down to the office (it was Saturday) and asked what I was working on. We chatted briefly and he mentioned he was going over to the City Jail later that afternoon. I asked him to check with me before he went as I might be going over also and we could walk over together.

During the course of the afternoon, I smoked two or three cigarettes from the open pack that my client's husband had brought in. The other pack remained on my desk, sealed. Later, my partner came back into my office and asked if I was ready to go to the Jail. I told him I still had work to do and asked if he would drop the sealed pack of cigarettes off at the Jail for my client. He said he would leave them with the matron for the woman, and I said that would be fine. He left them with the matron, and during a routine check of the package of cigarettes, the matron discovered there was a small balloon of heroin inside.

When my partner and I learned of this, we cooperated with the police detectives in every way we could, explaining exactly what had happened, and indicating the name and identity of the person who brought the cigarettes into our office. Then the Prosecuting Attorney told us he would have to ask us to take a lie-detector test and would have to ask us to stipulate that it could be used against us if we failed it. We agreed, requesting only that he stipulate that if we passed the polygraph, there would be no charges filed. This he said he couldn't do. My partner and I agreed to their conditions and he took the test that evening. I was scheduled to take it the next day.

While my law partner was taking the test, I became somewhat angry that they had required him to go through this, especially considering that he had practiced in this community for better than 20 years and his reputation for integrity and honesty was unimpeached. The next day I told the Prosecutor that I would be more than happy to take their polygraph test and would stipulate that it be used against me if I failed it, but that they were going to have to stipulate that if I passed it there would be no charges filed. Again, they said they could not do that. I indicated to them that I knew they could do that because they had done that before with clients of mine, some of whom had long criminal records, and I thought that it was only fair that we be treated at least as well as they were willing to treat criminals with long records. They told me they couldn't do it, and I refused to take their test.

Later that day they offered me a non-stipulated test, pointing out that if I failed it, it couldn't hurt me or be used against me, and if I passed it, they made no promises that they wouldn't still file charges. I refused the non-stipulated test, and again told them the only kind of polygraph I would take was one where it was stipulated that if I failed it, it could be used against me and if I passed it, there would be no charges filed. Finally they agreed. I took the test, and the polygraph operator failed me. The following day I was charged with attempting to smuggle heroin into the City Jail.

It was at that point that I finally realized that the man who represents himself has a fool for a client, so I hired an attorney. He obtained the Prosecutor's agreement to retest me, given the great disparity between the facts and the polygraph, on the single condition that they pick the operator to be used and that I stipulate that the exam could be introduced against me. They chose a man in New York City, whom I paid a rather substantial sum of money to fly to Seattle and give me the second test. He did, and, like the first polygraph operator, failed me.

It is extremely difficult to explain to anyone the mental conflict that goes on inside a person's mind when he is told by a machine that he lied when he knows he was telling the absolute truth. The conflict becomes even clearer when a second polygraph man, presumably one of the best in the nation, tells him the same thing. I was fortunate in that the objective facts were highly inconsistent with the opinion of the polygraph operators.

You would understand that if an attorney wished to smuggle contraband to a client in the City Jail, a very simple and absolutely fool-proof method exists: all he has to do is to go to the Jail and ask to see his client to confer, and his client is brought to a small interview room where he can speak with his client in absolute privacy with no bars or other impediments separating them. Any small item of contraband can be passed to the client in absolute safety as the clients are never searched by the Jail personnel on the way back to their cell. Therefore, if an attorney wished to smuggle a balloon filled with heroin to a client, a simple and secure method for so doing exists. On the other hand, it is standard procedure to screen every item of clothing, food, cigarettes, etc. that they receive for Jail inmates and so an attorney who gave cigarettes to a Jail matron for a Jail inmate, knowing there to be contraband inside the cigarettes, would know the chances of him being discovered and prosecuted were extremely high.

I asked my law partner to take the cigarettes to the Jail, knowing full well that he was going to deliver them to the matron. Therefore, if I had known there was contraband in the cigarettes, I would have known that I was going to be discovered and prosecuted. Thus, you can see the absurd conflict between the objective facts as to how the cigarettes were delivered and what the polygraph operators said I knew at the time the cigarettes left my office. They said that I knew there was heroin in the cigarette pack.

To shorten this story somewhat, after six-and-one-half months of waiting, my case was brought to trial and was tried for six days to a packed courtroom. The Prosecutor was allowed by the Court to introduce every shred of evidence that they could muster. I and my attorney had researched the polygraph and its operation and history with extreme thoroughness during the months intervening my being charged and the trial and were able to cross-examine the polygraph operators, one of whom you should remember is one of this country's most highly acclaimed operators, with such thoroughness that the inconsistencies and absurdities in the theories supporting the polygraph became crystal clear to everyone. These absurdities and inconsistencies were highlighted by our own case, which consisted of the objective facts surrounding the incident and an expert witness from the University of Washington Department of Physiopsychology, Dr. Hans Doerr.

Dr. Doerr is a professor in the University of Washington School of Medicine and is director of the school's Physiopsychology Laboratory. Physiopsychology, as you know, is the medical discipline that studies the relationship between psychology and physiology. In his research, Dr. Doerr uses sixteen extremely sophisticated polygraphs to measure physiological changes which occur in conjunction with psychological changes. Even with all of these polygraphs hooked up together and working on one individual, and assisted by amplifiers, filters, and computers to analyze results, Dr. Doerr testified that only a fool would say he could determine whether or not a person was telling the truth or not.

After hearing all the evidence, the Judge wasted little time in convicting my co-defendant, the individual who had brought the cigarettes into my office, and acquitting me, indicating that there was not the slightest shred of evidence against me, including the polygraph. Since that time, the Prosecutor's office has indicated to me that their confidence in the polygraph was so shaken by our defense in my case, that they have decided not to take polygraphs into consideration in deciding whether to file charges or not in the future; thus, it appears that in the future, others will not have to suffer as I did because of the pseudoscientific hocus pocus of the polygraph hucksters.

Another positive effect that my trial had was to educate people in this area in a rather classic confrontation between objective facts and the polygraph, that the polygraph is indeed fallible and can do a great deal of damage.

I might mention that Dr. Doerr has become so interested in the use of the polygraph as a lie-detector, that he proposes to call a symposium of physiopsychologists from around the country in the near future to address themselves to just this question. I mention this because the product of this symposium might be of some use to you in gaining support for your Bill.

I apologize for taking so much of your time, but would again like to indicate my support and offer my assistance. If I can be of help to you in any way whatsoever, please do not hesitate to let me know. Anything I can do to prevent or minimize the damage and heartache the polygraph might cause to others, I will do. Thank you for your time.

Sincerely yours.

ROGER W. JOHNSON.

Mr. ERVIN. Mr. President, quite apart from the unreliability of the polygraph are the questions of necessity in employment situations, due process rights, and basic fair play. Industrial use of the polygraph both for preemployment screening and for on-going surveillance of its work force has become more widespread. A report by the Maritime Trades published in 1970 indicates that:

Industrial firms which use the polygraph run the gamut of America's economy.

Many use polygraphs in an attempt to halt

the theft of such state and federally regulated products as narcotics and alcohol—hence, drug and liquor manufacturers, hospitals and even doctors' offices, are frequent clients for polygraph agencies.

Businesses such as electronic and chemical companies, which produce expensive products and which are concerned about possible theft of material or industrial espionage, frequently employ "lie detector" firms or maintain their own staff of examiners.

Banks and investment firms, whose employees customarily handle large sums of money, have been among the more active users of polygraphs. So have mail order houses, discount shops, clothing and shoe stores, a leading restaurant chain, tobacco stores and supermarkets.

Use of polygraphs on a regular basis has been found among delivery companies and freight movers—where pilferage has been a common complaint for years. But the devices are found, as well, among copper refiners, steel producers, rubber manufacturers, food and oil processors and meat packers.

The American Polygraph Association estimates that one-fourth of all major corporations now use the polygraph with between 200,000 and 300,000 tests administered last year in the United States alone.

However, it remains to be shown that the use of polygraph tests actually "screens out potential thieves" or "keeps workers honest." The main value of the polygraph apparently is the psychological pressures it brings to bear upon an employee or applicant. Whether the machine actually works is irrelevant to whether the subject believes it works. That is why proponents of the polygraph are intent on preserving its image.

What is a prospective employee to do when confronted by a polygraph examination. If an employee refuses to submit to the test then he is automatically suspected of "hiding" something. If he submits he is faced with the burden of proving his "honesty" to the satisfaction of the examiner. What has happened to our cherished presumption of innocence?

For example, in a published decision of the NLRB in the Lone Star Co and General Drivers, Warehousemen, and Helpers Local Union No. 968 case—No. 23–CA–1563, November 13, 1964—the following polygraph report was the basis for firing an employee.

Subject Gailes has many, many gripes. Stated that his pay was too low, that he had to do too much work. States that he does not know just how much he is making per hour. States that he does not like the idea of having to leave his COD payments in a box to be counted by someone else the next day because he is being shorted. Stated that every pay day there is some taken out of his check because of errors in COD payments. States that the only way the company has been good to him is that when he had an emergency they loaned him some money. This person seemed very unhappy with the company. This person has taken the test about 5 or 6 times. He does not show much response to the relevant questions. There could be reasons for this: (1) he is completely innocent and therefore is unconcerned; (2) he has taken the test so many times that it does not bother him to lie which could be the reason; (3) he is the type of person who, because of his environment, has learned or been taught that stealing was not wrong and that everything that a person can get and get away with is theirs. There (sic) it is possible that a combination of things, his lack of concern for the test, and his guiltless feelings over stealing. Could be the reason for his lack of concern. Consider him a security risk.

Obviously the polygraph examiner rejected out of hand the possibility that Gailes was "completely innocent: of stealing from the company despite the lack of any evidence to the contrary. In assessing the conclusions of the polygraph report, the trial examiner said:

Of course the most striking thing about this report is the admission that Gailes might be "completely innocent" of any wrongdoing. But if he was not innocent, what had he done? The report does not say and it does not even speculate on what Gailes "might possibly" have done. There is no evidence, however, that Lone Star inquired of Truth Verification which explanation—innocent or guilty—seemed more probable or that it asked what Gailes had done if the "completely innocent" explanation appeared the less likely of the two. Instead, Lone Star automatically accepted the concluding sentence "Consider him a security risk."

But the most disturbing statement in the Gailes' report is that his failure to show "much response" to incriminating (relevant) questions may indicate "guilt" for in other reports too much response is said to indicate guilt. In short, it would seem that employees were termed security risks equally for giving too little response or too much response to relevant questions.

Fortunately for Gailes—and nine other individuals who also "failed" their polygraph tests and were discharged—the trial examiner ordered the company to offer them "immediate and full reinstatement to their former or substantially equivalent positions without prejudice to their seniority of other rights and privileges" and full back pay.

However, a woman in Idaho was not as fortunate in her experience with a polygraph examination. She was fired from her job for refusing to submit to the test. Since then, in addition to being unable to find another job, she has also been denied unemployment insurance benefits because the State department of employment considers her refusal to take the test "insubordination" and "noncompliance" with company policy. In appealing the ruling denying her unemployment benefits on the basis of her "misconduct"—refusing to submit to the polygraph test—wrote:

When I agreed to work at the store, I was faced with the choice of starvation or submission to the polygraph examination. I much prefer to work instead of being supported by the government. However, I refuse to be taken advantage of. When I began to work, I did not know the polygraph examination included questions personal and in many instances unrelated to employment. The test including giving the examiner an itemized list of my bills and expenses per month. It also included questioning work habits and ethics of other employees—a practice I consider highly unethical. There were also questions of a legal nature—have you ever written a bad check? Do you use marijuana or narcotics? Have you ever driven while drunk?

Of course, I was recommended for employment at the conclusion of the test; but having experienced a polygraph examination, I decided that starvation is better than submitting to personal probes of circumstances unrelated to employment. I feel it was demoralizing and a definite infringement of my rights. I believe an employee should not be coerced into giving personal information to an employer for the sake of being able to work for him.

After learning what the polygraph examination involved, I would have been exceedingly stupid to consent to another examination of this sort—especially under an implied accusation concerning a shortage of money in the store.

You determined that my unemployment is due to "having been discharged for misconduct in connection with the employment." Misconduct is defined in Webster's Dictionary as "improper or illegal conduct." I really can't understand how my refusal to publicize personal information can be construed as "improper conduct." I would think instead that being asked to reveal this information is "improper conduct."

I am angered that retaining a job requires the sacrifice of principles and a willingness to reveal personal information. It it especially disappointing that my employer should state that I was "an honest and dependable employee" and say that he found that I went out of my way to do a very good job in the store—and yet fire me.

The statement to which she referred was a recommendation given her by her immediate supervisor. He wrote:

She was released for refusing to take a polygraph examination. The examination is a company policy and if a person refuses to take it then [the Company] will no longer let them continue employment.

[The woman] refused the exam because of personal principles and not because of dishonesty.

It is my personal opinion that [the woman] was an honest and dependable employee.

Mr. President, in my opinion, a law-abiding person seeking a job should not be coerced by means of a lie detector to reveal personal information against his will. I am not questioning the right of an employer to hire whomever he feels would be the best candidate for a position or to dismiss an employee for cause. However, traditional employment screening procedures provide companies with ample access to sources of information on individuals without sacrificing the constitutional rights of all employees or applicants because of the transgressions of a few.

If an individual chooses not to respond to reasonable questions in a traditional employment interview and to provide proper information to facilitate inquiries about himself, then, of course, he should not be hired. Business must be able to protect itself. Yet, in this, as in other areas, expediency must not be permitted to negate the liberties of all Americans. Our rights should never be measured on a dollar-and-cents basis.

Recently I received a sampling of polygraph reports from the President of a large midwestern company which were intended to demonstrate how valuable the tests are in effective employee screening programs. In describing the results of the polygraph examinations he wrote:

In practically every one of these cases the man involved was, from appearances, most acceptable, and it was only after a revelation of his past history that we could make a valid decision about his possibilities as an employee.

You will notice that in all of these instances our decision was made on the evidence that the man himself gave. We did not condemn anyone because the machine or the examiner passed an opinion. The evidences here are based upon the statements made by the people being tested.

While these reports were sent to support the position that the polygraph was essential in employment, I submit that they may in fact show the opposite. If one discounts completely the evaluation of the examiner as to the subject's suitability or honesty, or the machine itself, the justification for its use evaporates.

Almost all of the case histories I received contained information pertaining to previous criminal activities. Many of the subjects had been arrested and convicted of varied offenses including glue sniffing, driving while intoxicated, selling drugs, rape, and armed robbery.

Several of the subjects had medical problems which would have prevented them from performing the duties of the position for which they were applying.

Some had poor work records.

Several had taken merchandise or money from previous employers.

A few were regular users of narcotics.

Since, in most instances such information is readily revealed and verified by traditional employment procedures, the polygraph is not essential in ferreting out this information.

Yet, these polygraph reports also contain a wealth of extraneous information unrelated to employment such as:

He was arrested once for sniffing glue at the age of 13 or 14 and remanded to his mother's custody.

The subject states that he had received a total of fifty cents in tips while working for [a Company].

Subject has approximately $158 in fixed monthly bills of which $93 is his car payment. His just purchased his car last week and the first payment is due on 10/20/72.

Subject was arrested in 6/71, he loaned his vehicle to an unlicensed drive (sic) who was involved in a car accident, released on bond. Charges dropped . . .

Subject stated that between the age of 12 and 15, he occasionally shoplifted magazines, candy bars.

Subject has approximately $268 in fixed monthly bills, all current. His wife is employed and has a monthly income of $450 gross.

At the age of 13, subject was kicked in the genitals (involved in a fight) which resulted in some swelling. Subject has never seen a doctor for this and states no residual problem.

If this information is irrelevant, why collect it? Why report it? One answer is that irrelevant questions are required in order to establish reaction patterns for the relevant questions. However, I must admit that I can see no justification for this line of personal inquiry. It is scarcely compatible with the rights of privacy guaranteed our citizens.

And finally, what uses will be made of a polygraph report? In this computer age, every detail acquired from such investigations about a person's life, habits, attitudes, and beliefs can be made available in seconds. Therefore, it is more important than ever that the individual be assured that information conveyed about him be correct, current, and relevant to the decisions being made about him.

I was particularly disturbed to see that a carbon copy of one of the "confidential reports I received was sent to a private detective agency. Who else receives the information from polygraph reports? Do polygraph companies pool their information? If the judgment and evaluations of the polygraph examiner is made part of an indiivdual's personnel file, will it then find its way into credit files and the like?

These are not idle concerns. In view of the proliferation of the use of the polygraph, and other truth detection devices such as the Psychological Stress Evaluator (PSE) and "wiggle seat," we should all be concerned about the use of machines which compel people to reveal their innermost thoughts about their most personal matters in order to obtain employment.

The legislatures of our land have begun to express themselves against the use of such machines. To a varying degree 13 States prohibit the use of polygraph tests in connection with application for employment or as a condition to continuation of employment. Of the remaining States, 15 required polygraph operators to be licensed.

In conclusion, Mr. President, I would add that the purpose of the bill I introduce today is to protect the privacy and first amendment rights of all Americans. While the bill would not affect law enforcement or State or local governments, it would prohibit the compelling of Americans to submit to polygraphs in order to obtain or to hold a job in the Federal Government or in industries whose activities affect interstate commerce. The wealth of considered opinion on the unreliability of lie detectors and the unfairness of permitting them to be used as a test of employment has persuaded me that the time has now come for Congress to express itself against their use.

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

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

S. 2836

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

SECTION. 1. It shall be unlawful for any officer or employee of any executive department or agency or any individual acting under the authority of such officer and employee to do the following:

(a) to require or request, or to attempt to require or request, any officer or employee of the United States, or any individual applying for employment as an officer or employee of the United States, to take any polygraph test in connection with his services or duties as such officer or employee, or in connection with such individual's application for employment;

(b) to deny employment to any individual, or to discharge discipline, or deny promotion to any officer or employee of the United States, or to threaten to commit any such act by reason of his refusal or failure to submit to such requirement or request.

SEC. 2. It shall be unlawful for any person engaged in any business or other activity in or affecting interstate commerce, or any individual acting under the authority of such person to do the following:

(a) to require or request, or to attempt to require or request any officer or employee employed by such person or any individual applying for employment in connection with such business or activity to take any polygraph test in connection with his services or duties or in connection with his application for employment.

(b) to deny employment to any individual, or to discharge, discipline, or deny promotion to any officer or employee employed in connection with such business or activity, or to threaten to commit such act by reason of his refusal or failure to submit to such requirement or request.

SEC. 3. Whoever willfully violates or willfully attempts to violate any of the provisions of this Act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 4. (a) Whenever—

(1) any officer or employee of any executive department or any executive agency of the United States Government, or any person acting or purporting to act under his authority, or

(2) any commissioned officer as defined in section 101 of title 10, United States Code, or any member of the Armed Forces acting or purporting to act under his authority, or

(3) any person engaged in any business or other activity in or affecting interstate commerce, or any individual acting under the authority of such person.

violates or threatens to violate any of the provisions of section 1 or 2 of this Act, any employee or officer of the United States, or any person applying for employment in the executive branch of the United States Government, or any person seeking to establish civil service status or eligibility for employment in the executive branch of the United States Government, or any individual applying for employment in connection with any business or activity engaged in or affecting interstate commerce, or any employee or officer employed by a person engaged in such business or activity, who is affected or aggrieved by the violation or threatened violation, may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or employee or person in the United States District Court for the district in which the violation occurs or is threatened, or for the district in which the offending officer or person is found, or in the United States District Court for the District of Columbia, to prevent the threatened violation or to obtain redress against the consequences of the violation.

(b) Such United States district court shall have jurisdiction to try and determine such civil action irrespective of the actuality or amount of pecuniary injury done or threatened, and without regard to whether the aggrieved party shall have exhausted any administrative remedies that may be provided by law, and to issue such restraining order, interlocutory injunction, permanent injunction, or mandatory injunction, or enter such other judgment or decree as may be necessary or appropriate to prevent the threatened violation, or to afford the plaintiff and others similarly situated complete relief against the consequences of the violation.

(c) With the written consent of any person affected or aggrieved by a violation or threatened violation of section 1 or 2 of this Act, any employee organization may bring such action on behalf of such person, or may intervene in such action. For the purposes of this section, employee organizations shall be construed to include any brotherhood, council, federation, organization, union, or professional organization made up in whole or in part of employees and which has as one of its purposes dealing with departments, agencies, commissions, independent agencies of the United States, or with businesses and industries engaged in or affecting interstate commerce, concerning the conditions and terms of employment of such employees.

By Mr. HART (for himself, Mr. HUGH SCOTT, Mr. CASE, and Mr. CLARK):

S. 2837. A bill to regulate the interstate and foreign commerce trading of futures contracts in order to prevent un-

fair and deceptive acts and practices. Referred to the Committee on Agriculture and Forestry.

FUTURES EXCHANGE ACT

Mr. HART. Mr. President, today, with Senators HUGH SCOTT, Republican of Pennsylvania, CLIFFORD CASE, Republican of New Jersey, and DICK CLARK, Democrat of Iowa, I am introducing a comprehensive bill to regulate the trading of futures contracts. Senator HUMPHREY and Senator MCGOVERN previously introduced bills to strengthen regulation of futures contracts as did some Members of the House. It is my hope that all our efforts soon will result in action in this important field.

To the uninitiated, futures contracts are mystifying. They are simple in theory but complex in fact. Basically a futures contract is an agreement to buy or sell a good, service or intangible for delivery in the future. The contract is verbal only. It is traded on an exchange much like a stock. The contract terms are set forth in the rules and regulations of the exchange on which it is traded. A person who wants to buy or sell a futures contract places an order with a broker, who may sell stocks as well as futures. The order then is executed by a floor broker on one of the exchanges where the particular contract is traded. There are 13 active futures exchanges which, for the most part, trade different contracts.

The exchange rules state the quantity, quality and delivery places of the underlying good, service or intangible which is covered by a contract. Despite the fact that futures contracts provide for delivery, such delivery takes place less than 3 percent of the time. Futures contracts, then, are not a device to buy or sell products, but rather a paper transaction that various commercial interests claim they use to hedge against fluctuations in prices. Others who have no direct interest in the product also trade futures contracts in the hope of making a profit. They are called speculators.

Futures contracts are traded on a variety of things. Included are such agricultural commodities as cotton, corn, soybeans and wheat and food products produced primarily outside the United States such as cocoa, sugar, and coffee. Nonagricultural products also are involved, such as plywood, propane, silver and various moneys, for example, Japanese yen, British pound, deutsche mark, U.S. silver coins. It recently has been announced that trading will commence in ship charters and is being considered on home mortgages and petroleum. Trading has grown enormously. In 1972 the volume of trading was almost $400 billion. In 1973 it is expected to be $500 billion. In 1969 it was $81 billion.

The price of futures contracts potentially affects everyone for they serve as a basis for producer, middleman and consumer prices. For example, when a farmer brings his grain to the country elevator operator for sale, the country elevator operator often will pay the farmer based on the futures price, less charges for handling, storage, and transportation. A company selling flour to a baker to be delivered some months hence, will often contract with the baker at the futures price for wheat for the month nearest delivery time plus or minus a differential for processing and other costs. As the futures price is referred to in the various stages of processing, the price to the ultimate consumer is influenced by the futures price.

Commercial interests claim that they use futures contracts to shift the risk of price fluctuations to the speculator. They contend that without futures contracts consumers would have to bear the risk in the form of higher prices. This is the economic justification given for the existence of futures markets. Some people contend futures trading is merely legalized gambling. In any case, it appears futures trading is here to stay. Thus, it is crucial that it be adequately regulated.

Presently, there is a law—the Commodity Exchange Act—which regulates specifically listed commodities. It is administered by the Department of Agriculture's Commodity Exchange Authority. The act does not apply to most nonagricultural products such as money and plywood or to those products grown outside the United States like sugar, coffee and cocoa or the anticipated contracts in home mortgages and petroleum. In 1972 over $130 billion in futures contracts—or 30 percent of the total—were completely unregulated.

The attention of Congress and the press has focused on futures contracts in the past several months because of the volatility of the markets and rising food costs. Well-publicized is the fact that the soybean price rose about $3.30 to $12.90 a bushel and has settled at around $6 today. Corn and wheat also had gigantic price rises as did cocoa—which more than doubled. The causes of the volatility of the futures markets, some claim, were a lax Commodity Exchange Authority, the Russian wheat deal, manipulation of the markets by giant grain companies, excessive speculation, or all of those things. Others say merely the the markets reflected supply and demand. To me, the cause is unclear. What is important is that the wild fluctuations of those markets brought them to the public's attention. For the first time many people became aware of futures markets—and aware when the CEA was referred to, it did not necessarily mean the Council of Economic Advisors, but might mean the Commodity Exchange Authority.

Scrutiny of the futures market revealed many disturbing things—

First. Many contracts involving products essential to our well being were completely unregulated.

Second. Contracts that were regulated were under the jurisdiction of the Department of Agriculture although farmers seldom trade in futures and although futures contracts are much more like an insurance policy or a security than they are a sale of agricultural commodities.

Third. The Commodity Exchange Authority lacks sufficient personnel, money and legislative authority adequately to regulate the markets.

These conditions invite abuse of the markets.

The ideal market is one which reflects economic factors—supply, demand, financial conditions, and in the case of agricultural products, weather conditions, and crop failures. An ideal market is one not subject to manipulation by giant corporations or unscrupulous individuals. The thrust of this bill is to prevent any form of distortion of the markets so that they may function freely.

To date, much of the regulation has been left to the exchanges. While, indeed, some of the exchanges must be complimented on their self-regulation, one cannot expect those trading in this market to police themselves as diligently as is necessary. It is difficult to act both as the law enforcer and the accused.

Certainly, day-to-day operations of the exchange should be left to the exchanges. So should certain functions—like the setting of margins—with which the exchange may be more intimately acquainted than a Federal agency.

However, a Federal agency should have broad supervisory powers over an exchange, even as to something like margins. It is conceivable that an exchange might set a margin at 1 percent or 2 percent, a figure, I think, everyone would agree is too low. In such a situation, the Federal Government should have power to change the margin. Thus, while various sections of the bill give the exchange power to make rules and regulations regarding many functions of the exchange, section 202 provides that the Commission may modify rules of the exchange, after hearings and findings supported by those hearings. Basically, this bill gives the initial decisionmaking power to the exchange, with oversight power in the Commission.

The bill I introduce today, as those introduced by Senators HUMPHREY and MCGOVERN, sets up an independent agency to regulate trading of futures contracts. This is essential for several reasons. First, some futures contracts cover products, services, and intangibles, which are not agricultural in nature. Second, a futures contract does not relate directly to the underlying product but rather is more like insurance or a security. Third, this is an industry which has grown to a half a trillion dollars in volume—a size which would seem to make it merit a special agency to deal with its problems. Fourth, not only is the volume of trading large, but a fair market is essential to reasonable consumer prices.

This bill differs from those which have been introduced in the Senate in several significant ways:

First. It is a comprehensive bill. Rather than amending the Commodity Exchange Act, which has been amended 18 times and is now almost incomprehensible, this bill begins anew. While this may cause some members of the industry to feel insecure, surely if we are trying to improve the law it should be put into modern intelligible language. Those parts of the Commodity Exchange Act which are still relevant to the trading of futures contracts are incorporated in the bill.

Second. It requires exporters and importers to report to the Commission in-

formation relating to the initiation, completion or termination of negotiations for exports or imports. The purpose is to keep the Commission informed of the size of exports or imports so that if the amount is so substantial that it may cause a chaotic market the Commission may take action in the public interest. This provision is aimed at preventing the feverish trading—and distorted prices—which followed announcement of the Russian grain sale.

Third. It requires the clearinghouse or the exchange to make a daily record showing the time of each trade, the contract, the price, the delivery month, and the name of the trader. While some exchanges make part of this information available, none of them identify the trader because the broker is not required to give the name of the trader to the exchange. This bill requires him to do so. Certainly a case can be made that the name of the trader should not be made public, or else other traders might take unfair advantage of such information. However, it seems essential that the name of the trader, along with the other information required, be available to the Commission. This would allow the Commission to examine who had made what transactions during a given day and might well alert it to a potential manipulation of the market.

Fourth. The bill forbids foreign traders from trading on American futures markets unless they post a surety bond which will be forfeited if they refuse to submit to the jurisdiction of the courts, the Commission or an exchange. Recently, increasing numbers of foreign individuals and companies have begun to trade on U.S. futures markets. If those companies do not do business in the United States, there is no way to obtain jurisdiction over them should they violate a law of the United States. This provision would insure that they submit to the jurisdiction of U.S. authorities or forfeit a sum of money.

Fifth. The bill requires that a broker only take orders from persons he has reasonable grounds to believe are financially suited to deal in futures contracts and who sign a statement indicating that they understand the high probability of loss. Similarly, it requires advertisements and promotional literature to state that the trading of futures contracts is highly speculative. Studies indicate that futures trading is highly hazardous. These provisions would discourage anyone from dealing in futures contracts unless they are financially able to do so. This protects both the potential trader and the marketplace by keeping those out of it who are not financially able to meet its obligations.

Sixth. This bill requires that all persons who deal with the public—brokers, salesmen and investment advisers—and contract analysts, take examinations to demonstrate an understanding of the futures market. This should protect the public and the market from uninformed traders so the marketplace should function better.

Seventh. It prohibits any person from engaging in unfair and deceptive practices. Some are defined in this bill. This provision was made broad so that the Commission, either by rule or in court, would have the power to prohibit unfair and deceptive schemes as they are devised.

Eighth. It prevents the fixing of Commission rates. In the past, members of exchanges have price-fixed the amount of commission rates. This practice is being challenged in a suit by the Department of Justice. It also was challenged in some private suits which have been settled and would phase out one of the three types of commissions in 4 years. This provision goes further and makes price-fixing of all commissions illegal, which would seem in accordance with the antitrust laws.

Ninth. It permits the Commission to make exceptions for so-called world contracts—products which are produced primarily outside the United States and traded on foreign and U.S. exchanges. Exchanges trading such products contend they need certain exceptions. If this is true, the Commission may make such exceptions.

Tenth. It requires that the Commission approve the subject matter and the terms of all new contracts before they may be traded. This provision requires the Commission to determine whether or not the good, service or intangible is economically justifiable as the subject of a futures contract and also lets the Commission change or modify terms of the contract, including the number of delivery points. There has been widespread criticism of the exchanges for designating too few delivery points—resulting in squeezes which have driven prices unjustifiably high.

Eleventh. It prohibits floor brokers, salesmen and others who handle customer accounts from trading for their own account. This would prevent manipulation of the market by floor brokers and others for their own benefit, and to the detriment of their customers and the public. Some people contend that if floor brokers are adequately regulated the problem is solved. However, because it is almost impossible to secure evidence of such abuses—other than by admission—the most stringent regulation conceivable is inadequate.

Twelfth. It treats clearinghouses separately from exchanges, requiring them to register, set minimum capital requirements for their members and adequate margins. Although a clearinghouse is essential to the operation of an exchange and often is an integral part of it, not all members of the exchange are members of the clearinghouse. Its members have a crucial financial function and should meet standards different from the exchange members. Thus, exchanges and clearinghouses are treated separately.

Thirteen. This bill permits the Commission to charge each exchange an annual registration fee sufficient to cover 75 to 85 percent of the operating costs of the Commission. The fee is to be allocated among the exchanges in proportion to the number of contracts sold and purchased upon it. The exchange may collect the fee from traders. The purpose of this provision is to shift some of the cost of regulation from taxpayers to the people who benefit most directly from fair markets—traders. If a fee of 20 cents were charged each buyer and seller of a contract, and the number of contracts traded is near to 25 million as it was in fiscal 1972, the amount collected would be $10 million. Since the appropriation to the Commodity Exchange Authority for fiscal 1974 was about $3.5 million, $10 million may well be adequate to finance a substantial part of the Commission's expenditures. A fee of 20 cents per purchaser and seller of a contract is quite minimal when one recognizes, for example, that 1 contract for corn is a transaction involving about $15,000 as the contract is for 5,000 bushels and the futures price for December is roughly $3 per bushel.

This bill also gives the Commission power in emergency situations to stop trading or take similar action, to seek injunctions through its own attorneys, and to impose administrative penalties. It requires the Commission to make market surveys of products which are the subject matter for futures contracts and report such information to the public. The bill authorizes treble damages and a minimum jail sentence of 10 days for certain unfair and deceptive practices. All proceedings of the Commission are governed by the Administrative Procedure Act which, in many instances, requires findings based on public hearings.

Mr. President, I do not wish to burden the RECORD with an elaborate explanation of other provisions of this bill. I ask unanimous consent that its text be printed in the RECORD along with some selected and highly informative articles from the Des Moines Register which describe the need for regulation of futures contracts.

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

S. 2837

A bill to regulate the interstate and foreign commerce trading of futures contracts in order to prevent unfair and deceptive acts and practices

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 "Futures Exchange Act".

TABLE OF CONTENTS

TITLE I—FUTURES EXCHANGES COMMISSION

Sec. 101. Findings and Purpose
Sec. 102. Definitions
Sec. 103. Establishment
Sec. 104. Commission Membership
Sec. 105. Chairman
Sec. 106. Powers of Chairman
Sec. 107. Personnel of the Commission

TITLE II—REGISTRATION AND REPORTING

Sec. 201. Registration of Futures Exchanges
Sec. 202. Exchange Rules
Sec. 203. Exchange Disciplinary Procedures
Sec. 204. Registration of Persons Engaged in Futures Trading
Sec. 205. Registration of Clearinghouse
Sec. 206. Recordkeeping and Reporting Requirements
Sec. 207. Reports of Traders
Sec. 208. Exchange Daily Trading Reports
Sec. 209. Exporter and Importer Reports
Sec. 210. Government Agency Reports
Sec. 211. Market Information
Sec. 212. Warehouse Reports
Sec. 213. World Contracts

TITLE III—REGULATION ON TRADING
Sec. 301. Trading of Futures Contracts
Sec. 302. Approval of New Futures Contracts
Sec. 303. Regulation of Traders
Sec. 304. Trading Limits
Sec. 305. Emergency Powers
Sec. 306. Regulation of Advertising
Sec. 307. Commission Rates
Sec. 308. Unfair or Deceptive Acts
TITLE IV—INVESTIGATION AND ADJUDICATIVE PROCEEDINGS
Sec. 401. Institution and Investigation
Sec. 402. Subpoenas and Investigative Orders
Sec. 403. Review and Enforcement of Investigatory Subpoenas and Orders
Sec. 404. Institution of Adjudicative Proceeding
Sec. 405. Discovery; Procedure
Sec. 406. Orders in Adjudicative Proceedings
TITLE V—JUDICIAL PROCEEDINGS
Sec. 501. Judicial Review
Sec. 502. Civil Enforcement Proceeding
Sec. 503. Criminal Enforcement
Sec. 504. Civil Penalty for Disobedience to Final Order
Sec. 505. Civil Action for Damages
TITLE VI—MISCELLANEOUS
Sec. 601. Registration Fee
Sec. 602. Authorization of Appropriations
Sec. 603. Transfer of Functions and Property
Sec. 604. Effect on Existing Law
Sec. 605. Conforming Amendments
Sec. 606. Savings Clause
Sec. 607. Severability
Sec. 608. Effective Date

TITLE I—FUTURES EXCHANGE COMMISSION

FINDINGS AND PURPOSE

SEC. 101. (a) Findings.—The Congress finds that—

(1) The trading of futures contracts substantially affects interstate and foreign commerce and the public interest, making it necessary for the Congress to regulate and control such transactions.

(2) Futures contracts are paper transactions traded on exchanges, by businessmen to hedge against price changes in a variety of products including grains and other agricultural products, moneys, and products produced outside the United States such as coffee and sugar. Speculators also trade futures contracts in the hope of making a profit.

(3) Some exchanges are considering trading futures contracts on intangibles such as ship charters and home mortgages.

(4) The price of futures contracts has a substantial impact on the economy and the consumer because futures contract prices are disseminated and quoted throughout the United States and in foreign countries as a basis for determining the price producers receive and consumers pay for goods, products, and services, sold in intertsate and foreign commerce.

(5) In 1973 prices of some futures contracts fluctuated so widely as to cause public alarm over the operation and regulation of such markets and arouse fear that the markets were manipulated.

(6) The number of persons trading futures contracts, located in the United States and abroad, has risen significantly in the last year as has the volume of trading which went from $81 billion in 1969 to $400 billion in 1972 with an anticipation of $500 billion in 1973.

(7) Futures contracts in a number of important consumer products such as coffee, sugar, cocoa, and plywood, amounting to a dollar volume of $131 billion in 1972, are totally unregulated.

(8) The trading of futures contracts substantially affects interstate and foreign commerce. The purchase or sale of futures contracts frequently originates outside the states in which the exchanges upon which such transactions occur are located, and such transactions are frequently carried out by means of the telephone, mails, and other instrumentalities of interstate commerce. The transactions involve the use of credit and directly affect the financing of trade and industry in interstate commerce.

(b) Purposes—It is therefore declared to be the purpose of Congress in this Act to prevent improper restraint of interstate and foreign commerce in the trading of futures contracts by—

(1) regulating all futures contracts to the full extent permissible under the commerce clause;

(2) outlawing unfair and deceptive practices that are likely to create artificial prices, volatile markets, or both;

(3) outlawing unfair and deceptive practices which may injure the public and others who trade;

(4) establishing an independent regulatory agency with broad powers to carry out the above purposes.

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) "person" means an individual, association, partnership, corporation, joint stock company, joint venture, unincorporated organization or trust, or other legal entity;

(2) "Commission" means the Futures Exchange Commission;

(3) "futures contract" means an agreement to buy or sell for delivery at a future time any specified quantity of goods, services, or other tangible or intangible things, other than—

(A) an ordinary commercial agreement between two parties, or their assignors or assignees, for the actual consumption, use, or sale of goods, services, or other tangible or intangible things, commonly known as a "deferred sale" or "forward contract"; and

(B) a security subject to regulation by the Securities and Exchange Commission;

(4) "futures commission merchant" means a person engaged in soliciting or in accepting orders for the purchase or sale of futures contracts for other persons and in providing for the execution of such orders;

(5) "futures contract salesman" means an individual employed by a futures commission merchant who solicits or accepts orders to buy or sell futures contracts;

(6) "floor broker" means a person who executes an order for the purchase or sale of futures contracts on an exchange for the account of another;

(7) "floor trader" means a person who executes an order on the floor of an exchange for the purchase or sale of a futures contract for his own account;

(8) "futures contract advisor" means a person who offers advice to any other person for compensation regarding the trading of futures contracts other than a person described in paragraph (4), (5), (6), or (7);

(9) "futures contract analyst" means an individual who engages in statistical or analytical work regarding the trading of futures contracts;

(10) "exchange" means any place where futures contracts are traded;

(11) "trader" means the real party in interest to the sale or purchase of a futures contract;

(12) "to trade" means to buy or sell futures contracts;

(13) "hedger" means a trader who purchases or sells futures contracts to shift the risk of price fluctuations of his own purchases or sales, or expected purchases or sales of actual goods, services, or other tangible or intangible things;

(14) "speculator" means a trader who is not a hedger; and

(15) "clearing house" means a central agency, which may be a separate entity or part of an exchange, through which transactions for the purchase and sale of futures contracts are settled by matching purchases with sales.

ESTABLISHMENT

SEC. 103. (a) There is established, as an independent agency of the United States Government, the Futures Exchange Commission.

(b) The principal office of the Commission shall be in or near the District of Columbia.

(c) The Commission shall have an official seal which shall be judicially noticed.

(d)(1) The Commission shall report to the Congress within ten days after the end of the fiscal year beginning July 1, 1974, and of every fiscal year thereafter, the action it has taken, the names, salaries, and duties of all individuals in its employ, and the money it has disbursed.

(2) The Commission shall provide to the Senate and to the House of Representatives all information, data, estimates, and statistics which any Committee of the Senate or House determines to be necessary in the performance of its oversight duties and functions with respect to the Commission. When the Commission transfers any book, paper, correspondence, memorandum, or other record, or copy thereof, to any other agency or person, it shall require the person who receives the record to agree to return the record to the Commission if the Commission receives a Congressional request under this section.

(3) Reports submitted under this subsection shall be in addition to any other reports required to be submitted by the Commission under any other provision of law.

(e) Notwithstanding the provisions of sections 516, 518 and 519 of title 28, United States Code,—

(1) The Commission may initiate any civil action to implement this Act, including actions for injunctions or declaratory relief, in its own name and through its own attorneys;

(2) Attorneys for the Commission shall supervise, and may, in the discretion of the Commission, conduct all litigation in any civil action to which the Commission is a party; and

(3) Attorneys for the Commission shall represent the Commission before the Supreme Court in any civil action to which the Commission is a party, unless the Commission requests the Solicitor General to represent it.

(f) The provisions of the Administrative Procedure Act (title 5, United States Code, chapters 5 and 7) govern all proceedings by or before the Commission, unless, and to the extent, this Act provides to the contrary.

SEC. 104. (a) The Commission shall be composed of five Commissioners appointed by the President, by and with the advice and consent of the Senate. At least one member of the Commission shall be appointed from among persons who represent the interests of the consuming public. Not more than three of the Commissioners shall be members of the same political party. Each Commissioner shall be compensated at the rate provided by level IV of the executive pay rates (5 U.S.C. 5314), except as provided by section 106.

(b) Commissioners shall serve for terms of five years except that—

(1) The first five Commissioners to take office shall serve, as designated by the President at the time of appointment, one for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years;

(2) Any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term; and

(3) A Commissioner may continue to hold office for six months after the expiration of his term or until his successor is appointed

and confirmed by the Senate, whichever period is shorter.

(d) Vacancies in the membership of the Commission, so long as there are three Commissioners in office, shall not impair the power of the Commission to execute the purposes, functions, and powers of the Commission. Three Commissioners shall constitute a quorum for the transaction of business.

(e) No Commissioner shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this Act during his term of office.

(f) No Commissioner shall conduct any ex parte discussion with any person concerning any rulemaking or adjudicative proceeding before the Commission. Any Commissioner who receives any ex parte communication concerning any rulemaking or adjudicative proceeding before the Commission shall, in writing, report the communications to the other commissioners and to the General Counsel.

(g) A Commissioner may be removed from office by the President for inefficiency, neglect of duty, or malfeasance in office and for no other reason.

CHAIRMAN

SEC. 105. The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman. The Chairman is the chief administrative officer of the Commission and presides at hearings before the Commission. He is compensated at a rate of annual compensation $500 in excess of that provided for the other commissioners, pursuant to section 104(a) of this Act. The President may at his pleasure, designate a different commissioner as Chairman, and the commissioner previously designated Chairman shall complete his term as an ordinary commissioner.

POWERS OF CHAIRMAN

SEC. 106. Subject to approval thereof by a majority of the Commission, the Chairman is authorized to—

(a) Establish the organizational units of the Commission and determine their functions, or modify the same;

(b) Appoint or remove officers or employees to head such units;

(c) Establish internal procedures of the Commission;

(d) Delegate any power granted to the Commission or any officer or employee thereof by this Act;

(e) Promulgate, after notice, any procedural rules or regulations necessary or appropriate to carry out the provisions of this Act;

(f) Define terms in this Act not defined herein, after notice, in a manner consistent with the policies of this Act; and

(g) Take any other action necessary to carry out the provisions of this Act.

PERSONNEL OF THE COMMISSION

SEC. 107. (a) The President shall appoint, by and with the advice and consent of the Senate, a General Counsel of the Commission, who is its chief legal officer.

(b) The Commission may appoint and fix the compensation of any officers and employees necessary to carry out the provisions of this Act, and prescribe their functions and duties.

(c) The Commission may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

TITLE II—REGISTRATION AND REPORTING

REGISTRATION OF FUTURES EXCHANGES

SEC. 201. (a) It is unlawful for an exchange to permit futures contracts to be traded upon it unless the exchange is registered with the Commission.

(b) The Commission will register an exchange after the exchange files a registration statement with the Commission, in the form and manner the Commission prescribes, which contains the following:

(1) An agreement to comply with, and to enforce, so far as is within its powers, compliance by its members with the provisions of this Act and of any rule made by the Commission under this Act.

(2) A copy of the Constitution and rules of the exchange which—

(A) provide for fair representation of members of the public on the Board of Directors of the exchange;

(B) provide for minimum financial requirements for futures commission merchants;

(C) require that any futures commission merchant, floor trader, floor broker, futures contract analyst, or futures contract salesman who has not acted in any of the aforesaid functions for at least one year prior to the effective date of this Act, pass a written examination testing his ability to perform that function before he may trade on that exchange, or advise any person who trades on that exchange, and provide for the administration of such examination;

(D) set standards of conduct for members;

(E) provide for investigation and audit of members;

(F) provide for efficient clearing and reporting of transactions;

(G) set the maximum amount the price of a futures contract may fluctuate per day above or below the previous closing price;

(H) set minimum margin requirements for traders;

(I) establish a procedure for the settlement of trader claims by voluntary arbitration or, at the election of the trader, by a committee, the majority of the membership of which are members of the public;

(J) require prior approval by the exchange of advertising and promotional literature;

(K) prohibit any person from acting as a floor trader and a floor broker, except to correct errors made by that person within one market day after the error was made; and

(L) provide for any other provisions as the Commission, by rule, finds necessary or appropriate to implement the policies of this Act.

(3) The Commission shall notify an exchange in writing if the registration statement of that exchange is inadequate and give a statement of reasons for that decision. Any exchange whose registration statement is rejected is entitled to a determination, on the record after opportunity for public hearing, whether it is entitled to be registered.

(c) The Commission may suspend or withdraw the registration of any exchange, after a determination, on the record after opportunity for public hearing, that it has violated any provision of this Act or the policies of this Act so require.

(d) The Commission may, ex parte and without notice, suspend the registration of any exchange, or any or all trading therein, for up to five business days, if it finds that the policies of this Act require.

(e) Any exchange operating on the effective date of this Act shall comply with the provisions of this section within 180 days after the Commission prescribes registration requirements under subsection (b). It may continue to operate as an exchange unless the Commission denies its registration.

EXCHANGE RULES

SEC. 202. (a)(1) Each exchange shall report to the Commission any change in its rules or regulations.

(2) Every change in the rules or regulations of an exchange shall be effective unless the Commission disapproves or modifies the rule or regulation after a determination, on the record after opportunity for hearing, that the change is inconsistent with the policies of this Act.

(b) The Commission may require an exchange to amend an existing rule, or adopt a new rule or regulation by order after a determination, on the record after opportunity for hearing, that such change is consistent with the policies of this Act.

EXCHANGE DISCIPLINARY PROCEDURES

SEC. 203. (a,(1) Any exchange or the Commission if the exchange fails to act, may suspend, expel, or discipline in any other way, any person who is a member of that exchange, or deny any person access to the exchange. Any such action shall be taken solely in accordance with the rules of that exchange.

(2) Any suspension, expulsion, disciplinary, or access denial procedure established by an exchange rule shall provide for written notice to the Commission and to the person who is suspended, expelled, or disciplined, or denied access, within thirty days, which includes the reasons for the exchange action in the form and manner the Commission prescribes. Otherwise the notice and reasons shall be kept confidential.

(b)(1) Any person suspended, expelled, disciplined by an exchange or denied access to it is entitled to Commission review of that decision, pursuant to such regulations as the Commission, by rule, prescribes.

(2) The Commission may, in its discretion, upon application of any person who is adversely affected by any other exchange action, review that action.

(c) The Commission may affirm, modify, set aside, or remand any exchange decision it reviews pursuant to subsection (b), after a determination on the record whether the action of the exchange was in accordance with the policies of this Act. Subject to judicial review pursuant to section 501, any order of the Commission entered pursuant to subsection (b) shall govern the exchange, in its further treatment of the matter.

(d) The Commission, in its discretion, may order a stay of any action taken pursuant to subsection (a) pending review thereof.

(e) Nothing in this section shall require any person to resort to the procedure set forth in subsection (b), or prohibit any person from seeking any other form of relief available to him under State or Federal law, or limit the liability of any person to suit by any state or federal regulatory or prosecutorial agency.

REGISTRATION OF PERSONS ENGAGED IN FUTURES TRADING

SEC. 204. (a) It is unlawful for any person to act as a futures commission merchant, floor broker, floor trader, futures contract analyst, futures contract advisor, or futures contract salesman unless he has registered with the Commission.

(b) The Commission shall register any person as a futures commission merchant, floor broker, futures contract analyst, futures contract adviser, or futures contract salesman after he files a registration statement containing the information, and in the form and manner, the Commission prescribes. The Commission may require by rule that any person registered under this section shall periodically update information in his registration statement.

(c) The Commission shall establish a written qualifying examination for any person to be registered under this section who is not examined by an exchange under section 201(b)(2)(C), and minimum financial requirements for any futures commission merchant who is not subject to an exchange rule under section 201(b)(2)(B).

(d) The Commission may suspend or withdraw the registration of any person registered under this section after a determination, on the record after opportunity for public hearing, that he has violated any provision of this Act or the policies of this Act so require.

(e) The Commission may, ex parte and

without notice, suspend the registration of any person under this section for a period not in excess of five business days if, in its determination, the policies of this Act so require.

(f) Every person who is a futures commission merchant, floor broker, floor trader, futures contract analyst, futures contract adviser, or futures contract salesman on the effective date of this Act shall file a registration statement with the Commission within 180 days after the Commission prescribes registration requirements. Any such person may continue to do business unless the Commission refuses to register him.

REGISTRATION OF CLEARINGHOUSE

SEC. 205. (a) It is unlawful for any clearinghouse to clear futures contracts traded on an exchange unless it shall have registered with the Commission as a clearinghouse.

(b) The Commission shall register any clearinghouse as such after it files a registration statement with the Commission containing the information, and in the form and manner, the Commission prescribes. Any clearinghouse shall be registered by the Commission only if its rules require its members to meet adequate minimum capital and margin requirements.

(c) The Commission may suspend or withdraw the registration of any clearinghouse after a determination, on the record after opportunity for public hearing, that it has violated any provision of this Act or the policies of this Act so require.

(d) The Commission may, ex parte and without notice, suspend the registration of any clearinghouse under this section for a period not in excess of five business days, if, in its determination, the policies of this Act so require.

(e) Every clearinghouse in existence on the effective date of this Act shall file a registration statement with the Commission within 180 days after the Commission prescribes registration requirements. Any clearinghouse may continue to do business unless the Commission refuses to register that clearinghouse.

RECORDKEEPING AND REPORTING REQUIREMENTS

SEC. 206. Every exchange, person, and clearinghouse registered under sections 201, 204, or 205 shall establish, preserve, and provide to the Commission any accounts, correspondence, memoranda, papers, books, or other records, which the Commission requires by rule or order. Every such exchange, person, and clearinghouse shall make such regular or special reports to the Commission relating to the trading of futures contracts or persons engaged in such trading which the Commission requires by rule or order. These reports shall be in addition to any other report required by this Act.

REPORTS OF TRADERS

SEC. 207. Every trader shall report to the Commission such information as the Commission may by rule, require relating to the purchase or sale of futures contracts or the purchase or sale of goods, services or other tangible or intangible things which are the subject matter of futures contracts.

EXCHANGE DAILY TRADING REPORTS

SEC. 208. (a) Each futures commission merchant shall report to his floor broker the name of each trader to a transaction. Each floor broker and floor trader shall report the name of the trader to the clearinghouse. The name of the trader shall be kept confidential except as provided in subsections (b) and (c).

(b) Every exchange, or its clearinghouse on its behalf, shall prepare a daily trading report in the form and manner which the Commission prescribes by rule. The daily trading report shall include—

(1) the time of each trade made on the exchange that day;

(2) the goods, services, or other tangible or intangible things which are the subject matter of the futures contract involved in each trade;

(3) the number of futures contracts involved in each trade;

(4) the price of the futures contract in each trade;

(5) the delivery month specified in the futures contract in each trade;

(6) the name of the traders involved in each trade; and

(7) any other information the Commission requires.

(c) Daily trading reports shall be made available to the Commission upon its request. The Commission may disclose daily trading reports, or information from those reports, to the public if, in the determination of the Commission, disclosure will further the policies of this Act.

(d) Before the beginning of trading each day the exchange shall make public the volume of trading on each type of contract for the previous day and such other information as the Commission deems necessary in the public interest.

EXPORTER AND IMPORTER REPORTS

SEC. 209. (a) Any person who negotiates to buy or sell goods, services or other tangible or intangible things from sellers or to buyers outside the United States, respectively, which are the subject matter of a futures contract, shall file an exporter-importer report with the Commission upon the initation, completion or termination of any negotiations with a person outside the United States relating to the purchase or sale of such goods, services or other tangible or intangible things. The reports shall contain such information and be filed in the form and manner the Commission prescribes. The Commission may require any subsequent reports under this section necessary to update the information in the exporter-importer report.

(b) The Commission may, by rule, establish exceptions from the requirement of subsection (a) for insubstantial amounts of exports or imports or for certain goods, services or other tangible or intangible things.

(c) Information in exporter-importer reports shall be confidential except as provided in subsection (d).

(d) The Commission may, ex parte and without notice, suspend trading in any futures contract for a period not in excess of three business days, make public any information in any report under subsection (a), or take other appropriate action, if, in its determination, the initiation, completion or termination of any negotiations reported under subsection (a) may cause a chaotic market for futures contracts, result in an unfair advantage to any trader, or otherwise conflict with the policies of this Act.

GOVERNMENT AGENCY REPORTS

SEC. 210. (a) The Department of Agriculture, Department of State, Department of Commerce, and any other government agency which has information which may affect the orderly trading of futures contracts, shall immediately report such information to the Commission.

(b) The Commission shall maintain liaison with any government agency which may have information relating to the trading of futures contracts.

MARKET INFORMATION

SEC. 211. (a) The Commission shall conduct regular investigations of the markets for goods, services, or other tangible and intangible things which are the subject of futures contracts, and furnish reports of the findings of these investigations to the public on a regular basis. These market reports shall include information on the supply, demand, prices, and other conditions in the United States and other countries in respect of such goods, services, or other tangible or intangible things, and information respecting the futures markets.

(b) The Commission shall cooperate with any other Federal agency which makes market investigations to avoid unnecessary duplication of information gathering activities.

(c) The Commission shall not disclose the names of individual companies unless it determines that such disclosure is in the public interest.

WAREHOUSE REPORTS

SEC. 212. Any person who operates a delivery facility in which goods deliverable in satisfaction of a futures contract are stored shall keep any records, make any reports, and permit any inspections by the Commission as the Commission may prescribe by rule or order.

WORLD CONTRACTS

SEC. 213. To the extent any of the provisions of Title II are inapplicable to world futures contracts the Commission may make an exception. A "world futures contract" means a future contract for a good, service, or other tangible or intangible thing which is—

(a) grown, mined, refined, or otherwise produced both in the United States and in foreign countries or exclusively in foreign countries, and

(b) the subject of active trading on exchanges located both in the United States and in foreign countries.

TITLE III—REGULATION OF TRADING

TRADING OF FUTURES CONTRACTS

SEC. 301. It is unlawful for any person to buy or sell, or offer to buy or sell, any futures contract except on an exchange registered under section 201.

APPROVAL OF NEW FUTURES CONTRACT

SEC. 302. (a) (1) It is unlawful to trade any futures contract unless the subject matter and terms of that contract are approved by the Commission.

(2) Paragraph (1) does not apply to any futures contract which was traded on an exchange during the year preceding the effective date of this Act, unless the Commission disapproves or modifies the contract pursuant to subsection (b).

(b) The Commission may approve, disapprove, or modify the terms of any futures contract, after a determination, on the record after opportunity for public hearing that there is no economic necessity for a futures contract covering the subject matter of the contract or that the terms of the contract, including the delivery points are inconsistent or impractical in light of the policies of this Act.

REGULATION OF TRADERS

SEC. 303. (a) It is unlawful for a futures commission merchant or futures contract salesman to accept an order from any person to buy or sell any futures contract and for a futures contract advisor to advise any person to buy or sell a futures contract unless he—

(1) has reasonable grounds to believe, after adequate inquiry, that such person is a suitable buyer or seller of that futures contract in light of the risk of the futures contract and the financial condition of that person; and

(2) obtains a signed statement from such person, in such form the Commission prescribes, which states that the person understands the speculative nature of futures contract trading, the high probability of loss of initial and later investments in futures contracts, and any other information the Commission prescribes.

(b) (1) No futures commission merchant shall accept an order to purchase or sell a futures contract from any person who is outside the United States or any country unless he has first obtained a surety bond from such person or country in an amount to be set by the Commission. The bond shall be forfeited to the United States if such person

or country fails to submit to the jurisdiction of the United States courts, the Commission, or an exchange, for the purposes of enforcement or administration of this Act.

(2) The futures commission merchant shall be the agent of such person or country for service of process in matters relating to the enforcement or administration of this Act, unless such a person or country designates another person residing within the United States for that purpose, by filing a notice with the Commission so stating.

TRADING LIMITS

SEC. 304. (a) It is unlawful for any trader to purchase, sell or hold futures contracts in excess of any limitations which the Commission may, by rule, set on the amount of trading which may be done by any person in one day and on the number of contracts which may be held at any time by any person.

(b) The Commission may set different limits for bona fide hedgers than it sets for speculators. It may require that a bona fide hedger produce proof that his position is that of a bona fide hedger. The Commission shall define, by rule, what constitutes a bona fide hedger.

EMERGENCY POWERS

SEC. 305. The Commission, ex parte and without notice, may limit or suspend trading in any or all futures contracts, modify the terms of such contracts or take similar action in an emergency situation. An emergency situation may exist during time of war, a natural disaster in the United States or elsewhere, a severe financial crisis, or when an event occurs which threatens orderly trading in any or all futures contracts.

REGULATION OF ADVERTISING

SEC. 306. (a) It is unlawful for any person or exchange to advertise or disseminate promotional literature concerning the trading of futures contracts unless it states that the trading of futures contracts is highly speculative, and that the danger of loss of initial investment and later investments is substantial, together with any other information the Commission requires.

(b) The Commission may require prior approval of advertising or promotional literature unless the advertising has been approved by an exchange registered under section 201 of this Act.

COMMISSION RATES

SEC. 307. Neither the Commission nor any exchange shall set commission rates charged for the purchase or sale of futures contracts.

UNFAIR OR DECEPTIVE ACTS

SEC. 308. (a) It is unlawful for any person, clearinghouse, or exchange to engage in unfair or deceptive acts or practices in the trading of futures contracts in, affecting, or that may tend to affect commerce.

(b) For purposes of this section, unfair or deceptive acts or practices shall include, but not be limited to, the following—

(1) wash sales, cross trades, accommodation trades, bucket orders, and any act or practice intended to cause or the effect of which is to cause any price to be reported, registered or recorded, that is not a true and bona fide price;

(2) privileges, indemnities, options, bids, offers, advance guaranties, and decline guaranties;

(3) any act or practice intended to manipulate or the effect of which is to manipulate any price;

(4) any trick, scheme, or device to cheat or defraud any person;

(5) commingling money or property received for margin or security on futures contracts with any other money or property;

(6) using money or property received for margin or security for any purpose other than that for which it is held;

(7) reporting any false information to the Commission or exchange;

(8) acting as a trader of futures contracts and as a futures commission merchant, futures salesman, futures contract advisor or futures contract analyst;

(9) acting as a floor trader and as a floor broker, except for the purpose of correcting errors within one market day after the error was made;

(10) for a person or exchange to make false or misleading statements in an advertisement or promotional literature;

(11) for an exchange, clearinghouse, or any person to fail to obey an order of the Commission made pursuant to this Act;

(12) for any person, exchange or clearinghouse required to register, to fail to register or to engage in the trading of futures contracts or activities related thereto while his registration is suspended or withdrawn;

(13) for any person, exchange or clearinghouse required by this Act to make any report or keep any record, to fail to do so.

(c) The Commision may promulgate rules consistent with the policies of this Act, defining the terms used in subsection (b).

(d)(1) The Commission has the power to promulgate substantive rules, declaring acts or practices in futures trading unfair or deceptive, or as unfair or deceptive under, or except under specified conditions or circumstances.

(2) The Commission may promulgate such a rule only after it has determined, on the record after opportunity for public hearing, that the act or practice is inconsistent with the policies of this Act.

(3) A final rule promulgated pursuant to this subsection (d), from which no appeal or other review has been or can be taken or had, pursuant to section 501 of this Act, has the force of law.

TITLE IV—INVESTIGATION AND ADJUDICATIVE PROCEEDINGS

INSTITUTION OF INVESTIGATION

SEC. 401. If the head of the organizational unit within the Commission to which has been delegated responsibility for enforcement of or compliance with the requirements of this Act, pursuant to section 106(a), has reason to believe that any person, clearinghouse, or exchange is violating or has been violating any provision of this Act, or regulation or order issued thereunder, or is failing or has failed to comply therewith, he may cause an investigation thereof to be made. He may do so whether or not the subject matter of the investigation is involved in any proceeding before the Commission, a court, or other tribunal or body. Such investigation shall be a nonadjudicative proceeding.

SUBPENAS AND INVESTIGATIVE ORDERS

SEC. 402. (a) The head of the organizational unit within the Commission conducting an investigation pursuant to section 401 of this Act, may issue a subpena or order, in the name of the Commission, to any person, clearinghouse, or exchange within the jurisdiction of the United States, requiring him—

(1) to appear, accompanied by counsel if he so desires, before a designated officer or employee of the Commission, in a nonadjudicative proceeding, to testify, or to produce documentary evidence, or other information or material; or

(2) to file reports, or answers in writing to specific questions—relating to the subject matter of such investigation or which might lead to the discovery of information relevant thereto.

(b) A person required to appear pursuant to subsection (a)(1) is entitled to payment from the Commission of witness fees and expenses as prescribed for proceedings in the district courts.

(c) The manner and form of services of such subpenas and orders and of agency review of such subpenas and orders, is as the Chairman shall by regulation prescribe. pursuant to section 106 of this Act.

REVIEW AND ENFORCEMENT OF INVESTIGATORY SUBPOENAS AND ORDERS

SEC. 403. (a)(1) Any person, clearinghouse, or exchange subject to a subpoena or order pursuant to section 402(a) may, after exhaustion of administrative remedies provided purusant to section 402(c), secure judicial review thereof.

(2) The exclusive form of such review is by application to the United States District Court for the District of Columbia, except as provided by paragraph (3) of this subsection, for an order that the Commission show cause why the subpoena or order should not be set aside.

(3) If the order to be reviewed is a subpoena pursuant to section 402 (a)(1) of this Act, commanding a person to appear at a place more than 100 miles from the District of Columbia, the application may be made to the United States District Court for the district within which such place is located.

(b)(1) If any person, clearinghouse, or exchange neglects or fails to comply, in whole or in part, with a subpoena or order issued pursuant to section 402(c) of this Act, he may be given notice thereof. If such neglect or failure continues thereafter, the Commission may seek judicial enforcement of the subpoena or order.

(2) Such enforcement may be by applications to the United States District Court for the District of Columbia or to the United States District Court for the district within which is located the residence or place of business of the person, clearinghouse or exchange for an order that the person show cause why the subpoena or order should not be enforced against him.

(3) For the purposes of this subsection, the process of the United States District Court for the District of Columbia runs throughout the United States and otherwise as provided by the Federal Rules of Civil Procedure.

(4) Disobedience to any court order entered pursuant to this subsection is punishable as a contempt.

(c) If neglect or failure to comply with a subpoena or order continues for more than ten days after notice is given pursuant to subsection (b)(1) of this section, the person, clearinghouse, or exchange subject to subpoena or order will become liable to the United States for a civil penalty not to exceed $500 a day for each further day or neglect or failure. Such forfeiture may be recovered by the United States, whether or not an enforcement or review proceeding is instituted pursuant to this section, but the court may, at any time, stay accrual of further penalties if the interests of justice so require.

INSTITUTION OF ADJUDICATIVE PROCEEDING

SEC. 404. (a) If the General Counsel or the Commission has reason to believe that any person, clearinghouse, or exchange is violating or has been violating any provision of this Act, or a regulation or order issued thereunder, or is or has failed to comply therewith, and he or it believes that a proceeding in respect thereof would be in the public interest, he or it may cause an adjudicative proceeding to be instituted.

(b) Such proceeding is commenced by a notice or complaint issued in the name of the Commission. The proceeding is to be public, and all determinations must be made on the record. Any interested person is to be permitted to intervene as a party.

DISCOVERY; PROCEDURE

SEC. 405. (a) Any party to an adjudicative proceeding before the Commission may apply at any time to the officer presiding over the hearing for subpenas or discovery orders to provide testimony, evidence, depositions, or

other information. The officer issues the same ex parte, in the name of the Commission. He may also issue such subpenas or orders on his own motion. Subpenas and orders may issue against any person within the jurisdiction of the United States, whether or not he is a party in the proceeding.

(b)(1) The Chairman shall prescribe rules of practice for discovery and other procedures applicable to adjudicative proceedings. Such rules will parallel the Federal Rules of Civil Procedure, as now in force or as amended hereafter, as closely as is deemed practicable. Such rules will provide, further, for the payment of witness fees and expenses as prescribed for proceedings in the district courts.

(2) Such rules may provide that, unless the Commission finds that allowing an immediate judicial review will not delay the proceeding, orders (or specified categories thereof) against a party in the proceeding, or actions adverse to him, may be reviewed judicially only upon review of the final decision or order of the Commission.

ORDERS IN ADJUDICATIVE PROCEEDINGS

SEC. 406. (a) The Commission may, upon finding that the respondent in an adjudicative proceeding has violated or failed to comply with any provision of this Act, or regulation or order issued thereunder, order any or all of the following forms of relief it finds to be in the public interest:

(1) that the respondent cease and desist from such violation or noncompliance;

(2) that the respondent take affirmative action to dissipate the effects of such violation or noncompliance;

(3) that the respondent make restitution to any person damaged by such violation or noncompliance;

(4) withdrawal or suspension of registration of the respondent; or

(5) any relief that a court of equity would have power to grant in the circumstances.

(b) Any relief ordered pursuant to subsection (a) of this section may be made subject to any condition, or withdrawn subject to any condition, unless any provision of law prohibits the Commission from directly imposing such a requirement on the respondent.

TITLE V—JUDICIAL PROCEEDINGS

JUDICIAL REVIEW

SEC. 501. (a) Final orders of the Commission pursuant to sections 201(b)(3)(B), 201(c), 202(a)(2), 202(b), 203(c), 204(d), 205(c), 302(b), 308(d) or 406 are reviewable as provided in title 28, chapter 158, United States Code.

(b) Emergency or short-term orders of the Commission pursuant to sections 201(d), 204(e), 205(d), 209(d) or 305 are not reviewable or subject to stay, except upon a showing that the Commission acted wholly without jurisdiction or engaged in a gross abuse of discretion. Application for any such review or stay may be made only to the United States District Court for the District of Columbia pursuant to such rules as it prescribes.

(c) Other final orders of the Commission, except in matters confided solely to its discretion, may be reviewed by declaratory judgment action in the United States District Court for the District of Columbia, subject to the standards for review provided in title 5, chapter 7, United States Code.

CIVIL ENFORCEMENT PROCEEDING

SEC. 502. (a) Whenever any person, clearinghouse, or exchange appears to be violating or failing to comply with, or appears about to violate or fail to comply with, any provision of this Act, or regulation or order issued thereunder, or reporting or recordkeeping requirement thereunder or prescribed pursuant thereto, the Commission or its General Counsel may apply to any district court of the United States having jurisdiction of such person, clearinghouse or exchange for a temporary restraining order, preliminary injunction or permanent injunction.

(b) Any such action may also be brought in any district in which the person, clearinghouse, or exchange engaged in the acts or practices alleged to constitute such violation or noncompliance. For the purposes of this subsection the subpoenas of such court may be served throughout the United States.

(c) Upon a proper showing that, weighing the equities and considering the Commission's likelihood of ultimate success, such action would be in the public interest, the court shall grant such relief to the Commission, without bond, subject to subsection (d) of this section.

(d) If an administrative complaint is not filed, pursuant to section 404, within such period (not exceeding 20 days) as may be specified by the court, after issuance of a temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect.

CRIMINAL ENFORCEMENT

SEC. 503. (a) Any person, clearinghouse, or exchange that knowingly and wilfully violates or fails to comply with any provision of this Act, regulation or order issued thereunder, reporting or recordkeeping requirement thereunder or prescribed pursuant thereto, is guilty of an offense.

(b) Punishment for the offenses proscribed by subsection (a) of this section shall be, upon conviction thereof:

(1) if the violation or noncompliance is intentional, and is of section 308(b)(1) through (4) of this Act, or of a final order of the Commission pursuant to section 406(a)(1) through (2) in respect to a violation of or noncompliance with section 308(b)(1) through (4), the offense is a felony and is punishable by imprisonment for not less than ten days nor more than five years, a fine not to exceed $500,000 or both;

(2) for any other violation of or noncompliance with section 308 of this Act, the offense is a misdemeanor and is punishable by a fine not to exceed $100,000.

(c) Whenever the General Counsel has reason to believe that any person, clearinghouse, or exchange has committed an offense proscribed by this subsection, he shall report the pertinent facts to the Attorney General.

CIVIL PENALTY FOR DISOBEDIENCE TO FINAL ORDER

SEC. 504. Any person, clearinghouse, or exchange that violates or fails to comply with an order of the Commission pursuant to section 406, after the order has become final and while it is in effect, shall forfeit and pay to the United States a civil penalty of not more than $100,000. Such penalty shall accrue to the United States and may be recovered by it in a civil action. Any such action shall be barred unless commenced within five years after the cause of action accrued.

CIVIL ACTION FOR DAMAGES

SEC. 505. (a) Any person who is injured by a violation of any provision of this Act or regulation or order issued thereunder by the Commission or any exchange, may bring a civil action for restitution in any district court having jurisdiction of the party who caused such injury. In any such action, an order of the Commission pursuant to section 406(a)(3) of this Act shall constitute prima facie evidence as to liability between the parties.

(b) Any person who is injured by a willful violation of any provision of this Act, or regulation or order issued thereunder, may bring a civil action for threefold the damages sustained by him, and the cost of suit including reasonable attorney's fees, in any district court having jurisdiction of the party who caused such injury.

(c)(1) A final judgment or decree rendered in any criminal prosecution brought by the United States or in any civil action brought by the Commission under this Act, to the effect that a defendant has violated a provision of this Act, or regulation or order issued thereunder shall be prima facie evidence against such defendant in any civil action brought against him for violation of said provision of this Act or regulation, as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

(2) This subsection shall not apply to consent judgments or decrees entered before any testimony is taken.

(d) Whenever a civil action is brought by the Commission or a criminal prosecution by the United States, the running of the statute of limitations in respect of every private right of action based in whole or in part on any matter complained of in said action or proceeding shall be suspended during the pendency thereof.

TITLE VI—MISCELLANEOUS

REGISTRATION FEE

SEC. 601. (a) The Commission shall prescribe, by rule, an annual fee to be charged each exchange to continue its registration and furnish other services provided by the Commission pursuant to this Act. The fee collected from all exchanges shall be designed to effect an overall recovery 75 percent to 85 percent of the operating costs of the Commission and shall be allocated among the exchanges in proportion to the number of contracts purchased or sold on the exchange in the year prior to assessment of the fee.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) Upon the completion of a comprehensive investigation, including a hearing into the operations of the Commission by the Senate Committee on Agriculture or the House of Representatives Committee on Agriculture, and submission of a report to the Congress by the committee which conducts the investigation, there are authorized to be appropriated to the Commission, for the purpose of carrying out its functions under this Act for the next fiscal year after the submission of such a report, such funds as are necessary for that fiscal year.

(b)(1) The condition upon authorization of appropriations in subsection (a) shall not apply if the Chairman of either committee certifies to the Congress that an investigation into the operations of the Commission is not necessary to effective Congressional oversight of the Commission for that year.

(2) The condition on authorization of appropriations cannot be waived under paragraph (1) for more than two consecutive years.

TRANSFER OF FUNCTIONS AND PROPERTY

SEC. 603. (a)(1) There are transferred to the Commission, and the Commission shall perform, those functions carried out by the Commodity Exchange Commission.

(2) Any function carried out by the Attorney General, the Secretary of Agriculture, or the Secretary of Commerce under the Commodity Exchange Act is transferred to the Commission and the Commission shall perform that function.

(b) The President may, within a period of one year after the effective date of this Act, transfer to the Commission any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to the primary function of the Commission or to functions transferred to the Commission under this section.

(c) On the effective date of this Act, the Commodity Exchange Commission shall cease to exist.

(d) All assets, liabilities, contracts, property, and records that the Director of the Office of Management and Budget determines, in his discretion, are employed, held, or used

primarily in connection with any function transferred to the Commission under this section are transferred to the Commission.

EFFECT ON EXISTING LAW

SEC. 604. (a) The enforcement procedures specified in sections 502–503 are cumulative, and the government may institute proceedings under any or all such sections concurrently or successively. Those procedures are in addition to any and all other rights and remedies that may exist.

(b) Nothing in this Act shall be construed to limit the applicability of any other provision of federal or state law, nor to require the United States, any state government or any person granted a remedy by another federal or state law to resort to proceedings before the Commission as a condition, precedent to relief under such federal or state law.

CONFORMING AMENDMENTS

SEC. 605. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(60) Chairman, Futures Exchange Commission."

(b) Section 5315 of such title is amended by redesignating the second paragraph (97) as (98), and by adding at the end thereof the following new paragraph:

"(99) Members, Futures Exchange Commission (4)."

(c) Section 5316 of title 5, United States Code, is amended by redesignating the second paragraph (133) as (134), and by adding at the end thereof the following:

"(135) General Counsel, Futures Exchange Commission."

SAVINGS CLAUSE

SEC. 606. This Act does not affect rights or duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SEVERABILITY

SEC. 607. If part of this Act is invalid, all parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

EFFECTIVE DATE

SEC. 608. This Act shall be effective 180 days after the day on which it is enacted.

[From the Des Moines Sunday Register, Feb. 18, 1973]

LAX COMMODITY REGULATION—FEW CONTROLS FOR PUBLIC IN FUTURES MART; RIGGED MARKET CAN HURT CONSUMER

(By Clark Mollenhoff, James Risser and George Anthan)

(NOTE.—This is the first story in a series of articles examining regulation of commodity trading. The series was prepared by the three members of The Register's Washington Bureau who conducted a two-month investigation in Washington, D.C., Chicago, Ill., and Kansas City, Mo.)

WASHINGTON, D.C.—The $200-billion-a-year commodity futures market is booming along with virtually no controls to protect millions of small traders and the consuming public, which eventually buys the foodstuffs traded there.

The U.S. Commodity Exchange Authority (CEA)—the federal agency charged by law with responsibility for regulating the market—has, in part, turned this task over to the professional traders themselves, who operate in a club-like atmosphere at the various exchanges.

There are strong indications rigged markets in wheat, eggs and meats have cost the public, the small commodity-traders and farmers millions of dollars.

For example, commodities industry officials themselves agree that a recent suspected manipulation of the egg futures market artificially boosted the price of eggs on supermarket shelves.

At the same time, there is little evidence that those responsible for market manipulations and other serious abuses have received much more than a slap on the wrist.

Seven years ago, following a major commodities scandal, the General Accounting Office (GAO) conducted a thorough study of the CEA's regulatory activities and termed them "inadequate."

The prestigious congressional watchdog agency issued a set of strongly worded recommendations to the CEA—moves designed to insure that the public, from the casual trader trying to make a few dollars purchasing commodity futures to the housewife doing her weekly grocery shopping, is adequately protected.

REGISTER PROBE

Now, a Des Moines Register investigation shows that the CEA, a U.S. Department of Agriculture agency, has paid little or no attention to the recommendations of the GAO auditors.

In fact, the level of CEA regulation of the market has declined during the seven years, even as the volume of commodity trading has soared to record levels.

As a result, the operation of these markets is open to serious abuse, including price manipulations and other collusive and deceptive practices by those who specialize in buying and selling at the commodity exchanges.

The CEA itself acknowledges that "if trading on commodity exchanges is not conducted according to equitable rules constantly enforced, unfair practices may distort or depress farm prices, open the way to price manipulations and make it possible for avaricious dealers to 'corner' certain markets and exploit them to their profit."

The frantic excitement of the floor trading at the 20 commodity exchanges in Chicago, Ill., Kansas City, Mo., New York, N.Y., and other cities is a sharp contrast to the serene atmosphere in the office here of Alex C. Caldwell, the CEA administrator, who contends somewhat complacently that the small traders and the public are being adequately safeguarded.

On the one hand, Caldwell frankly admits a lack of manpower to police the rapidly expanding commodity markets that have become, in a sense, the biggest legal gambling game in the nation—and probably in the world.

NO REQUESTS

At the same time, the quiet administrator admits he has refused to ask Congress for more resources to meet the criticisms leveled in the GAO's indictment of his agency.

The 57-year-old Caldwell has held his job since 1960 and has, over the years, had the authority to act against frauds and to advise Congress of the inadequacies of his personnel and of the regulatory law itself.

TYPICAL REPORT

But his report to Congress last year was typical. While admitting to the House Agriculture Appropriations Subcommittee that the CEA workload, customer complaints and evidence of serious violations were rapidly increasing and were "a matter of concern," he asked Congress for no help. In fact, he noted that with 175 authorized employees scattered across the country he was operating with 22 fewer authorized employees than two years earlier.

While Caldwell speaks of his confidence that he and his CEA staff are doing the best they can to regulate the commodity futures market, some veterans of many years in active trading at commodity exchanges contend the CEA concentrates largely on minor offenders who lack influence and whose transgressions are relatively easy to detect.

And some honest-minded commodities insiders who have questioned the way the CEA and the government-sanctioned industry-policing system operate have found themselves subject to reprisals by their colleagues in "star chamber" proceedings. There they are barred from being represented by a lawyer or subpoenaing witnesses or documents they believe necessary to prove their case.

These are the major elements in a long-standing situation which has, for the most part, escaped public attention because of the close ties between the regulators and the regulated, and because of the exceedingly complicated nature of commodity futures.

Only recently have a few victims begun to strike back by filing lawsuits demanding repayment of money they have lost in alleged price-manipulation schemes.

Others have attempted to break the monopoly that exchange members hold over fees they receive from the public for buying and selling futures contracts.

The CEA dates back to 1936, when Congress passed the Commodity Exchange Act in an effort to strengthen government regulation over future trading on agricultural products.

FUTURES TRADING

Futures trading involves the sale and purchase of contracts to deliver farm products at some time in the future. Without such trading, prices for farm products could be expected to drop disastrously at harvest times when supplies are great, and rise to astronomical levels when harvest stocks are depleted and supplies are short.

Trading begins when a farmer offers his product for sale, with delivery to come at some future date. He wants to receive the highest price possible. At the other end is the consumer who wants to pay the lowest price possible.

Contracts to purchase the farmer's product are entered into not just one. They are traded back and forth many times at the commodity exchanges by speculators who constantly appraise the going prices for the farmer's goods and other market influences. When a speculator believes the price of, say, wheat will rise, he buys contracts to receive delivery of wheat in some future month. If the price does, in fact, rise, he can later sell his futures contract at a handsome profit.

On the other hand, if the speculator believes the price of wheat will fall, he will try to sell contracts to deliver future wheat at today's prices.

Ninety-nine times out of a 100, statistics show, the buyer of a futures contract does not receive, nor does the seller deliver, the actual commodity. Most of the transactions are paper ones in which much money—but little produce—is involved. Much of the buying and selling is the result of traders "speculating," or entering into "hedging" contracts to protect their positions in other contracts, or engaging in "spreading" or "straddling" contracts, or a variety of other transactions whose terminology bewilders those not initiated into the complex fraternity of the big commodity traders.

Despite the complex nature of the commodities markets, a rapidly increasing number of small investors are, as one industry analyst put it, "stumbling pell-mell into this thing."

In 1967, for example, there were 9 million "contracts" traded at the nation's 20 commodity exchanges. By 1972 this had nearly doubled to a total of 17.8 million trades. And the number is increasing at about 20 per cent a year.

Commodities traded on the exchanges include corn, wheat, soybeans, cotton, shell eggs, cattle, pork bellies (uncured bacon) and a host of other products.

Hundreds of millions of dollars in futures

contracts are entered into each day in the noisy trading pits on the floors of the Chicago Board of Trade, the Chicago Mercantile Exchange, the Kansas City Board of Trade and elsewhere.

Floor traders and brokers shout back and forth in a frantic effort to execute buy and sell orders from their customers, or even to pick up a quick profit for themselves.

EXCHANGE PROBLEMS

Problems can arise at the exchanges when a big trader, the price of a commodity by buying large quantities in an attempt to drive prices up, or by large-scale selling to drive prices down. It is in such circumstances that an effort to achieve a "corner" or "squeeze" on the market may develop—practices which are illegal and which may or may not be detected by the CEA.

The close ties between the CEA, representing the public, and the commodity markets, representing the brokers and traders, was illustrated recently in Kansas City.

The CEA learned of allegations that a group of prominent grain traders on the Kansas City Board of Trade had rigged the wheat futures market there in an attempt to drive up the government's wheat export subsidy at the time of last year's huge and unprecedented wheat sales to the Soviet Union.

Such an action, if successful, could result in substantial benefits to large grain exporting firms which receive the subsidies.

Caldwell acknowledged the CEA turned the informaiton on alleged rigging over to the Kansas City Board of Trade. It reported, after an inquiry, that there was "no basis for complaint."

The board and its investigating committees are made up of the commodity traders. Because the case could involve influential members of the board of trade, Caldwell agreed the CEA's action, in effect, may have amounted to a request that possible wrongdoers investigate themselves.

He emphasized, however, that the CEA is continuing its own investigation in the case.

MAJOR PROBLEM

CEA administrator Caldwell's first major problem in policing the burgeoning industry came in 1964 with the exposure of Tino Deangelis's spectacular scheme to corner the soybean oil and cottonseed oil markets.

Deangelis also had obtained millions of dollars in loans, using non-existent stocks of salad oils as collateral.

A Senate investigating committee that probed the case concluded the schemes had been made possible in part by a reluctance of the CEA to fully investigate the trade practices of Deangelis and others engaged in salad oil futures trading.

Even now, Caldwell contends the CEA could not have prevented the $150 million Deangelis swindle that affected more than 50 of the most respected banks, brokerage houses and trading companies in the U.S.

General Nathan Kossack, the inspector general later issued a report criticizing CEA's handling of the case. The report has never been made public and Caldwell refused a request for a copy. Neither would he talk about its contents.

Inspector General Nathaniel Kossack said he would not produce a copy of the report because the Agriculture Department takes the position his reports are internal advisories to agency heads and exempt from mandatory disclosure under the Freedom of Information Act. But he said there is legally nothing to prevent Caldwell from releasing or discussing the report.

It was the Deangelis case that prompted the investigation by the GAO. In July, 1965, the investigators blasted the CEA for not doing an adequate job of ferreting out abuses in futures trading which then totaled $60 billion a year.

Today, the volume of trading is more than three times what it was in 1965.

But by any standard of relative measurement, the CEA actually has fallen behind in the seven years since the GAO recommended tougher enforcement. And while there have been some meager additions to the CEA staff in the intervening years, the agency has been virtually submerged by the growth of the industry it regulates and by the added responsibilities Congress has given it.

In 1971, for example, the CEA had to process some 676,000 reports filed by trading companies—nearly 3,000 each market day.

Because the CEA has done little to correct its faults since the GAO issued its report, the findings of the GAO study are important in assessing CEA activities today.

STILL NO PROBE

The GAO found that CEA was not making a sufficient number of over-all investigations of the major regulated commodities—a study of the sale of soybean oil futures, for example, to uncover abusive trading practices. At that time, the CEA had never investigated the soybean, soybean oil and soybean meal futures which then had a total annual traded volume of $26.5 billion.

There still has not been an overall investigation to see if soybean trading is being operated honestly, because, Caldwell says, "It would tie up our whole staff for a year."

* * * * *

In these cases, complaints usually were issued. However, the CEA then failed to perform follow-up investigations to determine whether the abuses had been corrected, the report said.

The GAO decided to conduct its own market investigation at one major exchange and during a three-month period turned up 47 cases of "questionable trading practices" in the sale of wheat and flaxseed futures.

Informed of these findings, the CEA investigated and found fictitious and noncompetitive sales to have occurred. A commission merchant firm was put on probation and two of its officials were denied trading privileges at the exchange for 20 and 30 days.

Caldwell then, as now, insisted his agency could not conduct comprehensive market probes with the manpower it had. But the GAO firmly rejected this argument, stating that the regulatory agency "can not limit its responsibility to properly police trade practices on contract markets merely because additional manpower and funds may have to be requested and obtained for this purpose."

Caldwell pleaded in 1965 that he could not do a useful trade-practice investigation unless he could take the time to study the thousands of trading transactions involving a particular commodity for an entire week.

Again the GAO disagreed, noting that a CEA study of only part of the transactions during a single day's trading in wheat futures had turned up violations that resulted in filing of complaints against 11 persons.

LIMITED STUDIES

Now, Caldwell says the CEA has decided to abandon the over-all trade-practice investigations in favor of some limited probes of trading by individual firms. Even one market-wide investigation, said Caldwell, would "overwhelm" his agency in the current era of high-volume commodity trading.

The GAO also reported in 1965 that the CEA did not review, on a periodic basis, the records of the commodity exchanges and thus had no way of knowing whether tre exchanges were enforcing their own rules designed to prevent illegal and unethical practices by exchange members.

This "failure" by the CEA to inspect records and check on the adequacy of punishment of violators by the exchanges, said the GAO, "reduced the effectiveness of CEA's administration and enforcement of the provisions of the (Community Exchange) Act."

Caldwell, in two interviews, expressed little concern about the exchanges' handling of these matters, saying he is "all for self-policing" by the exchanges.

One of the most serious shortcomings of the CEA, according to the congressional agency, was its failure to evaluate the effect on futures prices of "floor trading," where a trader on a commodity exchange is permitted to buy and sell not only for his customers, but for himself.

"SPECIAL ADVANTAGES"

The GAO pointed out that professional floor traders, because of their special knowledge and constant presence in the exchange, "enjoy special advantages" over the rest of the trading public. The agency said this opens the door for such abuses as the floor trader obtaining more favorable deals for himself than for his customers.

Thus, said the GAO, the CEA should investigate floor trading to see whether the practice should be curtailed as the Securities and Exchange Commission has done with regard to brokers at the regulated stock exchanges.

CEA chief Caldwell admits "floor trading ing", could result in serious conflicts of interest, where the trader might substitute his own unprofitable trades for a customer's profitable ones. He also admits the CEA has done little to regulate this activity.

But Caldwell said he considers any such investigation "low priority." He has consistently refused to ask Congress for funds to carry out such studies.

DISPUTES CALDWELL

Caldwell's lack of concern about the problem was disputed by a Chicago lawyer who for 20 years was a trader on the floor of the Chicago Mercantile Exchange. He said of the floor traders:

"If a fellow handles a customer's orders—say you wanted me to buy some (hog) bellies for you—I should not be allowed to trade for myself. All sorts of things can happen. You lay yourself open to all sorts of hanky-panky."

And William Phelan, who heads the Mercantile Exchange's 15-member investigations staff, aknowledged: "There's an unbelievable temptation, if the trader sees that his own account shows a loss and the customer's account shows a profit."

THE JOB THEY PERFORM

WASHINGTON, D.C.—The nation's commodity exchanges—where future crops of grain are traded, where young cattle and hogs still on the farm are bought and sold, and where fortunes can be won or lost in an instant—are a complex outgrowth of the need to provide a place for the orderly marketing of agricultural products.

Until the development of the commodities markets in the mid-1800's, trading in grains, particularly, was chaotic, as corn, wheat and oats would pour into Chicago, Ill., at harvest time. This created a glut, resulting in low prices for farmers and the dumping of bargeloads of grain into Lake Michigan.

At other times of year, the situation was the opposite. Grain stocks were depleted, and demand drove prices skyhigh.

Today, the main business at the 20 commodity exchanges in the U.S. is the trading of "commodity futures"— contracts for the sale and purchase of future farm products. Selling crops and livestock in advance, at definite prices, helps stabilize prices and provides a more even flow of products to market.

Commodity exchanges often go by the name of "Board of Trade" or "Mercantile Exchange." They are located in Chicago, Kansas City, Mo., New York, N.Y., Minne-

apolis, Minn. and a number of other key shipping and port cities.

The futures trading is conducted in trading "pits" on the floors of the exchanges, by commodity brokers and floor traders who have purchased a membership at the exchange. They buy and sell commodity futures contracts for their customers, ranging from giant grain companies down to the ordinary smalltime investor, or for themselves. When acting for customers, they are paid commissions for their services.

The exchanges operate under a two-part system of regulation—the federal Commodity Exchange Act passed by Congress in 1936, and the exchanges' own rules and regulations.

The Commodity Exchange Act, an outgrowth of the earlier Grain Futures Act of 1922, is administered by the Commodity Exchange Authority, an agency of the U.S. Department of Agriculture. The CEA has headquarters in Washington, D.C., and regional offices at major exchange cities. Alex C. Caldwell has been administrator of CEA for the past 13 years.

Purpose of the Commodity Exchange Act, said Congress at the time of its passage, "is to insure fair practice and honest dealing on the commodity exchanges and to provide a measure of control over those forms of speculative activity which too often demoralize the markets to the injury of producers and consumers and the exchanges themselves."

A prime responsibility of the CEA is to enforce the act and to guard against price manipulation and other illegal market activities in which a trader or group of traders tries to unlawfully "corner" or "squeeze" the market in a particular commodity and thereby influence the price in their favor.

The line between such lawful trading practices as "hedging," "spreading," and "straddling" and unlawful manipulation is not always a distinct one. It poses problems for government regulators and the courts.

The CEA also has responsibility under the act for designating exchanges as lawful contract markets where futures trading may be carried on, for registering commodity brokerage firms and floor traders, for setting minimum financial requirements for the trading houses, for protecting customers' funds through surprise audits and other means, and for dealing with violators through negotiation, administrative complaint or criminal prosecution. Penalties may include cease-and desist orders, temporary or permanent loss of trading privileges, fines or prison sentences.

The volume of futures trading regulated by the CEA has grown steadily. Fifteen million or more futures contracts are expected to be transacted this year with a total value of $200 billion—triple the figure of just seven years ago.

In the same period of time, the size of the CEA staff has remained essentially the same, with the exception of the addition of a few employes when Congress gave the agency more responsibilities in 1968.

The General Accounting Office, which found in 1965 that the CEA was doing an inadequate job of regulation, recommended that Caldwell seek more funds and personnel—an unusual recommendation from the cost-conscious congressional watchdog agency.

The CEA operates on an annual budget of $2.9 million, and has about 170 employes. It must audit the activities of some 275 registered brokerage firms and about 1,300 floor brokers.

[From the Des Moines Register, Feb. 19, 1973]

TEN-CENT RISE IN EGGS TIED TO "RIGGING"

(By George Anthan and James Risser)

CHICAGO, ILL.—An alleged price rigging of the egg futures market in Chicago in 1970 continued undetected for nearly a year and boosted the supermarket price of eggs by as much as 10 cents a dozen, The Register has learned.

In another price manipulation case—this one involving a giant grain company's unlawful control of the wheat market in 1963—the firm got off without any penalty other than a meaningless probation period.

MANIPULATION POTENTIAL

The two incidents illustrate the enormous potential for manipulation and other frauds in the nation's commodity markets, and the fact that the U.S. Commodity Exchange Authority (CEA) often moves slowly and timidly against violators.

The federal law governing the commodity markets, as well as the publications of the CEA, stress that future trading is particularly "susceptible to speculation, manipulation and control."

Attempts by individuals or a group of conspirators to artificially raise or depress the price of foodstuffs traded on the exchanges will, if allowed to go unchecked, be "detrimental to the producer (farmer) or the consumer and the persons handling commodities," the law warns.

Yet a former high official of the Chicago Mercantile Exchange estimates privately that for every price manipulation case prosecuted by the CEA, eight or nine other price riggings go undiscovered.

When the CEA does move in, it does so slowly. A Chicago lawyer familiar with the inside workings of the commodity markets said, "A regulatory agency like the CEA should be able to move with lightning speed. But they drag the cases out and then impose relatively meaningless punishment."

DEFEND REGULATION

CEA and trading industry officials defended the level of government regulation in interviews with The Register, but they could provide no firm assurance that most price manipulations are detected.

The General Accounting Office (GAO) more than seven years ago sharply criticized the CEA for lack of adequate regulation, saying in a 1965 report that the number of investigations conducted by the agency was "not sufficient to disclose and discourage abusive trading practices." The GAO, noting the growing size of the commodity markets, recommended a major step-up in regulatory activity, not necessarily to detect and stop every attempted manipulation but to provide at least a higher level of deterrence.

Ironically, the number of market manipulations alleged by the CEA has declined during a period of time in which commodity-futures trading has quadrupled in volume.

In the 1950s, the CEA filed 14 complaints charging traders with price-rigging. But in the 1960s, under the new leadership of CEA Administrator Alex C. Caldwell, only six such cases were filed.

The former mercantile exchange official who contends price-riggings are not caught said the CEA office in Chicago "has only two or three people who really understand what's going on and what's involved in commodity trading. The CEA staff is good on bookkeeping things like the proper segregation of customers funds from the funds of the brokerage houses, but they are deficient on stopping manipulation."

CRUCIAL OPERATION

The Chicago operation of the CEA is particularly crucial because 80 per cent of all commodity futures trading takes place at the Chicago Board of Trade and the Chicago Mercantile Exchange.

It was in Chicago that the egg and wheat manipulation cases arose.

In May 1970, a group of people who had invested in the commodity market filed suit in U.S. District Court in Chicago against the mercantile exchange, charging they had lost money because of a manipulation of the March, 1970, egg futures market.

They alleged that a group of unknown conspirators had forced them to sell, at artificially depressed prices, contracts they held for the purchase of eggs. The exchange officials, in an effort to stop the suspected manipulation, actually contributed to the plaintiffs' losses by giving advance notice to officials of big brokerage houses who served on the exchange's business conduct committee, the complaint alleged.

The lawsuit asks for damages of $2 million, claiming that is the actual loss suffered by the plaintiffs and others who were hurt by the scheme.

In October, 1970, another civil suit was filed by a different group of egg producers and commodity traders, alleging a price manipulation of the September, 1970, egg futures market.

The second case charged the plaintiffs had lost $835,000 because Tyson Foods, Inc., of Springdale, Ark., and other defendants—including some major brokerage houses—took part in an illegal plan to maintain "a false, fraudulent and inflated price in egg futures."

BOUGHT CONTRACTS

The defendants bought up hundreds of contracts in eggs futures (a contract equals 22,500 dozen) and drove the wholesale price of eggs up to a season's high of 48 cents a dozen, forcing the plaintiffs to pay artificially high prices in order to fulfill their own contracts to sell eggs, the suit charged.

Despite the warning signals raised by the two private lawsuits, it was two years later—October, 1972—before the CEA filed a complaint against Tyson Foods and others, charging them with manipulation of the 1970 egg futures market.

The allegations of that government complaint are substantially the same as in the second civil suit filed two years before.

Private lawyers involved in the cases said CEA investigaters did not find out about the case on their own, but got most of their information from the filing of the private suits.

CEA administrator Caldwell says, however, that his Chicago staff was into the case as early as September, 1970, checking on complaints of an egg market "squeeze," through its "regular surveillance process." But CEA referred the situation to officials of the Chicago Mercantile Exchange and took no further action for two years.

This was fruitless, according to the allegations of the first civil suit, because exchange officials charged with intentions were connected with firms trading in egg futures.

"COMPLEX FIELD"

As for the two-year delay in the filing of the CEA complaint, Caldwell said "This is a complex field. It takes a long time to get the evidence for prosecution." The case is still pending.

Veteran observers of the commodities markets acknowledge the alleged egg price manipulations may have cost consumers and farmers millions of dollars.

Harry Fortes, the lawyer who filed the civil suit against Tyson Foods, says the manipulation had an impact on the retail price of eggs because it lasted for some time. It also hurt egg farmers, he says: "The guy in the country with eggs says, 'Heck, futures are up to 47 cents. I'm not going to sell for less.' Then later, the price collapses, eggs are dumped, and the producer gets hurt."

William Phelan, who heads the Department of Audits and Investigations at the 500-member Chicago Mercantile Exchange, said in an interview at his Chicago office that the alleged egg manipulation was hard to detect because "there was a consort of interests involved, and it's a very difficult thing to police."

It is tricky to keep track of the trading positions of all traders and to discover if a

group of related traders is putting together a manipulation effort, he said.

"SIGNIFICANT EFFECT"

"These people did it for a year running," said Phelan. "It definitely had an effect on the price of eggs—a significant effect."

The impact on the retail cost of eggs was to raise the price by as much as 10 cents a dozen, he estimated.

A former exchange official said the CEA could guard against such manipulation better by hiring more people and by keeping a more direct day-to-day watch on trading.

"It is partly a matter of just being there and observing what's going on," he said. "The CEA should have a man on the floor to watch the trading, to listen to rumors. There are always people that are hurt and will spill their guts."

[From the Des Moines Register, Feb. 20, 1973]

"A SLAP ON WRIST" FOR CARGILL, INC.

(By Clark Mollenhoff and George Anthan)

WASHINGTON, D.C.—Cargill, Inc., one of the nation's largest grain companies, has emerged from a major wheat-price manipulation case with what federal officials themselves concede was "only a slap on the wrist."

A U.S. Circuit Court of Appeals has ruled that Cargill was guilty of an illegal "squeeze" of the 1963 wheat-futures market in Chicago, Ill., causing prices to rise to artificial levels.

But the U.S. Commodity Exchange Authority (CEA), after a delay of 7½ years, finally imposed its penalty—a two-year probation for the company and some top officers.

Cargill thus continued to enjoy trading privileges at the nation's commodities exchanges.

CEA Director Alex C. Caldwell admitted to The Register that the probation given to Cargill was, "in effect, no sanction."

Caldwell said he recommended the company be barred for 90 days from trading in commodities, but he said the former CEA judicial officer who levied the penalty against Cargill "wasn't a tough sanctions man."

Caldwell's judgment is disputed, however, by the now-retired judicial officer, Thomas Flavin, who hinted that the U.S. Agriculture Department has an unofficial policy of going easy on large grain traders who violate the commodities law.

Flavin said he was not overtly pressured, and added, "I made the decision on the Cargill case by myself."

But he said he imposed the light penalty "with the knowledge that no secretary of agriculture has ever penalized a big trader by barring him from trading."

ALTERNATIVE TO FINE

Flavin continued, "To do otherwise would have put them (Cargill) out of business because if they had been barred from trading, it would have been worse than a $5-million fine."

Caldwell describes the Cargill situation as one of the most important market manipulation cases brought by his agency.

But the case, which began in 1963, also is cited by CEA critics as an example of slow regulatory action, as well as weak punishment.

It started when the CEA filed a formal complaint in June, 1964, charging the big grain firm with a massive manipulation of the May, 1963, wheat-futures market on the Chicago Board of Trade.

CEA records show that hearings on the agency's complaint were concluded in November, 1966, and that it was almost four years later before the CEA judicial officer's ruling was handed down. Then, there was delay after delay as the company appealed to the courts.

It was December, 1971, before the U.S. Court of Appeals finally ruled that Cargill's control of wheat-futures contracts representing two million bushels, only 15 minutes before trading in May, 1963 wheat futures closed, constituted a market manipulation.

This was because the court said, Cargill at this point controlled, just about all the available grain. Therefore, traders and speculators who earlier had agreed to deliver grain at a certain time were faced with having to pay artificially high prices in order to meet their obligations.

ARTIFICIAL PRICE

The court held that Cargill "exacted an artificially high price" from those who had agreed to fulfill the firm's futures contracts.

Also, the court ruled that the "squeeze was intentionally brought by and exploited by" Cargill.

Such manipulation interferes with "basic supply and demand factors" which should govern the grain markets, said the court.

Such an action, the court continued, "prevents the futures market from performing its basic economic function and hence diminishes its utility to those members of the trade and general public who rely on its basic purposes."

When a buyer of futures contracts succeeds in manipulating the market, he can force holders of sale contracts to fulfill their obligations "at a price which he dictates, which of course is as high as he can prudently make it," said the decision.

Cargill's plea that it was simply exercising good business judgment was rejected by the court which said, "Cargill was no novice in futures trading and knew of market conditions which could cause a squeeze."

CLAIMS CARGILL HAD INFORMATION

The company, said the court, "possessed a very valuable piece of information unknown to the trade at large, namely, that it owned practically all the wheat available for delivery . . . Cargill knew exactly what was going on."

Despite the court's judgment of the severity of the situation, Cargill was given no punishment by the CEA other than the two-year probation.

This light penalty was levied by former CEA judicial officer Flavin and affirmed by the court, "because of the undue protractions of the proceedings, not due to any fault of" Cargill.

Flavin had found that the offense deserved punishment of Cargill and four of its top officers by denying the firm and the officers trading privileges on all federally-regulated commodity exchanges for three months.

But Flavin then suspended the punishment and put the firm and the officers on probation for two years, saying that if the law was violated again during that time, the punishment might be re-imposed.

"I'm not sure we had a legal right to suspend the penalty," Flavin has told The Register.

However, referring to the CEA's traditional stance in sanctions, Flavin added, "We did it (suspended penalties) all the time." He said it was the only practical way for the CEA to find a violator guilty and still not "virtually put him out of business."

NO CHALLENGE

Flavin explained that although there may be no legal right to suspend the penalties for big traders, "It is apparent that these companies won't come into court and challenge it by saying, 'You've been too soft on me. You should have put me out of business.'"

Caldwell says Flavin's successor, Donald Campbell, is expected to take a tougher stand on penalties for violators in the future.

Caldwell also took issue with the court's statement about delays in the Cargill case not being the company's fault.

"There was every legal maneuver possible by Cargill to drag it out," he said.

Flavin said some of the delay in the Cargill case was because the Department of Agriculture did not appeal a precedent-setting "bad decision" in the 5th U.S. Circuit Court of Appeals involving Volkart Brothers, a big cotton trader.

Flavin said there were two ways the Agriculture Department could have dealt with the adverse ruling in the Volkart case—appeal it to the U.S. Supreme Court where he said it most likely would have been reversed, or issue a statement deploring the circuit court decision and announcing that the department would not be bound by it. But the department did neither.

"Everyone agreed it was a bad decision, but the cotton industry didn't want it appealed, and they managed to put together the political power to keep the solicitor general from appealing it and to keep the secretary of agriculture from making a statement that it was bad law and that we shouldn't be bound by it," Flavin said.

WANTED TO APPEAL COTTON RULING

He continued: "I wanted it appealed, but as long as it wasn't appealed, Cargill had some basis for contending that what they had done was not a violation of the law because it wasn't anything that the Volkart Brothers hadn't done. That was also one of the mitigating circumstances in the Cargill case."

Flavin emphasized, "There wasn't any hanky-panky on the Cargill case. I was just buried under work with this and several other big cases, and in the middle of it they took my executive assistant away from me and made him a hearing examiner, and it was a year before I got him replaced."

The U.S. Supreme Court, in refusing last spring to review the circuit court's ruling in the Cargill case, in effect overturned the Volkart Brothers ruling and imposed a more strict standard against price manipulation attempts.

One of the Cargill officers put on probation was Walter B. Saunders, a vice-president, who testified before a congressional committee last September that he did not know if he was still on probation.

Saunders was before Congress in connection with Cargill's role in the spectacular sale of U.S. wheat to Russia last year.

Cargill sold some two million bushels of wheat to the Russians, under conditions which permitted Cargill, Continental Grain Co. and others to collect relatively high U.S. government subsidies on the sale.

Representative John Melcher (Dem., Mont.) pointed out to Saunders that his two-year probation period from the wheat futures manipulation case had ended a month earlier, in August, 1972.

"I was amazed," Melcher told Saunders, "that you did not seem to know when the probationary period ended . . .".

LITTLE STIGMA

"There does not seem to be much of a stigma attached to this ruling on the part of Mr. Flavin. Indeed, there is very little penalty involved since you are not aware when the probationary period ended," said Melcher.

The congressman, who was concerned over evidence that the Agriculture Department gave advance tips to Cargill and some other big grain firms about pending changes in the government wheat-export subsidy, also noted that at the time Cargill was on probation, the White House hired the firm's vice-president for public affairs, William R. Pearce, to be a special foreign trade adviser to President Nixon.

Melcher also pointed out that Cargill has used the New York City law firm of Mudge, Rose, Guthrie and Alexander as its attorneys in various legal matters. Former U.S. Atty. Gen. John Mitchell is a member of the firm, and Mr. Nixon was a partner there before he was elected president in 1968.

The wheat manipulation case, in which Cargill drove the price of wheat futures up

to $2.28 a bushel, marked the fourth time the Minneapolis, Minn.-based firm has been in formal trouble with the CEA since the Commodity Exchange Act was passed in 1936.

Three of the cases involved alleged market manipulations, and one was a charge that Cargill and its Canadian subsidiary engaged in a series of bookkeeping maneuvers which permitted Cargill to illegally hold large amounts of oats futures contracts.

In one of the earlier cases, Cargill was prohibited from trading on any regulated commodity market for several years.

UNUSUALLY LENIENT

Examination of past CEA manipulation charges indicates that Cargill's recent two-year probation was unusually lenient.

In the past, firms and their officers have been barred from trading for three months, six months, often for an entire year, as the result of price-fixing schemes. Criminal penalties rarely are used although in one 1946 case a firm was fined $25,000 and each of its officers $1,000.

The stiffest penalties, such as the six-month or one-year suspensions, came in the 1940s and 1950s. Since Caldwell's reign began in 1960, the toughest penalty for price-rigging has been a 90-day suspension, but the more frequent penalty has been a 20- or 30-day suspension, or simply probation—as in the Cargill case.

CEA director Caldwell concedes that penalties imposed in recent years have not been tough enough, but he declines to commit himself to a crackdown other than to say, "We may have to toughen them."

But any crackdown on penalties first involves finding the market manipulators. And, as the court stated in the Cargill case:

"The methods and techniques of manipulation are limited only by the ingenuity of man."

[From the Des Moines Register, Feb. 21, 1973]

DOES THE JOB WELL: IT'S SCRAPPED

(By George Anthan and James Risser)

CHICAGO, ILL.—An Agriculture Department computer program to spot possible commodity market violations has been judged a failure by the U.S. Commodity Exchange Authority (CEA) because it was spotting too many cases.

CEA chief Alex Caldwell, who has the responsibility for policing the $200-billion-a-year commodity market, told The Register the computer kicked out so many cards indicating deceptive or manipulative practices or other violations that it was impossible for his small staff to process them adequately.

Rather than seek staff increases or have his present staff flounder in "the mountain of paper the computer kicked out," Caldwell simply abandoned that computer as "unneeded" and "unworkable."

CLAIMS HE'S NOT EMPIRE BUILDER

"I'm no empire builder," Caldwell said on explaining his rejection of General Accounting Office (GAO) recommendations that he increase his staff to conduct enough investigations to properly police the market.

The GAO recommendations were made in 1965 and 1966 when the commodity market was only a $60-billion-a-year business. Although the trading has tripled, the CEA staff is essentially the same size.

Caldwell admits more investigators would probably turn up more violators. But he contends the investigations of the CEA are adequate as a deterrent in the self-policing system he favors. That is where Caldwell is at odds with the GAO and some of the smaller commodity traders who have the courage to speak out about a system that the big traders admire.

Actually, in its 37 years of operation, the CEA has issued fewer than 225 formal complaints against alleged violators of the Commodities Exchange Act.

And the CEA, especially in recent years, has allowed most offenders to continue in business, perhaps after a short suspension of trading privileges for a few.

This is despite the CEA's legal authority to permanently deny trading rights to offenders, to impose fines, and even to send violators to jail.

DEFENDS DECISION

Caldwell, who has been critical of a minor penalty imposed in a major wheat futures manipulation case, defends his agency's recent decision to impose a light sanction in the case of one of the nation's leading brokerage houses charged with violations involving its customers' funds.

The CEA charged in August, 1972, that Dean Witter & Co. had failed to properly allocate up to $414,000 in customer funds, a breach of the law. The violations, according to the agency's complaint, had occurred a year earlier, between July and October, 1971.

The CEA reported that Dean Witter & Co. "admitted the facts" and waived a hearing. The agency announced that, as a penalty, it had suspended the brokerage firm's privileges as a floor trading merchant for 10 days, in effect prohibiting the company from doing business on the commodity markets for that time.

WITTER RECEIVES SUSPENDED SENTENCE

But at the same time, the CEA announced that this penalty would be suspended, and that Dean Witter would be placed on probation for three years.

(The consent order suspending Dean Witter's license, and the order which suspended the sentence, was issued by Donald Campbell, the CEA's judicial officer in Chicago. Campbell has been described by Caldwell as a man expected to take tougher stands on violators.)

In defending this action, Caldwell said the violation by Dean Witter & Co. "was not willful. The problem was a poor set of records. It just happened. We thought the best way to work it out was for them to agree to fix up their bookkeeping."

Caldwell agreed, however, that as a leading brokerage firm, Dean Witter & Co. should have been aware of provisions of the commodities law.

But Caldwell did not mention that exactly one year before the most recent complaint was filed, in August, 1971, the CEA had issued another complaint against Dean Witter & Co., this time charging the firm had improperly handled up to $260,000 in customer funds.

In that case, too, Dean Witter & Co. is listed in CEA records as having filed a stipulation in which "it admits the facts . . .".

No penalty was levied in the 1971 case. Dean Witter & Co. was directed to "cease and desist" from "failing to treat and deal with customers' funds as belonging to such customers . . .". Under the law, the CEA could have later imposed fines and jail terms for failure to comply with a cease and desist order.

1966–67 DISCREPANCIES

CEA records also show that examination of the company's records in 1966 and in 1967 disclosed the firm "had not satisfactorily complied with the requirements" of the federal law. In this case, according to CEA records, "These matters were called to the attention of the corporation" . . . and the firm "promptly" complied with the law.

There is little question but that Caldwell's position that Dean Witter's later violations were simply a result of "bad bookkeeping practices" would be challenged by some veteran federal regulatory officials in Washington since the company was found to have been involved in earlier violations.

JUSTIFY EXISTENCE OF AGENCY

A former high official of the Chicago Mercantile Exchange, now practicing law here, contends the CEA is more concerned with impressing Congress with its modest budget requests than with adequately regulating a $200-billion-a-year industry that is growing at the rate of 20 per cent annually.

"They just want to justify their existence," said the lawyer, a former commodities trader and considered a market expert.

When CEA chief Caldwell asked Congress for money to be used on the computer investigations of illegal price manipulations, he said he would reduce the size of his staff to offset the $35,000 cost of the computer programming.

So when the computer investigations failed to work out, the agency was without its planned new program and had fewer employes than when it started the project. In fact, as the volume of commodity trading has swelled, the CEA staff has been steadily shrinking.

At congressional appropriations hearings a year ago, Caldwell, anticipating that the computer program would work, boasted that "despite an increase of 1.5 million in transactions supervised and a corresponding increase in workload, the agency is curently operating at 22 positions below the level authorized in the fiscal 1970 budget."

With fewer employes, Caldwell now acknowledges that one major investigation of trading in a single commodity—soybeans, for example—"would tie up our staff for a year."

"NOT MY THEORY"

Then, he adds quickly, "That doesn't mean we need more staff. You could build up an empire here, but that's never been my theory of regulation."

While Caldwell insists CEA's policy of allowing the commodities exchanges to police themselves is working, the U.S. General Accounting Office (GAO) has urged strongly that the CEA beef up its staff, and do more of this work itself.

SEEN AS UNUSUAL STAND

This is a highly unusual stand for the GAO, the congressional watchdog agency that rarely advocates increased government spending or staff expansions.

The CEA's 1973 budget request to Congress is indicative of its long-standing approach to its regulatory task.

The agency reported that it expects to conduct 107 investigations this year, compared to 106 last year. It expects to file two criminal proceedings this year, the same as in 1972.

The CEA said, also, that it had conducted 188 audits last year to determine if brokerage firms were honestly handling their customers' money. In 1973, the CEA expects to conduct 195 such audits.

In another area, the agency said it examined 645 financial statements last year, and expects this to drop to 450 in 1973.

In 1972, the CEA spent $2,943,000. The agency is requesting a $52,000 decrease this year, and a drop to $2,848,000 for 1974.

As the size of the market has grown, CEA employes have been swamped in paperwork—they expect this year to process more than 700,000 reports which the law requires the bigger commodity traders to file daily and weekly.

This has left less time for investigations of possible market abuses. The CEA has reduced the scope of so-called "trade practice" investigations, changing them from market-wide investigations of a particular commodity to investigations of a single firm's trading activities. It did only 15 of the new-style investigations last year.

BUDGET REQUEST

The CEA's budget requests for the next fiscal year estimate there will be no increase in the number of employees. A steady decrease in the number of administrative pro-

ceedings it initiates in cases of suspected law violations is also foreseen.

Longtime Washington observers agree it isn't clear how a federal regulatory agency can determine in advance how many actions it will undertake, unless the agency has determined in advance to hold its activities to an arbitrary level.

Caldwell has reported his agency in recent years has doubled the number of customers' accounts covered in CEA audit programs, and he said the unit increasingly is taking steps to prevent market abuses by issuing warnings to traders suspected of engaging in price manipulation.

In order to guard against traders manipulating market prices, or "cornering" the market in any one commodity, the CEA has established limits on the amount of the commodity any one trader can hold.

For example, a trader is limited to buying or selling three million bushels of corn in one day. Also, he is not allowed to hold for any length of time contracts representing more than three million bushels. And anyone who buys or sells contracts representing more than 200,000 bushels of soybeans must report this to the CEA.

RECENT SCHEMES

But, according to one commodities exchange official, some recent price-manipulation schemes have gone undetected for months because many persons working together have kept their purchases just below the reporting limits. He agreed that a major CEA trade-practice investigation is the only way to insure against such activities. But it is this type of investigation the CEA has dropped because of staff shortages.

Donald L. Tendick, the CEA's deputy regional director here, said that although "we can't ever catch everything, I'm pretty comfortable with the system we have."

Tendick, who has been employed by CEA since 1964, said he doubts the Chicago office with its 87 employes misses many price manipulations or other attempted illegal practices at the Board of Trade and Mercantile Exchange.

To a large extent, he said, the CEA relies on records required to be filed by large traders showing their holdings in various commodities.

NO PROBE OF WHEAT SALES

According to Tendick, the CEA did no trade-practice investigation of wheat sales at the time of the recent huge export deal with the Soviet Union. This was despite reports that some persons or companies had advance tips about the sale and had used the commodities markets to make large profits.

Said one observer here with longtime commodities trading experience: "With the market going like it was, you know somebody had to know."

Tendick concluded that "given the resources we have, we're doing an adequate job." But he acknowledged that the agency could use more investigators and then would "perhaps find more violations."

Tendick and other CEA officials confirmed that most CEA investigations are a result of complaints from traders and from public investors in commodities.

Tendick said that before starting an investigation, the 87-member Chicago office, largest in the CEA, clears such an action with officials in Washington.

Herbert Sheidy, a vice-president of the Chicago Board of Trade, said "The regulation of commodities is real primitive compared to the securities industry."

Sheidy, the board's director of compliance, was a securities dealer before joining the Board of Trade.

He said of the CEA: "They're not as pervasive as is the Security and Exchange Commission (SEC)," which regulates the country's stock exchanges.

"SUPER AGENCY"

The Board of Trade's Sheidy said there have been proposals to take the CEA out of the Agriculture Department, turn it "into a super agency, like the SEC, and give it authority to regulate all commodities."

Currently, the CEA does not regulate trading in the so-called "world" commodities, including coffee, silver, cocoa, platinum, plywood and sugar.

There have been mounting reports of abuses in trading of those commodities, and dealers don't have to follow disclosure procedures or observe capital reserve requirements.

Caldwell met last week with some 100 industry leaders to discuss the growing practice of selling options enabling customers to minimize the risks of buying and selling in the "world" commodities. The customers pay a premium for the option, and the dealer who sells it assumes part of the risk.

But there have been reports of unscrupulous dealers refusing eventually to honor the options they have sold, and of dealers with so little financial backing that they are unable to pay their customers who may have profited in a futures trade.

ASK REGULATION OF OPTIONS TRADING

Caldwell said most of the industry leaders called for federal regulations of options trading, but were unable to agree on how it should be done.

Sheidy said industry officials believe the commodities exchanges, rather than the CEA, should be given authority to police trading in the "world" commodities.

"The industry believes we'd rather do it ourselves," he said, "because the industry would not be as inpractical and rigid as a legal standard might be."

There is little question that most commodities-trading professionals would like the CEA's regulatory activities to continue at the present level.

Similarly, among the CEA's strongest defenders are persons connected with trading commodities.

Richard Teweles, a Los Angeles, Calif., commodities-market analyst, agreed that the CEA is "obviously understaffed," but he added. "I'm also very impressed with them. They go at just about the rate a government bureau should go. They're not like the SEC, or the ICC (Interstate Commerce Commission). The railroads hate the ICC, and the securities industry hates the SEC. I don't know of anybody in our business that dislikes the CEA."

Teweles believes government agencies, as they get bigger, "go from a necessary evil, which I regard all government bureaus, to the point of being like a Russian commissar."

He continued, "But the CEA is one of the few I think is in just about the right position."

[From the Des Moines Register, Feb. 22, 1973]

LOOSE REGULATION OF COMMODITY MARTS

(By Clark Mollenhoff and James Risser)

WASHINGTON, D.C.—There are few clubs that could provide a better, more congenial atmosphere for big commodity traders to operate in than the one which exists under the approving eye of the U.S. Agriculture Department.

The department's Commodity Exchange Commission (CEC) and its operations arm, the Commodity Exchange Authority (CEA), run a loose regulatory structure that permits the big traders in the grain and livestock markets to pretty much regulate themselves.

The "club" members at Chicago, Ill., Kansas City, Mo., and other commodity futures exchanges are permitted to sit as jurors and judges in cases where one of their colleagues has been accused of illegal or improper conduct under rules which exchange members themselves have set.

They also set minimum commission fees to be charged for handling the buy and sell orders of their investing customers, although the fees admittedly are not directly related to the cost of the service. A member who steps out of line and tries to charge his customers a smaller commission may find himself disciplined by his fellow club-members.

COURT DECISION CAUSES TURMOIL

A recent U.S. Supreme Court decision, ordering an exchange member who allegedly was defrauded of his exchange membership to seek relief from the Commodity Exchange Commission, has thrown things into somewhat of a turmoil.

Justice William O. Douglas, dissenting in the 5-to-4 high court decision Jan. 9, objected that it was a "futile gesture" to direct plaintiff Thomas Ricci to the CEC "when the agency has, by its inaction, already shown every indication of sanctioning the alleged violation. . . . We are requiring the petitioner to seek from the regulator an admission of their failure to regulate."

The CEC, made up of the secretary of agriculture, the secretary of commerce, and the attorney general, has no staff and, according to an Agriculture Department official, "meets no more than once a year."

The commission has generally left most of the regulatory work in the hands of the related agency—the CEA—which is headed by administrator Alex C. Caldwell. Under Caldwell the CEA refers many complaints over to the exchanges themselves for action.

Since the exchange committees handling such complaints are made up of important traders who sit as members of the exchange, the regulatory system breaks down, according to some critics, because it results in the regulators and regulated being one and the same.

The CEA's feeling toward regulation of what has grown into a $200-billion-a-year business is, "If each exchange polices itself, that's fine," a former exchange official said.

CEA chief Caldwell contends "the exchanges do a good job," but admits "they don't have large enough investigative staffs to police themselves as well as they should."

Rather than solve the problem by beefing up the CEA staff, Caldwell prefers to seek more self-regulation by the exchanges.

CALDWELL: "I AM FOR SELF-POLICING"

"I'm all for self-policing as far as it can go," he explained. "I'm not a great one to spend public funds."

William Phelan, vice-president in charge of audits and investigations at the Chicago Merchantile Exchange, like most commodities market officials, agrees with the approach taken by Caldwell.

Phelan is happy the CEA "in effect has relinquished its power to govern the minimum financial requirements" of commodity-futures brokerage houses.

Herbert Sheidy, vice-president of the Chi- of commodities is real primitive compared to cago Board of Trade, noted that "Regulation regulation of the securities industry."

Sheidy, a former securities broker, is director of compliance for the Board of Trade.

He noted that "John Q. Public is getting out of the stock markets and into our commodities market more and more. It means our entire industry is changing, and we (the exchanges) must change, too."

But Sheidy agrees with most commodity industry officials that these changes should not be dictated by the government. "The industry should be allowed to make the changes," he said.

INDICATES GREED OF INVESTORS

Commodities analysts Charles Harlow and Richard Teweles of Los Angeles, Calif., said of the rush of small-time investors into buying such things as soybean and pork belly futures:

"It indicates a greediness on the part of people to make money fast; it indicates they have more money to spend, and it indicates

that many people are dissatisfied with the relatively poor stock market results in recent years. If you win in commodities, you can win big."

This was illustrated last week at the Chicago Board of Trade. If a speculator had, for example, put up the $500 margin required to buy a single contract for 60,000 pounds of soybean oil on Feb. 12, he could have sold it at noon the following day and turned a profit of $1,200.

TAKES DIVES

But commodity futures prices also have a way of taking sickening dives, and analysts Harlow and Teweles contend their research indicates the "ordinary little guy" who speculates loses "about 98 per cent of the time."

Harlow and Teweles believe that if the CEA gained strength, it could stifle the commodities industry.

But seven years ago the General Accounting Office (GAO), which is the congressional investigating and auditing agency, called the CEA's regulation of the then $60-billion-a-year commodity markets "inadequate." The CEA was not making enough investigations to curb price manipulations and other abuses, was not policing the exchanges to insure that they were enforcing their own rules, and was not doing anything about possible abuses and conflicts-of-interest by traders who are permitted to gamble in commodities themselves as well as for customers' accounts, GAO complained.

The size of the CEA staff and the extent of its regulatory effort has changed little since the time of the GAO report.

The set-up at the Chicago Board of Trade, where much of the nation's corn, wheat and soybeans is bought and sold through commodity futures contracts, provides an illustration of the exclusivity of the commodity-trading fraternity.

The 1,400 members of the Board of Trade, which has a 45-story building in Chicago's loop, hold membership seats which are currently valued at about $30,000. (At the Mercantile Exchange, which has 500 members, a seat costs about $100,000.) No one can buy a membership unless he first proves his financial responsibility, is sponsored by two current members, and is okayed by a secret vote of the Board of Trade directors.

SUBSTANTIAL BENEFITS

Once he is admitted to the "club," the benefits are substantial. He gains admission to the exchange floor, where he can take advantage quickly of subtle indications of price changes.

As a floor broker, he may work for customers who want to buy and sell commodities, or he can trade in commodities himself.

One veteran floor broker estimated that "if a guy just handles customers accounts, he can make $45,000, $50,000, $60,000 a year. If he trades for himself, too, there's no limit."

REFER 111 CASES TO EXCHANGES

The extent to which the CEA relies on the commodities exchanges to police themselves is indicated by the fact that the agency last year referred 111 possible violations to the exchanges for action.

CEA deputy regional director Donald L. Tendick said exchanges must report back to CEA as to what action they have taken on referrals. CEA can object if it thinks the exchange has been too lenient, but such objections are "unusual," he admitted.

The 1965 GAO report scolded the CEA in this area, saying the agency's infrequent review of exchange records leaves the CEA "unable to satisfy itself independently as to the adequacy of investigations by the contract markets (exhanges)."

This "failure," as the GAO termed it, has "reduced the effectiveness of CEA's administration and enforcement of the provisions of the act."

RECORD KEEPING

With the huge jump in the size of the commodity markets since the 1965 GAO report, the CEA seems no better off now as far as keeping track of exchange actions.

However, Mercantile Exchange official Phelan insists his 15-member staff is able to keep tabs on the dealings of the 500 exchange members.

ATTENTION FOCUSED ON COMMISSION

The recent Supreme Court decision directing Mercantile Exchange member Thomas Ricci to take his fraud complaint to the Commodity Exchange Commission focused some unaccustomed attention on that moribund body.

According to law, the three-member, cabinet-level CEC is required to set speculative limits on the amounts of trading that may be done by any person in commodity-futures contracts.

It also is to hold hearings on appeals from any board of trade which has been denied status as a legal exchange, and is authorized to suspend exchanges for failure to enforce their rules. In addition, the secretary of agriculture, who is a member of the commission, is given broad individual powers to prescribe trading practices and prevent manipulation and other abuses.

In practice, most of these activities have been delegated to the CEA headed by Caldwell.

The Supreme Court majority in the Ricci case said the petitioner would have to go to the commission for a ruling as to whether the deprivation of his exchange membership involved a violation of exchange rules.

Ricci contends he bought a membership on the Chicago Mercantile Exchange in 1967, using funds he borrowed from Siegel Trading Co. He also routinely signed a blank form authorizing transfer of his membership to someone else in the event he did not repay his loan.

Ricci alleges Siegel and the Chicago Mercantile Exchange conspired in violation of federal antitrust laws to defraud him of his seat by signing the transfer of his membership over to Siegel. He said the $18,000 which Siegel owed him for brokerage fees exceeded the amount he owned on the loan, and that Siegel had no lien against his membership.

The high court said the complaint should be dealt with by the commission because it is "especially familiar with the customs and practices of the industry and of the unique marketplace involved in this case."

DISSENTERS HIT POWER OF EXCHANGE

But the four dissenters, in addition to Douglas' comments that the CEC is not likely to declare itself a lax regulator, argued that the unit does not have the legal power to rule on Ricci's complaint of an antitrust conspiracy. That could be done only by the courts, they pointed out.

The dissent also noted that "although the commission and the secretary (of agriculture) have some general policing duties, day-to-day regulation has been largely left to the industry itself. Where, as here, the industry is given the power to control its own affairs, it is particularly important to make certain that this power is not abused for the purpose of eliminating competition."

Caldwell expressed no concern that the Ricci case will foul up the regulatory process. But those who have undertaken new legal efforts to stop anticompetitive practices at commodity exchanges and stock exchanges are worried that it is a setback for them.

One such effort to break up the "club" atmosphere and restore competition to the commodity exchanges deals with the commodity brokers' power to set minimum commission fees they charge the investing public.

In December, 1971, the U.S. Justice Department's antitrust division filed suit against the Chicago Board of Trade, whose minimum rate structure now requires commodity brokers to charge $25 to $30 for executing a customer's purchase or sale of a grain futures contract.

At about the same time, a firm of Philadelphia, Pa., lawyers filed an antitrust action on behalf of all people in the U.S. who buy and sell commodity futures.

Named as defendants were all the commodity exchanges in the country, which, according to the petition, have entered into "an unlawful combination and conspiracy" to set brokerage commission fees at "a noncompetitive and inflated level."

In the Justice Department case, federal district Judge Richard B. Austin asked CEA administrator Caldwell to do a study for him on the impact of abolishing minimum fees and restoring competition among brokers.

AGREED TO STUDY

Caldwell agreed to do so, but said he would not be able to say whether the fixed commission rates are reasonable, because "the commodity futures business has not had to report on its cost of doing business and justify the reasonableness of levels of commissions in the past."

Like the traders themselves, Caldwell and the CEA had assumed there was nothing wrong with the brokers being allowed to set their fees and punish those who tried to charge less.

In fact, the attorney for the Board of Trade told the court that Caldwell "requires us to enforce our minimum commission rules. He fires off a letter to us and says, 'Say, I understand so-and-so out in Kansas City is violating your rules, and I want you to investigate that and insure that it is complied with.'"

EXCHANGES ADOPT, ENFORCE RULES

The testimony illustrates the cozy atmosphere that has grown up between the big traders and their regulators at the CEA. The exchanges can adopt nearly any rule they please, as long as it is not in direct conflict with the Commodity Exchange Act. Then, once the rule is adopted, the CEA requires that the exchange enforce the rule, without regard to whether the rule is really in the public interest.

"The CEA," said the Board of Trade's Sheidy, "insists that an exchange observe its own rules, and it isn't too interested in what those rules are, just so long as they are consistent with federal regulation."

Caldwell completed his report to the court last August, and was forced to conclude that the public would be better off if minimum commission fees were outlawed.

Allowing commodity brokers to compete in the services they offer and the commissions they charge would result in "a net reduction in commission charges paid by customers," he told the court.

"The trading public would benefit generally because charges would be more closely related to the costs involved in servicing an account," he said

Caldwell also said minimum fees "are not now necessary, nor will they in the foreseeable future be necessary, to achieve the objectives of the Commodity Exchange Act." The administrator added that the minimum fee arrangement, on the other hand, has not hindered CEA's work, and urged that if the minimum fees are banned the industry be given "a reasonable period of time in which to develop their marketing strategy, pricing schedules and operating procedures before any change is made."

The Board of Trade is opposing any change and has argued that the minimum commission schedules it has used since 1919 have been "essential" to the development of "effec-

tive and efficient markets for futures trading."

Elimination of minimum fees, the Board argues, "would entail the risk of serious adverse repercussions on the industry."

[From the Des Moines Register, Feb. 23, 1973]

CEA, JUDGE FAIL TO AGREE

(By Clark Mollenhoff and George Anthan)

KANSAS CITY, MO.—Samuel Gordon has moved steadily upward in the U.S. Commodity Exchange Authority (CEA) despite his involvement in the agency's failure to protect one small trader from being victimized by some commodities-market professionals.

Gordon is the CEA's $27,000-a-year area director here, but a decade ago he was an employe in the agency's office in Chicago, Ill. There, an elderly Austrian immigrant had been telling just about anybody who would listen that he had been illegally deprived of his livelihood.

Bernard Rosee, now 74, had been a member of the Chicago Board of Trade, and a floor trader in commodities there.

But Rosee was different from the vast majority of insiders who operate the nation's commodities markets, a $200-billion industry that is growing by 20 per cent a year.

TOLD CONGRESS OF MANIPULATIONS

Since the middle 1940s, Rosee had been telling Congress of deceptive practices by certain officials of the U.S. Agriculture Department, and of efforts by big traders to manipulate commodities markets at the Chicago Board of Trade.

As a result, Rosee had a few friends in the Agriculture Department and in the commodities trading establishment.

"There isn't any question but that a lot of people could hardly wait to get rid of him," said one market insider of Rosee.

By the early 1960s, Rosee had been defrauded of thousands of dollars and he had lost his seat on the Chicago Board of Trade. He thus lost his means of making a living.

Through all this, the Agriculture Department's CEA maintained consistently that there was no evidence Rosee was the victim of any illegal activities.

This conclusion was reached by Gordon, and affirmed by his superiors, including CEA administrator Alex Caldwell in Washington.

AWARDED $700,000

It was left to an Illinois State Court to vindicate Rosee, and to award him $700,000 in damages, with the judge branding his opponents as "thoroughly dishonest."

The Rosee case, which has dragged on for more than a dozen years, is perhaps the most glaring example of the CEA's reluctance to tackle influential members of the industry it is supposed to regulate.

It also shows how the commodity exchanges' disciplinary committees, made up entirely of exchange members, conduct "Star Chamber" proceedings in which an accused like Rosee is denied the basic rights of due process which he would receive in a court of law.

CLAIMS ROSEE'S CHARGES INVALID

Gordon, during an interview in his office here, refused to discuss the Rosee case, except to say that he investigated Rosee's charges and decided they weren't valid.

He would not discuss his reasons for the decision, nor would be explain why the CEA failed to use information in its possession that may have proved that a Chicago brokerage firm was defrauding Rosee.

Rosee had charged that Gordon, Albert Kibby, a former Chicago CEA employee and now of Waukon, Ia., and other agency officials took part in the conspiracy to drive him out of business.

But CEA chief Caldwell maintains in Washington that "our actions in this case have been proper all along." Caldwell defends his promotion of Gordon, saying the Kansas City area director and Kibby "did a professional job" in the Rosee case.

An examination of the case leaves serious doubts.

The case against Rosee came to light in 1961, when the Chicago Board of Trade took away his membership, depriving him of his commodities trading-floor privileges, and reducing him to accepting welfare payments.

TRADING ACCOUNT

Rosee's commodities trading account—the records of what he bought and sold and his profits and losses on these trades—was being handled by the brokerage firm of Baggot and Morrison.

Baggot and Morrison contended that Rosee owed them substantial amounts of money, saying Rosee had been taking losses in his commodities trading, and that the firm was using it own money to make up these losses.

ALLEGATIONS A SURPRISE

Rosee said these allegations took him by surprise, that he had, in fact, been making profitable trades in the commodities market. Rosee said and examination of his account, the record of which was maintained at the Baggot and Morrison offices, would clearly show this was true. He said CEA records required by law to prevent the kind of abuse he was facing would back up his position.

But Baggot and Morrison presented to the Chicago Board of Trade a set of records that showed Rosee owing them money. Rosee charged the records were not of his account. He said they were, in fact, records of the firm's own money-losing dealings.

Since the "Star Chamber" proceedings in which Rosee lost his seat, these facts have emerged and are today unchallenged:

1. In November, 1963, Rosee and his attorney, Melvin Brandt, c··ght the office manager for Baggot and Morrison cutting onion-skin pages from commodity trading books that are required by law to be kept and retained. These records that office manager Harris Haywood now admits he destroyed are required to be retained for a five-year minimum period by Commodity-Exchange Authority rules and by rules of the Board of Trade for use by authorities in connection with investigations.

2. Within a fews days of finding Haywood removing pages from the trading book in the crucial period. Rosee and his lawyer told CEA investigators Gordon and Kibby of the incident. A short time later they also informed CEA boss Caldwell in Washington.

3. Gordon and Kibby investigated the incident and reported to Caldwell that there was nothing to Rosee's complaint on this or on his general charge of a Board of Trade conspiracy to frame him. Rosee retorted that CEA officials were involved in the conspiracy because examination of trading records would further corroborate his allegations that he had been defrauded. He also charged that a report Gordon and Kibby had submitted to the federal court was "fraudulent" and misled the court.

4. CEA boss Caldwell continues to defend the Gordon-Kibby investigations and the subsequent promotion of Gordon, in the face of Haywood's admissions in court that he did destroy the records. Despite the Illinois State court * * * awarding a $700,000 verdict to Rosee against the Baggot and Morrison firm, Caldwell says he is still not certain that Rosee was defrauded, and has not ordered a reinvestigation. He says that Baggot and Morrison may appeal the verdict, and with regard to Haywood's admissions that he destroyed the onion-skin pages explains: "The statute of limitation has probably run out on any criminal charges."

5. Caldwell continues to refuse to make commodity trading records available to Rosee that Rosee and his lawyer contend will prove beyond doubt the full extent that he was defrauded and the role played by CEA and the Board of Trade in covering it up.

Generally, Caldwell denies direct responsibility for the Rosee matter on grounds that the CEA policy is to permit the various boards of trade to police themselves, and to limit CEA investigations to cases of direct frauds upon the public.

Rosee contended his money had been used by the Baggot and Morrison firm to make up its own losses, but the Chicago Board of Trade's Arbitration Committee, made up of leading exchange members, ruled against him. The committee took away his seat in order to sell it and pay Baggot and Morrison the money they claimed Rosee owed them.

Rosee, appealed repeatedly to Gordon and other CEA officials in Chicago, and to CEA chief Caldwell in Washington, to make available for his defense its own records that would indicate whether he was telling the truth.

The CEA consistently refused, saying the records were private, and that the law forbids the agency from revealing the details of a person's trading in commodities.

Rosee asked the CEA itself to investigate, and to determine if Baggot and Morrison had, indeed, substituted their own losing accounts for Rosee's profitable ones.

BARRED FROM TRADING

Rosee and his attorney, as they pursued their case over the years, pointed out numerous times that at about the same time Baggot and Morrison allegedly defrauded Rosee the firm was being disciplined by the CEA in another case. After admitting in May, 1960, that it had improperly handled customers' funds and had used them to margin and guarantee the trades of other customers, the firm was barred from commodity trading for three months and Baggot's individual registration as a floor broker was suspended for 30 days.

The CEA assigned Gordon and Kibby to the Rosee case, and, Gordon recalls, they concluded that Baggot and Morrison "had not violated any federal laws."

The CEA remained steadfast in this position, even after Rosee and his lawyers informed the federal officials of the incident involving the removal of pages from the record books.

"UTTERLY ABSURD," JUDGE REMARKS

Haywood admitted to Judge Cohen that he had removed the onion-skin pages—on which were recorded details of commodities transactions. But he did so, said Haywood, in order to save space in the Baggot and Morrison office.

Judge Cohen said of Haywood's explanation: "The man sat for hours cutting pages out of a book to save three inches of space in a room that has some, oh, 350 cubic feet of space or more. Utterly absurd."

Cohen also was highly critical of the Board of Trade's proceeding against Rosee, in which Rosee was not permitted to have his lawyer present, or call witnesses, or examine the records that are supposed to prevent the very abuses he contends he suffered.

Cohen called the Board of Trade's hearing in the Rosee case "a travesty," and said the session was run by the lawyer for Baggot and Morrison.

In fact, Cohen told the lawyer later, "The gentlemen you represent were thoroughly dishonest. They secreted records. They suppressed records. They altered records."

The CEA's Gordon said Rosee's allegation that the CEA aided Baggot and Morrison and the Chicago Board of Trade in their attempts to deprive him of his membership was proved false because a U.S. District Court had dismissed another suit brought by Rosee against Gordon and Kibby.

CLAIMS FALSE DOCUMENTS

But Rosee claims that CEA officials submitted false documents to the federal court in that case, and that the CEA again refused

to turn over records that would support Rosee's position.

In July, 1972, Cohen ordered Baggot and Morrison to pay Rosee $25,000 for the loss of trading privileges, $275,000 in lost earnings and $99,000 representing the amount Rosee contends he was defrauded.

The judge also awarded punitive damages of $150,000 each against Morrison and against Haywood. The Baggot and Morrison firm now is defunct, but the Chicago Board of Trade continued to allow the partners to hold their memberships and to enjoy floor trading privileges.

The CEA, despite Cohen's findings, continues to refuse to take action in the case.

Caldwell admits his agency has done nothing to follow up the court's decision, even though there is little question but that Cohen's findings point to criminal activities in regard to the case.

"We haven't lagged," says Caldwell. "We have done what we think is right."

Caldwell admits he has no way of knowing if reports filed by Gordon and Kibby with the federal court early in the Rosee case were accurate, but he contends that reports sent to him by his two employees were accurate.

Gordon has held his job in Kansas City since 1970, and he oversees trading at the Kansas City Board of Trade, the Minneapolis, Minn., Grain Exchange, and at a federally-regulated commodities market in California.

[From the Des Moines Register, Mar. 18, 1973]

SECRET U.S. COMMODITY REPORT—1971 STUDY URGED MORE STRICT RULES TO AVOID MARKET RIGGING

(By George Anthan, James Risser, and Clark Mollenhoff)

WASHINGTON, D.C.—An internal government report outlines a massive failure by the U.S. Commodity Exchange Authority (CEA) to protect the public against manipulation of commodity futures prices by professional traders and brokers.

The report was prepared late in 1971 by the Agriculture Department's Office of Inspector General (OIG) and has remained secret until a single copy was delivered a few days ago to a House appropriations subcommittee.

Earlier, CEA officials had refused to discuss the contents of the report with Register reporters. Also, they had refused to admit that the report is critical of their office.

The inspector general declared that the CEA conducts only "minimal surveillance" of daily trading in commodity futures to detect and prevent price manipulations.

The report notes that protection of the public against efforts by traders to manipulate commodity prices to their own benefit is of "vital importance."

"Groups of brokers can combine their efforts in violation of trading rules to effect daily price fluctuations for their own benefit," the report declares, and a much heavier hand is needed in enforcement."

A Register investigation of the CEA's regulation of commodity futures trading has found that rigged markets in wheat, eggs and meats may have cost the public, small commodity traders and farmers millions of dollars.

REGULATE TRADING

The CEA is directed by federal law to regulate trading in commodity futures at the nation's major exchanges in Chicago, Ill.; Kansas City, Mo.; New York, N.Y., and other cities. The exchanges are operated by their members—professional commodities traders and brokers. These professionals can trade for themselves and, for a commission, buy and sell futures contracts for customers in the public.

In his report, the inspector general lists several specific instances of possible market manipulations where the CEA took little or no effective action.

Also, Inspector General Nathaniel Kossack was critical of the CEA for taking little action to see that violators were following its directives or to see that the commodity exchanges were adequately policing themselves.

CEA Administrator Alex Caldwell has emphasized to Congress that his agency is able to regulate commodity trading largely as a result of close inspection of thousands of reports that it receives daily from the professional traders and brokers.

But the inspector general stated that "some reports were not received on a timely basis or not received at all" and that "even though these conditions occurred, the report-filing penalties were not enforced."

Kossack's review states that only rarely were traders penalized for refusing to file reports or for filing fraudulent reports.

The eastern regional administrator for CEA, the OIG report continues, "could recall no instance where CEA had invoked penalties provided by law for failure to file reports or file fraudulent reports."

"NOT ASSURED"

As a result, said the inspector general, "we could not be assured that surveillance was effective or that informational releases accurately depicted the happenings in the marketplace."

The inspector general, who is the U.S. Department of Agriculture's (USDA) internal watchdog, concluded:

"CEA did not make adequate analyses, inquiries and conclusions on maturing futures when there were strong indications of price manipulation.

"Also, the (commodity) exchanges did not have sufficiently effective systems to prevent price manipulations, corners or squeezes and were not fully concerned with this responsibility."

The inspector general recommended that the CEA "no longer rely primarily on self-regulation by commodity exchanges."

Caldwell has maintained that his agency does not rely "primarily" on the exchanges for prevention of price manipulation and other market abuses. He has emphasized that he is for "self-policing as far as it can go."

While Caldwell and other CEA officials have contended their surveillance of the commodity markets helps prevent abuses, the inspector general's report states:

"CEA officials told us that the only deterrent they possessed against market disruption was to warn potential violators of the consequences of their acts.

"NOT EFFECTIVE"

"This cannot be considered an effective measure to accomplish the primary mission under the Commodity Exchange Act of preventing price manipulations, corners and squeezes."

Market "corners" and "squeezes" occur when a trader or group of traders gain control of a sufficient portion of available supplies of a commodity to artificially raise or lower the price to their benefit.

The inspector general stated that when "market disruptions" did occur, the "CEA did not consider whether the exchange should or could have prevented" the disruptions, "nor did they take action against the exchange."

While the CEA has legal authority to require traders and commodity brokerage firms to open their records to federal inspectors, the OIG report states the agency "did not make full use of its authority . . . when complaints were received about possible manipulations or when CEA records showed the possibility of a market disruption."

If the CEA had done this, the inspector general declared, "it could have resulted in a better deterrent than a phone call or warning letter."

The OIG noted that in its examination of the commodity exchange records, it found serious evidence of noncompetitive trading in commodity futures.

"There were a significant number of trades between partners or members of the same firm. Although exchange rules do not prohibit this, there is no assurance that the trades were competitive and that the trades were not 'wash' trading used to manipulate prices and deceive other traders."

"WASH" TRADES

"Wash" trades are fictitious transactions designed to deceive other traders and to have an artificial impact on market prices, causing them to rise or fall without regard to supply and demand considerations.

The inspector general also found evidence of "bucketing" of customer orders. Under this setup, a customer's order to buy or sell commodities is never transmitted to the trading floor of the commodity exchange, but is handled in the offices of the brokerage firm. Thus, the customer has no assurance that his trade was the result of competitive trading.

The inspector general noted that "it was CEA policy not to review clearing house records for violations of daily trading speculative limits."

The OIG conducted its own audit and discovered in one case that actual trading in commodities by three traders was in excess of what they had reported to the CEA.

An important function of the CEA is to insure that no trader or groups of traders buy enough futures in a single commodity as to "corner" or "squeeze" the market. The traders are supposed to report their holdings in a single commodity to the CEA.

"We found transactions," Kossack's report states, "involving trades where the same broker was on both sides of a trade and where trading between combinations of brokers appeared to be intentional.

"Also, a number of trades were made where associated members, acting as floor brokers executing customer orders for other clearing members, traded between themselves to an extent great enough to indicate that such trading was pre-arranged."

SAME FIRM

The OIG recommended that the CEA "prevent members of the same firm from manipulating customer orders and prices for their own benefit."

The inspector general noted that the trade practice investigation has been the government's primary tool with which to disclose and discourage abusive practices in commodities trading.

His report emphasizes that while the CEA budget has included $250,000 a year for such investigations, "CEA has utilized only about $40,000 per year in this area." In one year, 1966, the CEA spent some $6,000 for trade practice investigations, the report states.

The inspector general also was critical of the CEA's longstanding policy of referring violations to the commodity exchanges for action. Last year, for example, the CEA turned over to the exhcanges a total of 111 cases involving possible violations. Under the CEA's official policy, the exchanges were to investigate and take action against the violators.

Caldwell and other CEA officials have insisted that they closely watch the exchanges to insure that they adequately investigate each case referred, and that proper action is taken against violators.

But the inspector general stated in his report that some referrals from the CEA to the exchanges are "not being responded to by the exchange."

There was no assurance, the report states, that exchanges were complying with and carrying out their responsibilities under the law.

QUESTION EXCHANGES

Also, there was no assurance that practices in violation of the law and federal regulations had been corrected.

In fact, the report states, the CEA "only rarely" questions the actions taken by the exchanges in regard to a penalty imposed on a violator.

"Nor does the CEA have an effective system of surveillance that would bring to its attention serious deficiencies in the self-regulatory functioning of an exchange," the report continues.

An official of one of the commodity exchanges reported to the inspector general that the exchange initiated investigations only if it received a complaint from a trader, but the report states:

"It appeared to us that small traders would be very hesitant to file complaints against some of the more prominent members of the exchanges."

Also, the report questions whether the professional traders who make up the exchange regulatory committees "could render an objective decision."

The OIG notes that of 66 possible violations referred to the Chicago Mercantile Exchange in 1970 and 1971, the CEA questioned the exchange's action in only one case and "there was nothing on file to show whether actions taken were appropriate in the other cases."

The inspector general listed several cases indicating the CEA was not adequately protecting the public against price manipulations.

CARGILL MOVE

The report notes that during trading in May, 1970, wheat futures on the Chicago Board of Trade, there were indications of a possible market "squeeze" by Cargill, Inc.

The Office of Inspector General, the report states, could find no evidence that CEA was investigating or watching the situation.

"The sequence of events indicated that Cargill had a squeeze on the market either in the normal course of their grain business or by taking advantage of a favorable situation," the report states. "It appeared that Cargill intended to hold the prices of the May wheat future and the cash commodity above what they would have been in a normal free market."

The report also notes strong indications that two traders had gained control of nearly all available supplies of oats late in 1970 and that the CEA "could have confirmed suspicions" of a price manipulation as early as Sept. 4, 1970 by examining the traders' records.

Such an examination "could have served as a deterrent to improper action," the OIG stated.

Inspector General Kossack also noted that on Sept. 15, 1970, the CEA received a telephone complaint that four traders on the Chicago Mercantile Exchange "were collaborating in a squeeze to manipulate the fresh shell egg market . . ."

He said the CEA, again, could have examined the traders' records as a means of deterring them.

CLAIMS MANIPULATION

The report states that an official of the Chicago Mercantile Exchange told the inspector general's auditors that he was certain there had been a manipulation of the January, 1970, egg futures.

"He was critical of CEA inaction on cases in which manipulation was evident," the OIG states.

In the area of CEA surveillance of the exchanges, the CEA's Caldwell replied to the OIG report by stating: "We are doing as much as we feel we can with our limited resources."

He believes trading among associated brokers "can be adequately supervised" and that prohibition of such activity could drive smaller exchanges out of business by reducing the liquidity of the markets.

He said the CEA had not been able to step up its activities to insure its directives to violators were being followed "because of the press of higher priority work, budgetary limitations and personnel ceilings."

Caldwell was criticized by some congressmen at a House hearing Thursday for not asking Congress to give him additional funds and personnel. House Appropriations Committee officials emphasized to the CEA administrator that Congress in recent years had never refused a request to improve regulation of commodity trading.

Monday: Another government report, secret since 1965, tells how the CEA failed to investigate advance tips on the spectacular $150-million salad oil swindle by Tino deAngelis.

[From the Des Moines Register, Mar. 14, 1973]

SECRET USDA REPORT CITES LAX CONTROL—SELF-REGULATION BY EXCHANGES ASSAILED

(By George Anthan and James Risser)

WASHINGTON, D.C.—A still-secret Agriculture Department report raises serious questions about the adequacy of federal regulation of commodity futures trading, and recommends strong corrective action.

The report was written by the department's office of inspector general and is directed to the Commodity Exchange Authority (CEA), the agency responsible for enforcing federal commodities trading laws.

Officials of the U.S. Department of Agriculture (USDA) have declined to make the report public, but a summary is included in a lengthy justification of the department's budget request to Congress.

A $200 BILLION A YEAR

The report questions whether the CEA is doing an adequate job of guarding against price manipulations and other market abuses at the nation's commodity exchanges, where trading in various agricultural commodities has reached a volume of $200 billion a year.

Also, the study indicates the CEA is relying too heavily on self-regulation by professional commodity traders, and that it fails to follow up its own findings of law violations to insure the penalties it issues are carried out.

A Des Moines Register investigation of the CEA's regulation of commodity futures trading has found that rigged markets in wheat, eggs and meats may have cost the public, the small commodity traders and farmers millions of dollars.

Also, there is little evidence that those caught in market manipulations and other serious abuses have received much more than a slap on the wrist from the CEA.

Some of Inspector General Nathaniel Kossack's findings are similar to those published last month by The Register.

Kossack has recommended in his report that the CEA:

"Vigorously and promptly investigate suspected market manipulation or other violations of the act.

"No longer rely primarily on self-regulation by commodity exchanges." (The report notes that the commodity exchanges lack "effective systems to prevent manipulating prices and cornering markets.")

"Improve follow-up system to make sure that traders comply with warning letters, stipulations of compliance and cease-and-desist orders, and enforce trader reporting requirements."

Kossack said in an interview Tuesday that he cannot publicly release a copy of the report because "we do not disseminate our audits outside of official channels."

He said such audits are protected from public disclosure under an exception to the U.S. Freedom of Information Act. The exception deals with reports that are in the nature of inter-office memoranda, advisories and similar documents, he said.

Kossack said, however, that he will make a copy of the document available to the House appropriations subcommittee that controls the CEA's budget.

"STILL IN PROGRESS"

Kossack would not comment on the audit's criticism of the CEA. He said he believes the agency has attempted to "take corrective action," but said "that is still in progress."

Kossack told the House subcommittee Monday that the report was delivered to the CEA a year ago, and that agency officials "generally agreed with our audit findings."

Representative Neal Smith (Dem., Ia.), a member of the subcommittee, has asked Kossack to inform the subcommittee specifically of all steps taken by the CEA to implement the inspector general's recommendations.

Smith said Tuesday that the inspector general "agrees fully that something is wrong with the commodity futures trading, that corrective action is needed and that the CEA needs to do some regulating and not depend on the people in the business to regulate themselves."

Representative William Scherle (Rep., Ia.), also a member of the subcommittee, said following the meeting with Kossack Monday that "even though the CEA appears to be implementing this report, nothing has changed. No corrective measures have been taken."

Scherle said Kossack indicated to the subcommittee "that he isn't satisfied with what the CEA is doing."

Scherle requested that Kossack supply the subcommittee with a 28-year-old report from the inspector general into the CEA's handling of the spectacular Anthony (Tino) DeAngelis scheme to corner the soybean oil and cottonseed oil markets and to swindle $150 million from leading banks and brokerage houses.

Kossack said he would supply both the DeAngelis report and the study of CEA activities to the subcommittee.

CEA administrator Alex Caldwell also declined Tuesday to make the inspector general's report public, saying, "I'm prohibited from giving copies out."

[From the Des Moines Sunday Register, Mar. 4, 1973]

COMMODITIES MARKETS—ON WAY OUT?—FARMERS MAY SKIP THE MIDDLEMAN

(By Clark Mollenhoff and George Anthan)

WASHINGTON, D.C.—The major commodities market may be anachronisms on their way to extinction, the president of the National Corn Growers Association believes.

Walter Goeppinger of Boone, Ia., said the recent frenzied trading of soybean futures on the Chicago Board of Trade, in which contracts traded for as high as $6.81 a bushel, may have awakened farmers to inequities of the commodities market system.

"Most of the farmers sold their beans for less than $3.50 a bushel," he said. "It was the speculators who made money in that market."

Many farmers contend that wide fluctuations in the soybean futures market—the range between recent lows and highs was more than $3.60 a bushel—have resulted in a lack of confidence because no one knows how much of the high price was based on artificial demand created by traders, and how much was the result of bona fide demand.

Farmers are concerned because the high soybean futures prices have resulted in soybean meal more than doubling in price. Farmers need the meal as protein for feeding livestock and broilers, and they report a growing fear of financial disaster if they feed expensive meal to livestock that could drop quickly in price.

All this could lead to smaller herds, and increased consumer prices.

Goeppinger and some other agricultural leaders believe farmers will begin to organize huge marketing co-operatives to sell their products directly to processors and consumers, bypassing the traders at the commodities exchanges.

Yet there is little outward evidence that the exchanges could be fading as nerve centers of the American foodstuffs industry.

The Chicago Board of Trade operates in an imposing 45-story building that sits astride LaSalle Street. The Chicago Mercantile Exchange recently moved into a modernistic structure and the Kansas City Board of Trade has moved from its old downtown headquarters into a new building in the fashionable Country Club Plaza area.

But, said Goeppinger, "twenty years ago if I had gone to the Chicago Livestock Exchange and looked out over those acres and acres of pens and loading docks and railroad sidings and buildings and told somebody, 'All this will be empty ground some day,' he would have said I was crazy. Well, it's all empty ground now, because we have found a better system of marketing livestock."

He continued: "If the grain trade and the commodities exchanges don't change, they could evaporate so for as being a marketing tool. Oh, they could move in some dice tables out there on the trading floor and make it like Las Vegas, but it won't involve the farmer."

Harold Kuehn of Du Quoin, Ill., president of the American Soybean Association, agrees, and said farmers already are beginning to explore dealing directly with huge grain-buying organizations in the European Common Market and Japan.

"More and more farmers are going into direct sales, bypassing the speculators and the traders by entering into contracts to deliver the actual commodities at some point in the future, for a set price," said Goeppinger.

There are strong indications the federal government may help farmers accomplish this. Congres is considering proposals under which farmers could form government-sponsored collective bargaining associations. Companies that buy farm products would be directed by federal law to sit down and bargain with the farmers over prices.

Both backers and opponents of the plan have testified in Congress that it could lead to the demise of the commodity exchanges.

Kuehn and Goeppinger said many farmers are upset over soaring soybean prices on the Chicago Board of Trade, because much of the profit goes to speculators.

Their view is reflected by Bill Happel, a Sumner, Ia., farmer and member of the Board of Governors of the Farmers Grain Dealers Association.

"I hate to even talk about that soybean situation," said Happel during an interview prior to his testimony before the Senate Agriculture Committee here.

"I had about 3,000 bushels of soybeans last fall, and I got from $3.05 to $3.20 a bushel for them. I thought that was a pretty good price, and I needed the storage for corn. Then, I see where the beans are selling for $6.80 in Chicago. Boy, I'd sure like to know who was making that money."

MORE FOR MEAL

Happel echoed many livestock farmers by voicing concern that artificially high prices on the commodity exchange floor will result in farmers having to pay more for soybean meal they need to raise livestock. Meal prices on the Chicago Board of Trade have advanced from less than $100 a ton to more than $225 a ton within recent weeks.

Said Happel: "Sure, right now we're feeding this expensive meal to high-priced livestock. But what happens when those hog prices drop?"

There are predictions that the high prices for soybean meal, the major protein supplement in livestock feed, will lead both domestic and foreign users to try substitutes.

A paper plant in Finland has announced it will produce an artificial protein supplement for livestock feed from paper pulp waste products, and a Japanese chemical firm is experimenting with mass production of protein feed from oil.

Goeppinger believes the commodities exchanges must make major changes to survive. Among these changes, he believes, is curbing speculators to prevent artificial highs and lows in prices for agricultural commodities.

Representative Neal Smith (Dem., Ia.), whose small business problems subcommittee will conduct an investigation of the commodities markets, said of commodities speculators:

"They get together on the trading floor every morning and talk among themselves and decide whether the market is going to go up or down that day. Then, they start buying ."They don't care about supply and demand. All they care about is how the market is reacting. They buy in the morning, drive up the prices, and they sell before the day ends. It's all in the psychology of it."

"HURTS FARMERS"

Smith continued: "This thing in the soybean market, it can't but hurt farmers. Those speculators drove up the price, and they did it right in the middle of the marketing year. That's got to affect soybean consumption. It'll drive people to substitutes, then the farmer will make up for it later by paying more for the soybean meal he has to buy from the processor, and getting less for his raw soybeans."

Goeppinger said another major problem connected with the commodity exchanges involves the "dirtying up" of corn shipped by farmers.

He said, "board of trade contracts include grade specifications for different classes of corn, depending on the quality. Each of these classes allows a certain amount of 'foreign matter' and adulterated corn."

Goeppinger continued: "Various people in the grain distribution system know this, and they know that when the farmer ships his corn it's usually pretty clean. But they're artisans, almost like piano tuners in the way they can expertly blend some foreign material and adulterated corn in with the farmer's shipment so it comes just within a gnat's hair of exceeding the board of trade specifications."

The National Corn Growers Association president said many buyers of American grain, especially overseas customers, have complained bitterly that American shipments are "dirty."

"If this keeps up," said Goeppinger, "a lot of farmers are just going to ignore these middlemen; they're going to go over their heads.

"But it's going to be hard to crack these behemoths, these large grain companies. They have agents overseas and they wine and dine the buyers. But farmers are fed up. They're traveling more, too, and they're seeing more people and pretty soon they're going to be making their own deals."

Goepplinger continued: "Maybe the grain speculators should remember what happened to the Liverpool Grain Exchange. I can remember when the Liverpool exchange was the world's greatest, the same nerve center that Chicago is now.

"We used to listen on the radio for the prices from Liverpool and we knew they would be reflected later that morning on the Chicago Board of Trade.

"But the last time I was in Liverpool there were only 15 or 20 guys on the trading floor, and when the gong rang for the opening of trading nobody even got up. There was no trading at all, to speak of."

[From the Des Moines Register, June 3, 1973]

SOYBEAN PRICES AND FOOD COSTS

(By George Anthan and James Risser)

CHICAGO, ILL.—Chaotic trading dominated the nation's major commodity exchange here last week, raising new questions about operations of the markets and causing fears of another upward spiral in retail meat and food costs.

Prices of grains—soybeans, in particular—soared to previously unheard of levels, and trading on the floor of the Chicago Board of Trade was so frenzied that some experts warned of a possible market collapse.

SEE PROBLEMS

Some investors and brokerage houses were reported in fiancial trouble as millions of dollars changed hands in the virtually unabated and perhaps artificial boom in soybean prices.

These high prices—soybeans hit an unheard of price of $11.34 a bushel—will be reflected soon in higher meat prices since soybeans are an important part of the livestock feed.

But many farmers and grain elevator operators are worried that the futures markets, having been driven to giddy heights, will collapse, leading to severe financial losses for many segments of the agricultural economy.

Critics of the grain futures markets charged that excessive speculation is responsible. Some, including Representative Neal Smith (Dem., Ia.), demanded a brief but total suspension of trading and an investigation of the market's unprecedented behavior.

Smith renewed his pledge to hold congressional hearings soon, perhaps as early as next month, to determine if futures prices are justified by actual supply and demand conditions or whether, in his words. "It's the biggest legal gambling game in the world."

Senator Henry M. Jackson (Dem., Wash.), whose permanent investigating subcommittee has been probing the effectiveness of the Commodity Exchange Authority (CEA), declared he is "deeply concerned that the new and unprecedented rises in the prices of grains could result in food prices even 15 to 20 per cent higher this year."

He was sharply critical of CEA Administrator Alex C. Caldwell for his "general hands off attitude toward futures manipulation.

"Until we started looking around, they were doing nothing," Jackson said. "Only since we become involved in an investigation did they turn the Kansas City Board of Trade case (on wheat futures) over to the Department of Justice.

"Previously, they had allowed the board to give itself a clean bill of health," he said.

"OPERATING LEGALLY"

The CEA insisted throughout the week that despite the unprecedented prices, the markets were operating legally and that federal intervention was not warranted.

But one worried broker, noting that prices of some grains had increased by more than 60 per cent in recent weeks and by almost 400 per cent over a year ago, said the CEA, should quit sitting on its hands" and move in to slow the advances. As trading in soybeans opened Friday in Chicago, one broker said: "I'm afraid to go into the pit."

The CEA, said Senator Harold Hughes (Dem., Ia.), is "unbelievably weak-kneed and ineffective."

But the bigger professional commodity brokers, officials of the Board of Trade and Agriculture Secretary Earl Butz all contended that the record trading simply was the result of domestic and foreign demand for the products of American farmers.

It is ironic that as soybean prices hit record levels, many farmers earlier had sold their 1972 crop for less than $3.50 a bushel. Now, having seen prices for their grain driven up by traders, big export and processing companies and foreign buyers, many farmers are refusing to sign contracts to sell their 1973 crop.

However, a market collapse brought about by any excessive speculation once again would lead to farmers receiving relatively low prices.

BACK SPECULATORS

Butz, along with officials of the exchanges, insists, however, that speculators are not driving prices up artificially. New record prices simply reflect market conditions, they say.

And, as another broker put it, "They could put tighter limits on price increases, but that would effectively stop trading and the boys over at the Board of Trade would starve." The traders he referred to depend on high volume to make money, since they are paid a commission each time they buy or sell commodities for their customers.

A halt in trading also would stop traders from buying and selling in their own behalf, a practice that has been condemned by many critics as representing a serious conflict of interest.

These were some of the highlights of a week in which trading in the Board of Trade "pits" was even more frantic than usual, and newsmen and television crews invaded the powerful, though usually ignored, center of this country's grain trading .

Other developments during the week included:

Constant increases by Board of Trade officials on the long-standing legal limits on daily price movements—the amount a commodity can rise or fall in price in any one day. The officials said their move was designed to spur then-stalled trading, but critics said it only fueled the price increases.

There were charges, and denials, that soybean trading was controlled through a "corner" of the market by three giant grain firms.

The Board of Trade steadily increased "margins"—the cash down payment required to buy a futures contract. This was done to help brokerage houses remain solvent but it also forced many farmers, small grain elevators and other investors to come up with more and more cash to stay in the market.

In the midst of this, the president of the Board of Trade, Henry Hall Wilson, officially announced his resignation to run in the North Carolina Democratic primary election next year against Senator Sam Ervin.

Serious questions about some operations of the commodity exchanges and the CEA's ability to regulate the markets have been raised in recent years by the U.S. General Accounting Office and the Agriculture Department's inspector general.

A recent series by The Des Moines Register concluded that the CEA has ignored recommendations of these agencies and cannot insure against price manipulation and other illegal market activities.

NO PROOF

However Secretary Butz, even as he admitted soybean trading had become "wildly speculative," insisted last week there is no proof of price-rigging.

CEA Administrator Caldwell is doing a "remarkable job" in view of his "limited" resources and manpower, Butz asserted. The secretary said he sees no need for tighter federal regulation or for strengthening the CEA.

Harry Fortes, a Chicago lawyer and former member of the Board of Governors of the Chicago Mercantile Exchange, disputed Butz. "This is all based on excessive speculation," he said, adding that those persons who had believed there would be a price drop and who agreed to deliver grain supplies—or the equivalent value in cash—"are being murdered." These are referred to as "shorts" in the market. Those who contracted cash to satisfy their futures contracts are called "longs," and they speculated successfully that prices would increase.

Fortes said moves by the Board of Trade have been "counter-productive" and he contends these steps were taken to insure that trading continued "no matter what."

An independent broker called this past week a "period of crisis" and said there were many rumors of a "squeeze" by large grain companies. A "squeeze" or "corner" would result when a trade or combination of traders gained control of available supplies of a commodity.

NO INTERVENTION

"It's beyond me how this week's trading could have gotten so far out of hand without the government's stepping in" by clamping down on trading or by limiting grain exports which, he said, are causing much of the price spiral.

But he believes both the CEA and Board of Trade officials are afraid to take any drastic steps because "they don't want to knock off the goose that lays the golden egg."

Another broker said "the big companies are behind this. They've got everything tied up and the Agriculture Department doesn't know what's going on. They should have suspended trading a long time ago. Why they don't do it, I don't know.

"What happened was that somebody went in and bought up all the soybeans and the futures contracts and they're holding them. When they're ready to let go, they'll dump the stuff and the market will collapse and you and I won't know a thing about it before it happens."

He was referring to reports that Continental Grain Co., Cargill, Inc., and Cook Industries—all large grain companies—control most available supplies of soybeans.

Officials of Continental refused to comment, but a spokesman for Cargill said: "Cargill's not holding any soybeans back for higher prices."

He said the Minneapolis, Minn., firm does have large stocks of soybeans, but already has sold the products it makes from the grain and therefore, "We would not benefit from any higher prices."

The Cargill official said the firm also is heavily involved in the futures market but emphasized that both "long" and "short" contracts would be affected equally by price rises or declines.

Warren Lebeck, chief administrative officer of the Board of Trade here, said the exchange's actions this week have succeeded and that both buyers and sellers have been able to fulfill their commitments.

Still, soybean prices were at record levels at the close of trading Friday. But Lebeck rejected the argument that high futures prices will lead to higher retail food costs. He maintained that futures prices only reflect demand.

Iowa Representative Smith contends this no longer is true "because futures trading has gone wild" and traditional relationships between futures prices and actual cash purchase prices have broken down.

"That's just Mr. Smith's opinion," said Lebeck. "He doesn't have the facts."

Lebeck said "futures prices are like a thermometer. You don't blame the thermometer if it's 90 degrees outside."

He also defended the CEA which regulates his exchange, and said the agency "has the tools" to determine if there has been any price-rigging.

He acknowledged that board officials "are concerned about the market and watching it very closely. We want to be sure nothing does get out of hand."

The board was clearly upset that the week's activities had given the exchange the image of a gambling casino. One spokesman disclosed that serious thought was being given to changing the term "speculator" to something milder such as "market investor." "Speculator" connotes gambling and "sounds bad," said the spokesman.

[From the Des Moines Register, Aug. 2, 1973]

GAMBLING UNLIMITED

Is the grain futures market necessary? Farmers long have had doubts, even before Frank Norris's novel "The Pit" told of the gambling in wheat at the turn of the century. But the argument of the grain exchanges always has been that they provide a service to farmers and others through "hedging."

A farmer or dealer in grain can sell a futures contract months ahead of harvest and thus protect himself against a decline in the market. A buyer can buy a contract and protect himself against a rise. The hedger who has actual grain to sell or buy is not gambling; he will lose on the commodity sale or purchase whatever he makes on the paper tranaction.

The gamblers in the pits, however, provide the volume of trading for those who want to hedge. That is their argument. Also, say the defenders of the futures market, this buying and selling tends to "stabilize" prices of the commodites traded.

Not much has been said about stabilization recently, with soybeans and grain soaring out of all normal relationship to the basic supply and demand situation. Runaway speculation, and possibly some "cornering" of the market, as in "The Pit," seems to have occurred in 1973.

Instead of stabilizing or providing reliable signals to buyers and sellers of grain, the futures market has distorted the signals. The Department of Agriculture, which is charged with regulating the exchanges, has done little or nothing to check speculation. The policy of the USDA Commodity Exchange Administration has been to rely on the exchanges to police themselves. The result has been such ridiculous prices as more than $12 a bushel for soybeans.

Representative Neal Smith (Dem., Ia.) is conducting an investigation of the exchanges in his subcommittee on small business. He suggested that if the boards of trade do not find ways to reform their practices, they might face an end to futures trading.

That might not be such a disaster as some traders think. Whether there is any social value in this mechanism for gambling in commodities may be questioned, and we hope the Smith subcommittee will do some questioning. If people want to gamble, let them do it at Las Vegas instead of doing it in farm commodities, prices of which are vital to farmers, consumers and processors—the whole economy.

If stability and forward pricing of commodities are the (sometime) benefits of futures trading, perhaps they can be gained in other ways. Even wrong guesses by the Department of Agriculture on future prices would not be so disrupting as the grain exchanges this year.

Senator Dick Clark (Dem., Ia.) suggested that the USDA estimate of corn stocks may be in error this summer. He said that Iowa's nonfarm stocks total at least 139 million bushels, though USDA reported only 85 million. (USDA acknowledged a mistake was made.) The corn future prices could turn out to have been even more unrealistic than we had thought if Senator Clark's figures for Iowa turn out to be typical for the U.S.

In short, the farmer, the consumer and the processor have been given a very bum steer by the grain exchanges this year—and

by the USDA, through failure to regulate and, perhaps, failure to publish accurate data on carryover stocks.

If the carryover data are inaccurate, however, the statisticians and economists in USDA should not be blamed. They never have been given the financial support they need to do a complete job of crop and livestock reporting. A year like the 1972–73 marketing year shows how important it is to have accurate, unbiased figures on storage. exports and other information.

It is the political leadership of the department which must assume the blame for the inadequacies of information and the mess in the grain markets in 1973.

[From the Des Moines Register, Oct. 16, 1973]

CEA: COMMODITY FUTURES INDUSTRY NEEDS REFORMS

(By George Anthan)

WASHINGTON, D.C.—The Commodity Exchange Authority (CEA) acknowledged publicly Tuesday that major reforms are needed in the government's regulation of the commodity futures industry in order to protect consumers, farmers and the trading public.

The CEA, an agency of the Agriculture Department, is responsible for policing of the $268-billion-a-year commodity futures industry and the activities of market brokers and speculators.

LARGELY UNKNOWN

Until recently, the CEA was largely unknown outside the department and the industry, and Congress regularly approved its relatively meager budget with few questions asked.

But a newspaper investigation early this year revealed serious shortcomings in the agency's regulatory activities. Then, it was shown that some top officials of the Agriculture Department had raised questions internally about the adequacy of government regulation of an industry that is the basis for the prices paid for food by consumers at the supermarkets, and for the prices received by farmers for their commodities.

CEA administrator Alex Caldwell Tuesday gave the House Agriculture Committee a long list of recommendations to strengthen his agency.

He also revealed the department is "actively considering" a proposal to divorce the CEA from the Agriculture Department and recommend to Congress that it create an independent regulatory agency modeled after the U.S. Securities and Exchange Commission (SEC), which regulates the securities industry.

Caldwell said other plans being studied by the department include merger of the CEA with the SEC, and retention of the commodities agency within the USDA, but providing it with a greater degree of autonomy than it has.

Some members of the committee said following a hearing Tuesday that there is little question but that Congress must move quickly to institute reforms in the government's regulation of the industry.

Representative Thomas Foley (Dem., Wash.), said, "The time is here when we're going to need much stronger federal controls. It's not a question of whether we are going to do something, but what and when."

TERMED ESSENTIAL

Foley said he agrees that trading in commodity futures—which allows both farmers and processors of agricultural products to protect themselves against future losses—is an essential industry.

"But there is great danger here," he said. "If the industry is not subjected to reasonable regulation. If it isn't, somebody is going to propose some day on the floor of the House that commodity exchanges be abolished. There could be an over-reaction by the public against them."

Foley also said "there is no question but that the CEA's regulation of the markets has been primitive compared to the way the SEC regulates the stock exchanges."

Caldwell, who had told reporters early this year that the CEA was doing an "adequate" job, agreed Tuesday.

He then asked the agriculture committee for legislation giving his agency authority to:

Order commodity exchanges to change their rules and practices "as determined necessary for the protection of persons producing, handling, processing or consuming any commodity . . ."

Regulate advertising by firms soliciting investors for futures markets.

Regulate trading in all commodities. (Trading in lumber, sugar, silver, copper, cocoa, coffee and iced broilers—chicken—are not now regulated).

Prohibit floor brokers from trading for their own accounts and for customers.

Obtain court injunctions to stop any person from violating commodities laws. (This is needed, Caldwell said, to permit the CEA to move quickly against fraud, cheating and mishandling of customer funds and against traders who are in a position to manipulate commodities prices to their own advantage.

Require markets to permit delivery of commodities at multiple points if such action is needed to prevent or diminish price manipulation.

Give the General Accounting Office (GAO), the investigative agency of Congress, access to CEA records.

These reforms, Caldwell said, "would provide the basic framework for a more comprehensive and aggressive regulatory program."

[From the Des Moines Register, Oct. 25, 1973]

COMMODITY BROKERS, CARGILL BACK NEW FUTURES AGENCY

WASHINGTON, D.C.—An organization representing the nation's commodity brokerage firms joined with one of the world's largest private grain companies Wednesday in endorsing establishment of an independent federal agency to regulate the commodity futures industry.

John W. Clagett, president of the Association of Commodity Exchange Firms, Inc., told the House Agriculture Committee that his organization was seeking the change even though "it may seem unusual to some people for a person who represents an important segment of private industry to recommend more federal control of our industry."

Claggett said increased surveillance of the futures business by an independent and strengthened government unit was being sought "in the interest of giving the public greater protection in the futures markets."

GOVERNING BODY

Walter B. Saunders a vice-president of Cargill Inc. told the committee that a more effective federal regulatory agency is needed because the Agriculture Department's Commodity Exchange Commission "is not properly constituted to provide continuing surveillance of commodities trading on futures markets."

The commission—composed of the secretaries of agriculture and commerce and the attorney general—is the governing body for the Commodity Exchange Authority (CEA) the agency that administers the federal commodities regulatory program.

"What is needed," said the Cargill official, "is a continuously functioning, professional regulatory group of a level of prestige matching that of its Securities and Exchange Commission counterpart."

Cargill depends on futures markets, said Saunders, to hedge both its purchases and sales of grain, to insure against major losses caused by fluctuating prices.

He said the company believes that an independent policing agency would "provide adequate supervision of the entire futures marketing system in a comprehensive manner rather than merely piecemeal. . . ."

Saunders also said a new agency would help "to re-establish public confidence in futures markets."

The committee Wednesday concluded several days of public hearings held to determine if federal laws controlling the trading of commodities futures contracts are adequate.

The committee is expected to consider legislation to create a new, independent regulatory agency, or to greatly strengthen the CEA with additional powers, expanded staff and more autonomy within the Agriculture Department.

OPPOSE AGENCY

Officials of the Chicago Mercantile Exchange and of the New York Mercantile Exchange testified Wednesday that their members oppose creation of an independent regulatory agency.

Michael Weinberg, Jr., chairman of the Chicago exchange, said, "Since we respect the market information and gathering activities of the U.S. Department of Agriculture, and the close identity of the commodities it covers and most exchanges utilize, we feel that it would be a reasonable economy of men and money to retain the CEA under the USDA.

Weinberg also stated, "And we feel that the CEA has done its job with integrity, even if it has not reflected industry growth in its own approaches, as much as many would prefer."

Llewellyn Watts, Jr., chairman emeritus of the New York exchange, said he believes the CEA currently has enough authority "to effect changes it believes necessary for the protection of participants in futures trading on the exchanges."

The New York and Chicago commodities officials strongly opposed proposals to prohibit commodities floor brokers from buying and selling for their own accounts at the same time they also are handling orders from customers.

They contended that such a move would force out of the market speculators who take many of the financial risks, enabling farmers and processors of commodities to enter into a futures agreement and thus protect themselves against major losses.

The Chicago exchange officials agreed, however, that the CEA should be substantially strengthened and given broad new regulatory powers.

[From the Des Moines Register, Feb. 27, 1973]

SHAM POLICING OF MARKETS

The articles by The Register's Washington bureau about the USDA Commodity Exchange Administration last week show in penetrating detail the failures of this agency to regulate the exchanges and brokerage houses it is supposed to regulate.

The articles by Clark Mollenhoff, George Anthan and James Risser reveal a familiar condition in government regulatory bodies—at all levels of government. The regulators have been taken over by the regulated. In other words, the businesses which CEA is charged with supervising to protect the public are very much on the inside of the regulatory agency. There is a "cozy" relationship which permits violations of the law and dubious practices which gouge the public.

CEA is almost in a class by itself, however, when it comes to letting the people to be regulated regulate themselves. The director of CEA, Alex Caldwell, even advocates letting the commodity exchanges and brokers do their own regulating.

CEA officials and their friends in the commodity exchange firms always talk about how futures market trading "stabilizes" prices and levels out seasonal ups and downs. Actually, this trading tends to accentuate market

swings. Traders and their brokers over-estimate changes in supply and demand, and sometimes manipulate the markets by rumormongering.

In recent years every item of news about the corn crop, such as the Southern leaf blight or a spate of dry weather, or about exports, such as the dock strike which held up shipments, has sent prices up or down far more than the facts justified. Futures trading inevitably affects the cash market. Farmers, processors and even the USDA are given misleading signals by speculative excesses.

The value of commodity futures markets in enabling buyers and sellers to hedge against the future is obvious. But unless the trading operations are very closely regulated, the damage to farmers and to dealers from exaggerating market swings could well offset the benefits from hedging.

The encrusted Department of Agriculture bureaucracy all the way through has tended to become the captive of agri-business firms, trade associations and commercial agriculture. The Forest Service, for example, has tended to adopt policies favorable to the timber industry, as against the public interest. Cattle ranchers in the West have been favored in the use of public lands, including national forests.

When the Department of Agriculture was in charge of regulating the chemical pesticides used in farming it adopted lenient rules toward the chemical companies in granting permits. The general policies on pesticides favored the sellers and users of pesticides in farming, with relatively little attention to the public interest in the environment and in avoiding contamination of foods.

The research and educational arms of USDA, in the same pattern, have become allies of commercial farming and the agribusiness firms that sell supplies to farmers or buy their products. The small farmer, the hired farm worker, the rural community and the consuming public have been slighted. This is not wholly the fault of the USDA bureaucracy.

It is a failure of Congress, whose agriculture committees are dominated by the interests USDA tends to favor. The bureaucracy is really run by the committees of Congress, and many a Secretary of Agriculture has been frustrated in his attempts to reform old-line agencies.

To reform the system to meet the needs of rural America and the nation as a whole, Congress will have to start with itself.

[From the Washington Post, Mar. 11, 1973]

THE FUTURES GAME: SELLING THE PUBLIC SHORT

(By Clark Mollenhoff, James Risser, and George Anthan)

The $200-billion-a-year commodity futures market is booming along with virtually no controls to protect millions of small traders and the consuming public, which eventually buys the foodstuffs traded there.

The Commodity Exchange Authority (CEA)—the federal agency charged by law with responsibility for regulating the futures market—has, in part, turned this task over to the professional traders themselves, who operate in a club-like atmosphere at the various commodity exchanges.

There are strong indications that rigged markets in wheat, eggs and meats have cost the public, the small commodity traders and farmers millions of dollars.

For example, commodities industry officials themselves agree that a recent suspected manipulation of the egg futures market boosted the price of eggs on supermarket shelves by as much as 10 cents a dozen. This alleged price rigging of the egg futures market in Chicago continued undetected by the CEA for nearly a year. And a former high official of the Chicago Mercantile Exchange estimates that for every price manipulation case prosecuted by the CEA, eight or nine other price riggings are never discovered.

At the same time, there is little evidence that those caught in market manipulations and other serious abuses have received much more than a slap on the wrist.

Seven years ago, following the spectacular Tipo DeAngelis salad oil swindle, the General Accounting Office (GAO) conducted a thorough study of the federal government's efforts to regulate the commodity markets, and found them "inadequate."

The congressional watchdog agency issued a set of strongly worded recommendations to the CEA—an Agriculture Department agency—recommendations designed to insure that the public, from the casual trader trying to make a few dollars purchasing commodity futures to the housewife doing her weekly grocery shopping, is adequately protected.

But CEA administrator Alex C. Caldwell has paid little or no attention to the GAO recommendations. In fact, the level of CEA regulation of the markets has declined during the past seven years, even as the volume of commodity trading has soared from $65 billion in 1965 to more than $200 billion a year.

As a result, the operation of these markets is open to serious abuse, including price manipulations and other collusive and deceptive practices by those who specialize in buying and selling at the commodity exchanges in Chicago, Kansas City, New York and other cities.

LEGAL GAMBLING

The exchanges—where future crops of grain are traded, where young cattle and hogs still on the farm are bought and sold, and where fortunes can be won or lost in an instant—are a complex outgrowth of the need to provide a place for the orderly marketing of farm products.

Until development of the commodities markets in the mid-1800s, trading in grains, particularly, was chaotic, as corn, wheat and oats would pour into the big marketing cities at harvest time. This created a glut, low prices for farmers, and, in Chicago, the dumping of bargeloads of grain into Lake Michigan.

At other times of the year, the situation was the opposite. Grain stocks were depleted, and demand drove prices sky-high.

Today, the main business of the 20 commodity exchanges is the trading of "commodity futures"—contracts for the sale and purchase of future farm products at previously agreed prices. Selling crops and livestock in this manner is supposed to help stabilize prices and provide a more even flow of products to market. And eventually, today's futures prices have a partial impact on the retail price of eggs, meat, bread and other grain products, several months hence.

But there are growing indications that trading in the major commodities has lost all touch with actual supply and demand, and instead has become dominated by speculators who have little interest in the products except as pawns in what Rep. Neal Smith (D-Iowa) calls "the biggest legal gambling game in the world."

Recently, for instance, a frenzy of trading on the Chicago Board of Trade saw soybean futures almost double in price, reaching the unheard-of figure of $6.81 a bushel. Soybeans are a booming commodity, but this record price has risen far above any real reflection of soybean demand, market observers feel.

Walter Goeppinger, president of the National Corn Growers Association, said of the situation: "Most of the farmers had sold their soybeans for less than $3.50 a bushel. It was the speculators who made money in that market."

The ramifications of the soybean speculation may hit consumers hard in the future, in the form of rapidly rising prices for salad oils and even for meat, as the price of livestock feed made from soybean meal reaches new heights.

Rep. Smith is suspicious that the recent soybean trading may represent an attempt by some traders to corner the market. Smith, whose small business subcommittee will conduct an investigation of the markets this spring said of commodity speculators:

"They get together on the trading floor every morning and talk among themselves and decide whether the market is going to go up or down that day. Then they start buying. They don't care about supply and demand. They buy in the morning, drive up the prices, and they sell before the day ends. It's all in the psychology of it."

NEED FOR ENFORCEMENT

Hundreds of millions of dollars in futures contracts are entered into each day in the noisy trading pits on the floors of the Chicago Board of Trade, the Chicago Mercantile, Exchange, the Kansas City Board of Trade, and elsewhere.

Commodities traded include corn, wheat, soybeans, cotton, eggs, cattle, pork bellies (uncured bacon) and a host of other products. Contracts to buy or sell the farmer's future product are traded back and forth by brokers and speculators, who try to pick up a profit with each rise and fall of market prices. In this way, contracts are bought and sold many times, 99 times out of 100, the individual buyer of a futures contract never actually receives nor does the seller actually deliver, the commodity itself.

Serious problems can arise at the exchanges when a big trader, or a group of traders, attempts to manipulate the price of a commodity by buying large quantities solely to drive prices up, or by large-scale selling to drive prices down.

The CEA itself acknowledges that "if trading on commodity exchanges is not conducted according to equitable rules constantly enforced, unfair practices may distort or depress farm prices, open the way to price manipulations and make it possible for avaricious dealers to 'corner' certain markets and exploit them to their profit."

Yet none of this officially stated concern is reflected in the serene atmosphere of Alex Caldwell's office at CEA headquarters here. Caldwell, 57, who has headed the agency since 1960, contends that the small traders and the public are being adequately safeguarded.

On the one hand, Caldwell frankly admits a lack of manpower to police the rapidly expanding commodity markets. Yet Caldwell, who will appear Thursday before the House Appropriations subcommittee that decides his budget, acknowledges that he has consistently refused to ask Congress for more resources to meet the criticisms leveled at his agency in the 1965 GAO report. The cost-conscious GAO actually urged Caldwell to seek more money and staff.

But his report to Congress last year was typical, when he boasted to the Appropriations subcommittee that he was operating with 175 employees nationwide, 22 fewer than two years earlier. At the same time, he was admitting to the subcommittee that the CEA workload, customer complaints and evidence of serious violations of the commodity exchange act were rapidly increasing and were "a matter of concern."

"I'm not a great one for spending public funds," he explains. "I'm all for self-policing, as far as it can go." To prove that he believes in letting the big commodity traders regulate themselves, Caldwell says that the CEA last year referred 111 possible violations of federal law to the exchanges themselves for investigation and action.

TOO MANY CASES

In its 1965 investigation, the GAO charged that CEA was not making a sufficient number of probes of the major commodities to

uncover and halt price manipulation attempts. At that time, the CEA had never investigated the soybean, soybean oil and soybean meal futures, which are three of the biggest commodities traded.

Today, with the commodity market tripled in size, there still has not been an over-all investigation to see if soybean trading is being operated honestly because, according to Caldwell, "it would tie up our whole staff for a year."

One reason Caldwell is short-staffed is that a year ago he voluntarily gave up some personnel in exchange for a computer program which was to spot price manipulations and other possible market violations. Now the computer project has been judged a failure by the CEA because it was spotting too many cases.

Caldwell said the computer kicked out so many cards indicating various deceptive trading practices that it was impossible for his small staff to process them adequately. Blaming computer errors for "the mountain of paper the computer kicked out," Caldwell abandoned the system as "unneeded" and "unworkable."

The GAO report found that in the rare cases where the CEA did conduct market investigations, it did find abusive trading practices such as cheating of customers by traders, filing of false reports, and false and illegal transactions by traders. The GAO auditors decided to conduct their own investigation at one of the major exchanges and during one three-month period turned up 47 cases of "questionable" trading practices.

One of the most serious shortcomings of the CEA, according to the congressional agency, was its failure at that time to evaluate the effect on futures prices of "floor trading," where a trader at the commodity exchange is permitted to buy and sell not only for the customers he serves, but for himself as well. Professional floor traders, because of their specialized knowledge and constant presence in the exchange, "enjoy special advantages" over other people who might want to buy and sell commodities, said the GAO. And floor trading raises the possibility of serious conflicts of interest, in which a floor trader might obtain more favorable deals for his own account than for those of his customers, the agency noted.

Another problem, said the GAO, is that Caldwell's agency has repeatedly failed to inspect the records of the commodity exchanges to check whether they really exercise their self-policing function by adequately punishing violators within their midst.

Yet today, Caldwell still steadfastly refuses to tackle these problems, saying that he is doing the best he can with the resources at his command, and dismissing questions such as conflict of interest in floor trading by saying they are "low priority."

He told Congress last year that in 1973 the CEA would spend less money, examine fewer financial statements of commodity brokers, and conduct approximately the same number of audits and investigations as the year before, despite a burgeoning market.

THE "LITTLE GUY" LOSES

The lack of regulation can penalize traders, farmers, consumers and increasing numbers of small investors who, in the words of one industry official, are "stumbling pell-mell into this thing." In 1967, for example, there were 9 million contracts traded at the commodity exchanges. By 1972 this had nearly doubled to a total of 17.8 million trades.

Commodities analysts Charles Harlow and Richard Teweles of Los Angeles say the rush of small-time investors into buying such things as soybeans and pork belly futures "indicates a greediness on the part of people to make money fast; it indicates they have more money to spend and it indicates many people are dissatisfied with the relatively poor stock market results in recent years. If you win in commodities you can win big."

But Teweles and Harlow say their research indicates "the ordinary little guy who speculates loses about 98 per cent of the time."

Some of that risk is due to the complexity and volatility of commodities trading, but some of it—no one knows how much—may be caused by manipulations and other illegal market activities that are never caught. Herbert Sheidy, vice president of the Chicago Board of Trade, admits that "regulation of commodities is real primitive compared to regulations of the securities industry."

There are many illustrations of the close ties between the CEA, representing the public, and the commodity markets controlled by the professional traders:

Allegations that a group of grain traders had rigged the wheat futures market on the Kansas City Board of Trade, in order to drive up the government's subsidy payments to exporters at the time of last year's huge Russian wheat sale, were referred by the CEA to the board itself for action. The board's investigation committees, which are made up of influential board members, decided there was "no basis for complaint."

The commodity exchanges are permitted by the CEA to set their own membership standards (often costly and exclusive), and to adopt their own rules of operation. For years, the exchanges have set minimum commission fees to be charged by brokers who buy and sell commodities for customers. Brokers who tried to charge lower fees have been disciplined. Finally, in late 1971, the Justice Department filed an antitrust suit to break up the minimum fee setup. Caldwell, who had never initiated any such action on his own, admitted in a document filed with the court in the still-pending case that the minimum fees are not always related to the brokers' actual costs and that the public would be better off if they were abolished.

Exchange disciplinary committees, to which CEA regularly refers alleged violations, operate free of the most basic elements of due process that a defendant would be given in a court of law.

THE CARGILL CASE

When the CEA does move against offenders it often—especially in recent years—permits them to continue in business with only a light penalty. In an important case concluded less than a year ago, Cargill, Inc., one of the giants of the grain trade, was found guilty of an illegal "squeeze" of the 1963 wheat futures market in Chicago, which caused prices to rise to artificial levels. It took the CEA eight years to complete its case against Cargill and then it imposed only a meaningless two-year probation rather than a fine or suspension of trading privileges. A Cargill official, testifying before a congressional committee last fall, could not even remember whether the probation was still in force.

Caldwell admits the probation was, "in effect, no sanction," but blames it on former CEA judicial officer Thomas Flavin. But Flavin, now retired, indicates that he was expected to go easy on Cargill. He acted, he says, "with the knowledge that no Secretary of Agriculture has ever penalized a big trader by barring him from trading." Barring Cargill from trading "would have been worse than a $5 million fine," he says. Flavin is not even sure that the probation was a legally imposed penalty, but he notes that no one complained: "It is apparent that these companies won't come into court and challenge it by saying, 'You've been too soft on me. You should have put me out of business.' "

Ironically, the number of market manipulations alleged by the CEA has declined at the same time market volume was booming. In the 1960s, only six such cases were filed, compared with 14 in the previous decade. And the CEA's slowness in moving against price-rigging is typified by the alleged egg price manipulation.

Private suits by investors who were stung in the egg futures game were filed in the spring and fall of 1970, but it was two years later—October, 1972—before the CEA filed a complaint against a large food processing company and others, charging them with conspiring to inflate egg futures prices.

William Phelan, who heads the Department of Audits and Investigations at the 500-member Chicago Mercantile Exchange, says the alleged egg manipulation there went on for a year, and he estimates it raised the retail cost of eggs by a dime a dozen.

A Chicago lawyer familiar with the inside working of the Commodity market says: "A regulatory agency like the CEA should be able to move with lightning speed, but they drag the cases out and then impose a relatively meaningless punishment."

The need for swift enforcement increases as more small investors become fascinated with commodity trading and run the risk of losing money in the complexities of an unregulated market. For, as the federal circuit court stated in the Cargill ruling, "The methods and techniques of manipulation are limited only by the ingenuity of man."

[From the Des Moines Register, Mar. 19, 1973]

REVEAL CEA WAS WARNED IN OIL DEAL: "ADVANCE TIPS" IN DEANGELIS CASE

(By James Risser, George Anthan, and Clark Mollenhoff)

WASHINGTON, D.C.—A long-hidden government report shows that the U.S. Commodity Exchange Authority (CEA) had ample advance warning of wheat eventually turned into one of the biggest scandals in the history of commodity trading, but did virtually nothing to stop it.

CEA was given numerous tips, some of them from knowledgeable commodity traders, on the impending $150-million salad oil swindle by Anthony (Tino) DeAngelis, but took a hands-off attitude and "passively watched DeAngelis gain control of the soybean oil and cottonseed oil markets, the report charges.

NEEDLESS COLLAPSE

Had the CEA been more vigorous in its regulatory activities, the eventual collapse of the scheme and the severe financial damage that resulted to more than 50 banks and brokerage houses might have been avoided, it concludes.

The report was written in 1965 by Lester Condon, then inspector general of the U.S. Agriculture Department, but was never disclosed publicly. It became available for the first time last week after members of the House Appropriations Committee learned of its existence from a recent series of articles by The Des Moines Register, and forced its release.

However, the inspector general's report says "there were a number of positive actions CEA could have taken," including investigation of the tips, examination of DeAngelis' trading records, and warnings to the commodity exchanges that the bottom might fall out of the commodity markets.

The case demonstrated at that time, said the inspector general, "that generally CEA did not perform with maximum effectiveness its regulatory function . . . A conservative interpretation of the (commodity exchange) act has resulted in a passive rather than an active or aggressive approach to regulatory control."

A 1971 study by Condon's successor, Inspector General Nathaniel Kossack alleges that many of the same deficiencies still exist

in CEA's policing of commodity trading. That report too had been withheld and also was delivered to the house committee last week.

The 1965 study was aimed specifically at assessing CEA's performance in the case of DeAngelis, who finally went to federal prison after it was revealed that he had used fake warehouse receipts, representing non-existent stocks of salad oils, to obtain millions of dollars in loans.

DeAngelis' firm, the allied crude vegetable oil refining corp., went bankrupt after the scheme collapsed.

The inspector general's report says:

HAD REPORTS

"CEA files disclosed that since 1954 (repeat 1954) CEA had reports of numerous allegations and suspicions with regard to DeAngelis' transactions, such as price manipulation, wash (fictitious) and prearranged trades, unusual methods and volume of expit trading, failure to file reports and to notify CEA of controlled accounts.

"CEA conducted numerous fruitless investigations, increased market surveillance within CEA, and passively watched DeAngelis build up his holdings of long futures positions in 1963 to 98 per cent of the December cottonseed oil future and 92 per cent of all futures in cottonseed oil, and 39 per cent of total long positions in soybean oil."

One of CEA's responsibilities under the law is to prevent speculators from manipulating or cornering the market, in ways that artificially boost or depress prices of grains and livestock traded at the commodity exchanges. Domination by one firm in the trading of a particular commodity future is a common warning signal to the government investigators that something may be amiss.

In 1961, the inspector general revealed, the chairman of the directors of the Chicago Board of Trade "told the CEA compliance division director that he had numerous complaints that an 'oil man' was rigging the market" in soybeans, soybean oil and soybean meal.

But "no investigative file was opened on the matter" by CEA, and the agency's files do not show any efforts to learn the identity of the "oil man," to identify or interview the complaints, or to obtain details on how the rigging was being performed, the inspector general said.

About the same time, in March of 1961, says the report, the CEA's exchange supervisor at Chicago was specifically told by four persons "that the oil market was being rigged by DeAngelis, through the Commodity News Services (CNS)." The informants said DeAngelis owned 4,000 to 5,000 tanks of oil that were not correctly reflected in his publicly-stated market positions. Again, CEA did virtually no investigating, the report says.

In January, 1963, CEA received a written complaint that DeAngelis and another man were manipulating the soybean oil markets, but again no thorough checking was done by the agency, it continues.

An investigation of DeAngelis finally was begun in a limited way in mid-November, 1963, but concentrated mainly on determining whether there was a legally-definable manipulation or "corner," the inspector general says.

NO INTENTION

CEAs probe was "conducted with no real intention of ever using the information developed, and was stopped before sufficient facts were developed to determine whether a violation had occurred, the report says.

When the inspector general's office itself gave CEA eight documents that indicated dissemination of false information by DeAngelis and an attempt by him to deliberately affect futures market prices, the CEA did not pursue it but instead "rationalized that no manipulation occurred, the report says.

CEA had other warnings that DeAngelis should be watched, it continues. In 1955, New York City CEA officials found that in a space of two months DeAngelis failed 37 times to file required reports and in eight other cases filed "inaccurate reports, says the study. And at one point in 1963, the Chicago Board of Trade barred him from trading for 30 days because he had engaged in wash trading, but CEA took no action.

The agency was "remiss," the inspector general concluded. Had it investigated or denied him trading privileges at exchanges at that point, the false warehouse receipts might have come to light earlier as DeAngelis was forced to liquidate his outstanding futures contracts for salad oils, he said.

"The review of the CEA investigative files concerning DeAngelis disclosed that the material was in a state of confusion," the report says. "CEA is understaffed to the extent that necessary functions cannot be performed."

At the least, it says. CEA could have warned officials of the Chicago Board of Trade and the New York Produce Exchange that Allied's holdings in oil futures threatened to cause price disruptions. Had the agency pressed the issue. DeAngelis "would have feared exposure" and might have been forced to halt his activities, the report contends.

Caldwell has argued, as he did before the House committee only last Thursday, that CEA could do nothing in the DeAngelis case and that the use of money, obtained from false warehouse receipts, to buy future contracts was no violation of the Commodity Exchange Act.

But the inspector general's report disagrees: "The passing of false warehouse receipts, with the detection thereof, many of which presumably were used as the basis for hedging and establishing new futures contracts, would have resulted in charges of violation of section 4(C) of the act." (That section prohibits a number of illegal types of sales and false reporting of prices).

Subsequent investigations showed that DeAngelis concealed the ownership of certain commodity trading accounts and thus falsely reported his trading activities, the report notes. Also, the Allied firm's holdings did not constitute bona fide "hedging" contracts, it says.

The inspector general's report says that Caldwell, given a chance to review its contents, "expressed no disagreement with the facts" although he resisted some of its recommendations. One he opposed was that CEA's investigative function be turned over to the inspector general's staff.

Aside from the DeAngelis case, the 1965 report rapped Caldwell for reducing the number of CEA investigations of trading, for not seeking sufficient funds to hire enough skilled personnel, for suspending its regular audits of traders' records (audits which the inspector general said are "a prerequisite of effective regulation"), and for deferring market-wide surveys of trading operations.

"CEA's policy of selecting only certain complaints or allegations for investigation, because of limited manpower, has contributed in part to compliance responsibilities not being handled adequately," the inspector general said then.

"Some complaints and allegations of possible violations of the act were not investigated or even preliminarily pursued to determine the need for investigation. CEA did not always aggressively pursue investigations undertaken by attempting to obtain all pertinent facts. Consequently, some allegations remained unresolved as to whether violations of the act had occurred."

The agency failed to make sure it was getting accurate information from traders, and failed to refer criminal violations of the commodity exchange act to the department of justice, it added.

[From the Des Moines Register, Apr. 9, 1973]

CITE EARLY WARNING, RAP HANDLING OF EGG FUTURES

(By James Risser and George Anthan)

CHICAGO, ILL.—Worried officials of the Chicago Mercantile Exchange tried unsuccessfully in 1970 to convince federal regulators that egg futures trading at the exchange had been illegally manipulated for nearly a year.

They went to Washington, D.C., in September, 1970, and gave Alex C. Caldwell, administrator of the U.S. Commodity Exchange Authority (CEA), evidence showing that price-rigging had been occurring in the egg market continually since November, 1969.

But, more than two years elapsed before Caldwell filed a complaint against a group of egg traders. The CEA complaint alleged price manipulation on only one trading day, and Caldwell maintains that he knows of no other manipulations.

CEA's handling of the case is criticized sharply in a recently released government audit that accuses the agency of "inadequacy" in regulating commodity markets to prevent price manipulations that harm consumers, farmers, and commodity traders.

The audit, conducted by the Office of Inspector General (OIG) of the U.S. Agriculture Department, discloses a probable price-rigging in January, 1970, egg trading—some eight months earlier than the date cited in the complaint CEA eventually filed against Tyson Foods, Inc., of Springdale, Ark., and other defendants.

An unnamed official of the Chicago Mercantile Exchange told the OIG investigators that egg futures trading could be manipulated "at will," and the official was "critical of CEA inaction on cases in which manipulation was evident," the report says.

Caldwell refused to comment on any aspect of the OIG report when questioned about it last week. He would not say why his agency filed no charges regarding the manipulation of the January, 1970, egg futures trading suggested by the OIG report.

An investigation by The Des Moines Register in February found that price rigging of the egg futures market in Chicago in 1970 continued undetected for nearly a year and boosted the supermarket price of eggs by as much as 10 cents a dozen.

Caldwell, in a March 14 report to Assistant Agriculture Secretary Clayton Yeutter, denied a long-standing manipulation of the egg market and disputed the charge that retail egg prices had been affected.

"NO INDICATION"

Noting that CEA had filed charges against Tyson Foods for manipulating egg futures prices on Sept. 21, 1970, Caldwell told Yeutter "there is no indication that his manipulation occurred over a long period of time.

"Our very exhaustive investigation was able only to gather evidence showing manipulation on the final trading day" for September egg futures contracts, said Caldwell.

A few days later, a House appropriations subcommittee forced the release of the previousy secret OIG report that disputes Caldwell's handling of the egg investigation.

The report says the OIG investigators "found that several officials of the Chicago Mercantile Exchange visited the administrator (Caldwell) in Washington, in September, 1970. At that time, they presented CEA with evidence that they believed could be used to substantiate that the fresh shell egg futures had been manipulated every month since November, 1969."

One exchange official told the OIG later that members of United Egg Producers (UEP), who produce more than 55 per cent of the eggs in the U.S., "use the futures market for manipulation," the report says.

CONTROL CITED

Because nearly all the egg packers were "controlled by UEP," they "could manipulate

the futures market at will by refusing to make deliverable stocks available, or flooding the market with deliverable eggs, whichever was to their advantage," the exchange official said.

At that time, says the OIG report, the Business Conduct Committee of the Mercantile Exchange "had meetings nearly every month concerning fresh-shell egg futures operations."

But the CEA was taking no action, and when the Mercantile Exchange tried to head off manipulations by forcing traders to dispose of their overly large egg futures holdings, the exchange was "often threatened with lawsuits" by the traders, said OIG.

The report quotes CEA economists as being concerned generally about the possibility of price manipulation in egg futures trading, because of instability and other problems in the pricing of both cash egg sales and egg futures contracts.

The egg marketing situation is such that traders with warehoused eggs are able to "squeeze" both those holding contracts to buy future supplies of eggs and those holding contracts to sell egg futures, one economist said. Thus, egg prices could be artificially forced either up or down.

The OIG investigators undertook their own investigation of January, 1970, egg futures trading, and said if "disclosed factors indicative of manipulation," including price fluctuations and unusually high futures prices.

The CEA took no action with regard to the January, 1970, trading, except for what the OIG called "a belated analysis." No charges were filed by CEA.

William Phelan, director of audits and investigations for the Chicago Mercantile Exchange, in an interview in Chicago last week, indicated agreement with the OIG suggestions that the price manipulation continued over many months.

GIVEN ANALYSES

He said that as best he could recall, CEA officials in Washington were given analyses of the cash and futures prices for eggs, the total dealings in egg futures contracts, and the futures holdings of those suspected of perpetrating the manipulation.

Phelan said he made a number of visits to Washington on various matters in 1970 and did not specifically recall which exchange officials met with Caldwell at the time cited by the OIG. But he said he thought it was himself, Exchange President Everette B. Herris, and one or two other exchange officials.

Phelan said the fact that a group of persons from the same area of the U.S. had unusually heavy holdings in contracts to purchase egg futures was a tip-off of a probable price-rigging attempt.

Though he expressed agreement with the OIG about a continuing egg manipulation, Phelan refrained from criticizing CEA handling of the case and said CEA regional personnel in Chicago were helpful to him in the case.

He pointed out, however, that the CEA requires traders to report their egg futures holdings only if they number more than 25 contracts, while the Mercantile Exchange requires its own members to report holdings of more than five contracts in order to afford the exchange with better surveillance of trading activity.

REJECTS QUESTIONS

In Washington, Caldwell rejected all questions about the CEA's handling of the egg matter, by saying that he had offered his views to the OIG at the time it made recommendations for improvement of CEA regulatory activities.

Two private lawsuits, one charging manipulation of the March, 1970, egg futures trading, and another charging manipulation of September, 1970, egg futures, are pending in federal court in Chicago.

The lawsuits allege that the various defendants conspired to maintain "a false, fraudulent and inflated price in egg futures."

The two suits were filed in May and October, 1970. Despite the two cases and the investigation that resulted in the OIG report being issued in September, 1971, CEA did not move against any alleged manipulators until October, 1972. The CEA complaint is still pending.

[From the Des Moines Register, Apr. 25, 1973]

WINS COMMODITY-DEALER COURT BATTLE, CAN'T COLLECT

(By James Risser and George Anthan)

WASHINGTON, D.C.—U.S. Agriculture Department secrecy and lack of concern over a proven fraud have made it impossible for 75-year-old Bernhard Rosee to collect a $700,000 Illinois court judgment against commodity dealers at the Chicago Board of Trade.

Alex C. Caldwell, who, as administrator of the Commodity Exchange Authority (CEA), is the top government policeman over the commodity markets, and Henry H. Wilson, jr., president of the Chicago Board of Trade have refused to come to Rosee's aid.

WON CASE

When the elderly Austrian immigrant won his case last August, it apparently brought to a successful close his battle of more than a decade to prove that he had been defrauded of his license as a commodity trader at the Board of Trade.

But today, eight months later, he seems no closer to collecting his money or to resuming his profession. Appeals of the case seem likely to consume two or three years.

Rosee charges that the CEA, which has consistently refused to give him copies of agency records related to his case, is engaged in "an executive cover-up just like the Watergate case. They are trying to destroy me."

Such a strong statement might seem extreme were it not for the August ruling by Judge Nathan M. Cohen that offical records had been altered and hidden in order to thwart Rosee's bid for justice for 12 years. The Chicago Board of Trade hearing, at which Rosee was stripped of his board membership, was "a travesty," the judge declared.

Nevertheless, these are the positions taken by the exchange officials and government regulations involved.

Wilton, the president of the board of trade, said in a telephone interview Tuesday the exchange has taken no action to restore Rosee's membership and does not feel any obligation to examine the court's findings that the board hearing was a travesty. No disciplinary actions are contemplated against two board members whom the court found defrauded Rosee, he said.

Sam Gordon, who is now CEA's regional director at Kansas City, Mo., refuses all comment on his role in investigating the agency's Chicago office. All questions relating to the destruction of commodity trading records and CEA's refusal to aid Rosee in obtaining proof were referred by Gordon to Administrator Caldwell in Washington.

Caldwell, despite the strong language of Judge Cohen's decision, has reported to Assistant Agriculture Secretary Clayton Yeutter that after a thorough investigation, the CEA does not have evidence that would support a charge that Baggott and Morrison (the Chicago commodity brokers who were defendants in the case) defrauded Rosee."

Caldwell declined to reopen the CEA's investigation following Judge Cohen's ruling and insisted that "our actions in this case have been proper all along."

Citing possible "unwarranted invasions of privacy." Caldwell has continued his refusal to give Rosee government records that Rosee says would permit him to trace money which was allegedly taken from his account and put in other commodity trading accounts handled by the Baggot and Morrison firm.

Judge Cohen, noting that the CEA was not a defendant in the case, avoided any criticism of the agency's performance during a telephone interview with The Register. But he said, ""I have never known of any administrative agency that did not have the power to order production of records by anyone coming under its jurisdiction."

The judge said "records were suppressed secreted, and not made available" in the case. "The evidence satisfied me that the defendants had not dealt honestly with Rosee" he said.

Judge Cohen ordered the three defendants—Partners James E. Baggot, jr., and Donold W. Morrison, and their office manager Harris Haywood—to post bonds totaling $700,000 if they wished to appeal his decision.

BOND REDUCED

But an appellate court has reduced the bond to $100,000 per defendant and Baggot, now has filed an appeal Morrison and Haywood have not yet done so.

The complex case essentially revolves around the claim by the Baggot and Morrison firm that Rosee owed them substantial amounts of money which he had lost in buying and selling futures contracts in soybeans and other commodities in 1959.

Rosee said he actually was making money, but that funds had been taken from his account. At the same time, he said, other trading accounts, which showed deficits, had been charged to his name.

One of his major efforts has been to find out from either the Board of Trade or the CEA the ownership of all Baggot and Morrison accounts at the time—particularly a mysterious "account number 35," which Rosee claims was wrongfully assigned to him.

He also has demanded unsuccessfully to know who prepared certain records submitted to the courts by Baggot and Morrison and by the CEA, some of which appear to be false because they combine Baggot and Morrison's own "house" accounts with the accounts of their customers—a violation of federal regulations requiring that customers' accounts and a brokerage firm's own accounts be "segregated" and not mixed.

CUTTING PAGES

Rosee's board of trade membership was taken away in 1961 because of the alleged shortage in his account. In 1963, while Rosee and his lawyer were pursuing the records needed to prove their case, they caught office manager Haywood cutting onion-skin pages from commodity trading books which the law requires trading firms to keep. According to Rosee, the pages dealt with the firm's trading activities during the period crucial to his case.

Destruction of commodity trading records is a violation of federal law and Rosee and his lawyer say they reported the incident to the CEA's Chicago office.

But Gordon refuses to answer any questions as to whether he was informed of the removal of records from Baggot and Morrison account books.

And CEA Chief Caldwell in Washington contends he didn't hear of the incident until 1972, saying that by that time it was too late to take any action.

Melvin Brandt, Rosee's long-time lawyer, charged that the strategy of the defendants, the Board of Trade, and the CEA has been that Rosee may die before the case is finally settled. "But he's a stubborn guy," said Brandt. "He may outlive them all."

[From the Des Moines Register, May 15, 1973]

CEA DESTROYS KEY RECORDS IN FRAUD CASE—DATA WAS SOUGHT IN COMMODITY SUIT

(By George Anthan and James Risser)

WASHINGTON, D.C.—The U.S. Commodity Exchange Authority (CEA) has destroyed

key records long sought by a Chicago, Ill., man to prove he was defrauded by a firm of commission merchants and illegally deprived of his license as a commodity broker.

The records were destroyed by the CEA after their importance had been emphasized to the federal agency by an Illinois court and by a member of Congress.

The records had been sought by Bernhard Rosee, who last summer won a $700,000 Illinois court judgment against commodity dealers at the Chicago Board of Trade, after a decade-long legal battle.

APPEALS TO NIXON

Rosee, however, also has been deprived by the Board of Trade of his position as a commodity floor broker since 1961, and he contends the records would show this action was wrongful.

Officials at the CEAs office in Chicago have refused to discuss the destruction of the records, and Rosee now has appealed directly to the White House for help.

The CEA revealed in a letter to Rosee last fall that the records were destroyed on Dec. 15, 1971. There had been numerous requests for the records prior to that.

An Illinois superior court judge ruled in August that the Chicago brokerage firm of Baggot and Morrison defrauded Rosee of thousands of dollars at the same time that the firm was charging Rosee owed it large amounts of money.

The firm told the Chicago Board of Trade that Rosee was losing money in his commodity trading accounts, and the board removed Rosee from his trading seat and sold it to satisfy this debt.

Rosee contended that he had, in fact, been making money in his trading. He contended the Baggot and Morrison firm had taken money from his account and used it for its own purposes. He said only an examination of the accounts of all the customers of Baggot and Morrison would reveal what happened to his money.

The partners in the firm, James E. Baggot, jr., and Donald W. Morrison, under orders from the Circuit Court of Cook County, Ill., authorized the CEA to allow Rosee and his lawyers to inspect all records dealing with the firm's business.

The CEA, however, backed by top officials of the U.S. Department of Agriculture (USDA), refused to allow Rosee to see records except those relating directly to Baggot, Morrison, or to Rosee himself.

"NO HELP"

"They offered us only those records that wouldn't help us," said one of Rosee's lawyers, Melvin A. Brandt.

Rosee learned of the records' destruction after he had specifically requested that the CEA allow him to inspect 1960 reports outlining the specific trades purportedly made by customers of Baggot and Morrison.

He was hoping, Brandt said, to determine if any profitable commodity trades actually made by Rosee had been falsely listed by the firm as belonging to another account.

He subsequently was notified by Robert W. Clark, CEA director in Chicago: "These reports had been retained up to Dec. 15, 1971, when they were destroyed."

Clark contended in his letter that "there had been no request for these records up to that time," and that "they were destroyed as par of a periodic review for disposition of old records."

He said records already had "been held much longer than the regular retention period, which is five years."

But some 18 months before the CEA destroyed the records, Representative Kenneth Gray (Dem., Ill.) had requested that CEA Administrator Alex C. Caldwell turn the reports over to Rosee.

Gray, in a letter to Caldwell dated July 8, 1970, stated:

"Frankly, Mr. Caldwell, I am amazed at the attitude of the department concerning Mr. Rosee's request to see certain records that have a direct bearing on his business and his allegations that he has been frauded (sic) by certain persons."

The congressman continued, "I would think that the federal government and its agencies would be the last people to withhold information ordered by a court of law."

"ANY AND ALL"

Gray referred to the Illinois circuit court action under which Baggot and Morrison authorized Rosee to inspect "any and all" records.

Gray noted that the U.S. Commodity Exchange Act prohibits CEA employes from releasing personal financial records unless required by a court of competent jurisdiction.

He stated, "Mr. Caldwell, the Circuit Court of Cook County is certainly a court of competent jurisdiction, and the law explicitly does not provide for any exemptions for withholding certain reports while releasing others."

Later in 1970, Rosee actually met in Washington with CEA chief Caldwell and personally requested that the agency allow him to examine all records in the case.

Shortly after learning that the CEA had destroyed the records, Rosee asked in a letter: "Why did the government claim up to last week that the document that I had requested was privileged and suddenly they claim that these records were destroyed?"

Rosee has contended that CEA officials deliberately withheld information that would show he was not the owner of the money-losing accounts that bore his name in the Baggot and Morrison records.

Caldwell's decision to deny Rosee access to the records he was seeking was ratified in an April, 1971, letter to Rosee from former Assistant Agriculture Secretary Richard Lyng.

Lyng acknowledged that the department could make the records available unless such disclosure would adversely affect the national interest or "constitute an unwarranted invasion of privacy."

NO MOVE

But he stated, "Our conclusion is that disclosure would constitute an unwarranted invasion of privacy of the persons involved and that the identity of these customers should, therefore, not be released."

Rosee has been unable to collect the $700,000 judgment awarded him by Judge Nathan M. Cohen. Also, the Chicago Board of Trade has made no move to restore to him his seat as a commodity floor trader.

In desperation, Rosee on May 3 sent a telegram to President Nixon, telling him:

"Secretary of Agriculture Carl Butz and (CEA) Administrator Alex Caldwell are fully aware of the falsified and manipulated records furnished me, and I must call to your attention that Congress in 1936 set up the Commodity Exchange Authority to protect the public from being cheated and defrauded. Yet this very agency is now in the act of violating that public trust."

He continued, "In view of the fact that I am 75 years old, in ill health, and was forced to go on relief for six years because of the fraud perpetrated by the Commodity Exchange Authority in withholding the true records and supplying the court with false and manipulated records. I am now appealing to you to issue an executive order to the Commodity Exchange Authority to make all pertinent records available in order to enable me to recover the hundreds of thousands of dollars rightfully due me."

By Mr. INOUYE:

S. 2840. A bill to authorize the Secretary of Commerce to conduct a study of foreign direct and portfolio investments in the United States and for other purposes. Referred to the Committee on Commerce, by unanimous consent.

Mr. INOUYE. Mr. President, I am introducing today a bill to authorize and direct the Secretary of Commerce to undertake a study of foreign direct and portfolio activities in the United States.

Within the last year, the subject of foreign investment in the United States has come increasingly to the attention of American policymakers and the public. Foreign investment in the United States is actually an old phenomenon. Foreign, principally British, capital played a major role in the industrialization of the United States, and some foreign firms are so well established that many Americans think of them as native to this country.

Although foreign investment has a long and honored place in American business history, we are currently witnessing a new and important development in this area. Foreign direct investment in the United States this year will reach a record which could herald the beginning of a new and permanent trend in investment flows into our country. Whereas the United States has long been a net exporter of capital the gap between our direct investment abroad and foreign firms' expenditures here will narrow dramatically this year.

Foreign direct investment in the United States will be well over a billion dollars in 1973 versus a mere $160 million in 1972 and a negative figure in 1971. Furthermore, net foreign purchases of American equities were running at an annual rate of nearly $2.9 billion for the first half of 1973, a large increase over the previous year.

As of the end of 1972, the largest cumulative foreign direct investor in the United States was the United Kingdom with $4.6 billion. Following the United Kingdom were Canada with $3.6 billion, the Netherland with $2.3 billion, Switzerland with $1.6 billion, and Germany with $807 million. This pattern is gradually changing, however, since these figures represent accumulated investments and not current investment trends.

In 1972, the largest foreign direct investor was Japan, with $105 million. In 1973, Japan again is a major investor, closely following the United Kingdom, which invested $225 million through the first half. Japan is not alone, however, in increasing its direct investment in the United States, although most of the recent publicity has focused on its activities. Much of the reason for this attention is due to the fact that Japan constitutes a new and different source of funds, but its involvement in the United States is just part of the general phenomenon that we are currently witnessing.

The increase in the flow of funds is due to several factors. First, the evaluation of the dollar has made investment in the United States far more reasonable than it was before. In spite of the recent increase in the value of the dollar against other currencies, the two devaluations mean significantly cheaper costs to the foreign investor.

Moreover, along with a cheaper dollar,

foreign firms are able to tap large dollar holdings abroad to finance their expansion in the United States. Foreign corporations have gained in sophistication, size, and managerial abilities, so they are able to compete effectively everywhere. The fear of competing in the continental-sized American market has receded for most of these firms.

Closely allied to the devalued dollar as a cause for the new interest is the relative cheapness of acquiring an interest in an American firm. The precipitous decline of the stock markets has meant that many American corporations can be acquired at reasonable prices, possibly at a much more reasonable price than a comparable European or Japanese firm.

Fourth, the cost differential which made foreign operations cheaper has now either disappeared or narrowed substantially. Wages abroad have increased at a much faster rate than in the United States. Likewise, the inflation which both Japan and Western Europe have suffered in recent years has been worse than in the United States.

The result of these two trends plus the devaluations is that it is now cheaper in some instances to produce a product in the United States than it is to export from abroad.

Finally, foreign businessmen are mindful of the attempts by some Americans to insulate the domestic market from foreign competition. The resurgence of protectionism has raised the possibility that imports into the United States may be actively discouraged through high tariffs, quotas or nontariff trade barriers. The establishment or acquisition of local production units for many foreign firms may be part of a defensive strategy to forstall this possibility.

The jump of foreign direct investment in the United States raises many troubling questions, however, for which very few individuals have answers. Within the past year the American public has been aroused by investments which appeared to have threatening aspects to them.

My home State of Hawaii is a good example of what has occurred. In the short space of 3 or 4 years Japanese investors have poured between $200 to $300 million into Hawaii. Although this sum is not unduly large in comparison to the gross State product nor to the total assets in Hawaii, this investment has been concentrated in the tourism industry, which is Hawaii's most important industry. Japanese interest in Hawaii has also grossly inflated already high real estate prices to the point where very few Hawaiians can afford new housing. And to aggravate this situation further, Japanese businessmen have not handled their public relations well and have aggravated several local groups.

This same situation has apparently occurred in Alaska, which like Hawaii, has a relatively limited economic base. It may also occur in other States which, for special circumstances, prove to be particularly attractive to foreign investors.

In spite of the alarming press reports and local concerns, however, it is not clear at this moment what the United States response to this phenomenon should be. For example, both Hawaii and Alaska are capital short areas which need outside capital to develop their resources. Foreign direct investment may play a positive role in providing the financing required by industries located in these two States. Along with development can come more jobs and local prosperity.

Nevertheless, the fact of the matter is that we know very little about the impact of foreign direct and foreign portfolio investment in the United States. Department of Commerce and State efforts notwithstanding, we do not know whether the net effect of foreign direct investment in the United States has been beneficial or detrimental.

Only within the last year has there been a serious effort by competent, academically-oriented economists to study the impact of foreign direct investment in the United States. At the present time, the Council on International Economic Policy is coordinating an interagency task force to study foreign direct and foreign portfolio investment and to develop policy alternatives. On various campuses throughout the country, several academics are devoting more and more of their attention to this issue. Nevertheless, at the present time, the Congress simply does not have sufficient information on which to base decisions with regards to foreign direct investment. The CIEP interagency task force does not have the resources or time in which to come up with large amounts of new raw data and statistics. In the absence of adequate statistical information, I believe that the enactment of legislation by the Congress to restrict foreign direct investment would be premature. An erroneous decision at this time could have the effect of choking off new and badly needed funds as well as aggravating our international economic relations with our allies.

Before taking further action, the United States must have more and better information. Therefore, I am today introducing a bill to fill this information gap by authorizing and directing the Secretary of Commerce to initiate a new benchmark study on the effects of foreign direct and portfolio investment in the United States. I believe that this study will provide us with the data necessary to formulate a coherent national policy with respect to investment. In the absence of a national policy, we face the prospect of having a patchwork of localized responses with little or no attention to an issue which is national in scope and impact.

The bill being introduced today authorizes a 2-year study with an interim report to the Congress 1 year after enactment. The Secretary of Commerce will have broad authority to consider various issues including those specified by the bill, which are as follows: The nature, scope, magnitude, and rate of investment; reasons for investment; financing mechanisms and their effect on our financial markets; types of investment; impact on specific geographical areas and industries affected by a disproportionately high share of foreign investment; impact of foreign investment on our national security, energy resources, balance of payments and trade, international economic position, and various significant product markets; effects on labor; Federal, State, and local laws; and finally the relationship between the activities of American firms abroad and the activities of foreign firms in the United States.

Furthermore, the Secretary is directed to consult with other government agencies which have special expertise in their areas and with representatives of labor, and industry, with scientists, academic specialists, and consumer organizations and other groups or individuals which can contribute meaningfully to the study. He is further authorized to utilize private consultants—authority I would urge him to use to avoid criticisms of departmental policies and biases.

I wish to bring to the attention of my colleagues that over the Christmas recess, the Subcommittee on Foreign Commerce and Tourism, of which I am chairman, will be conducting field hearings in Honolulu on the subject of the impact of foreign investment in the United States, with particular reference to Hawaii. I hope that other Members of the Congress who are interested in this subject will feel free to contribute their thoughts for the record and in anticipation of further hearings on the subject.

Mr. President, I believe that the legislation being introduced today is a constructive and reasonable response to a development whose contours are yet unclear. It is conceivable and probable that the economic slowdown which faces the free world as a result of the energy crisis will sharply reduce the inflow of funds. If this stagnation in capital transactions occurs, this will actually be an ideal time in which to study the problem. This statement is necessarily short but covers my present thoughts on this subject. I shall be speaking out from time to time about this issue at greater length.

I urge the Congress to act expeditiously on this bill in order to have the study underway at the earliest possible date.

Mr. President, I ask unanimous consent that the bill I am introducing be referred to the Commerce Committee.

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

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

S. 2841. A bill to amend the Chesapeake and Ohio Canal Development Act so as to expand the boundaries of the Chesapeake and Ohio Canal National Historic Park to include certain lands within the areas from North Branch to Cumberland, Md. Referred to the Committee on Interior and Insular Affairs.

Mr. BEALL. Mr. President, I join today with my distinguished colleague from Maryland, Senator MATHIAS, in introducing legislation which would extend the boundaries of the Chesapeake and Ohio Canal National Historical Park from its current terminus at North Branch, Md., to its historical terminus, Cumberland, Md. Our legislation, which amends Public law 91–664, would complete an action the Congress began in 1971 with its creation of the C. & O. Canal Park, and I urge the Interior and Insular Affairs

Committee to give this proposal its quick action.

Mr. President, in 1971 Congress, after years of inaction, approved legislation establising the C. & O. Canal National Historical Park. Since its establishment, the canal has offered to thousands of people an unmatched opportunity for recreation, and a chance to relive one of our Nation's most historic eras. The Department of the Interior is still in the process of acquiring land as directed by Public Law 91–664, and I am confident that with the proper management and the appropriation of necessary funds, the C. & O. Canal can be one of our Nation's most valuable recreational sites in the coming years.

However, when the Congress was considering this legislation in the 91st Congress, it failed to complete its historical mandate. Our legislation today seeks to correct this situation. It would extend the boundaries of the C. & O. Canal National Historical Park from its present terminus near North Branch, Md., to the original canal terminus in Cumberland, Md. Additionally, the Secretary of the Interior is authorized to establish, operate, and maintain a visitors' center at or near the western terminus of the canal. It is our belief that this visitors' center will serve as a focal point for the recreational and historical uses of the canal, and give impetus to the development of the whole western Potomac River region.

Mr. President, our bill would authorize the Secretary to enlarge the boundaries of the C. & O. Canal along the North Branch to Cumberland so as to acquire 1,200 additional acres for the park. No more than 600 acres of such property would be acquired through fee simple proceedings with the remainder added to the park through the use of scenic easements. We believe this procedure would develop the park most suitably, while at the same time causing a minimum of disruption to private holdings along the canal.

However, I do want to emphasize the fact that since the C. & O. Canal is for the benefit of the public, the public ought to be the one to decide how this facility is developed. For that reason, we have avoided the inclusion of any specific boundaries in the legislation in hopes that the House and Senate Interior Committees would hold quick and thorough hearings on these proposals, in order to accurately ascertain the wishes of the public and of the National Park Service. Through these discussions, it is my belief that we can best serve the needs of the public and of the effected land owners in the area. It is not our intention to propose legislation which will answer all the needs of every affected party, but rather to begin initiatives that will lead to the extension of the canal along boundaries which are mutually acceptable to all.

Mr. President, I strongly urge the Interior and Insular Affairs Committee to give our proposal prompt and serious consideration. It is clear to me that we must extend the C. & O. Canal to its rightful terminus.

Mr. MATHIAS. Mr. President, I am pleased today to join my distinguished colleague from Maryland, Senator BEALL, in introducing an amendment to the Chesapeake and Ohio Canal Development Act of 1971. If enacted, this bill will complete a long and fruitful legislative process which has been undertaken to protect for present and future generations the unique natural and historical resources of the Potomac Valley and to fulfill its enormous recreational potential.

The Chesapeake and Ohio Canal is truly a landmark of our natural and manmade heritage. Built between 1828 and 1850, the 184-mile canal parallels the Potomac from the heart of Washington to Cumberland, Md. Until commercial operations ceased in 1924, the 76 canal locks raised the lowered barges some 600 feet between tidewater and the Alleghenies, following the historic pathway to the West.

At the groundbreaking for the canal in Georgetown on July 4, 1828, an occasion of great pomp and ceremony, President John Quincy Adams declared:

> The project contemplates a conquest over physical nature, such as has never yet been achieved by man. The wonders of the ancient world, the Pyramids of Egypt, the Colossus of Rhodes, the Temple of Ephesus, the Mausoleum of Artemis, the Wall of China, sink into insignificance before it—insignificance in the mass and momentum of human labor required for the execution—insignificance in the comparison of the purposes to be accomplished by the work when executed.

If President Adams may be excused for a touch of understandable overstatement, Mr. President, he cannot be accused of overestimating the lasting importance of the project which was about to be undertaken. Indeed, even today the canal is probably the finest relic of the impressive engineering feats of the Nation's canal-building era, with its sturdy locks, its arched masonry aqueducts, and the magnificent Paw Paw Tunnel of over 3,000 feet through a mountain. Equally important is the lively culture and colorful lore of the canallers, which survives in such towns as Williamsport and Oldtown, and is being rediscovered and preserved by area historians as a unique slice of our history.

For more than three decades in this century, however, from the end of commercial operations until the mid-1950's, the canal lay neglected, preserved primarily by the valley residents who have always been its staunch friends and caretakers. But during the past 15 or 20 years, the public has rediscovered the canal with energy and appreciation. Literally millions of hikers, bikers, campers, canoeists, sportsmen, and naturalists of all ages have used some segment of the canal.

When I first introduced C. & O. Canal Park legislation as a freshman in the House of Representatives, the value and importance of the canal were not widely known or understood. But 9 years later, after extensive studies and intensive discussion of the future of the valley, the breadth of demonstrated public interest and use made it possible for Congress to enact Public Law 91–664, authorizing the creation of the C. & O. Canal National Historical Park.

The law we enacted 3 years ago, Mr. President, formally recognized the great historical importance of the canal and went a long way toward creating a vehicle for its preservation and restoration. As finally passed, however, it did not encompass the entire length of the canal. The bill we are introducing today is designed to finish that job, by extending the boundaries of the canal the last 8 miles to its original terminus in Cumberland. The bill will authorize the Park Service to establish and operate a visitors center at or near the western terminus, to provide the millions of canal enthusiasts who visit this landmark with both conveniences and educational materials regarding the canal's rich history.

In concluding, Mr. President, I would simply like to pay tribute to the dedicated interest and efforts of the members of the C. & O. Canal National Historical Park Advisory Commission, which was created by Public Law 91–664 and whose members give freely of their time and energy to promote the preservation of the canal, and to the many other citizens and businesses in and around Cumberland whose continued cooperation, good faith, and support will be so necessary if we are to succeed in enacting this legislation to complete the job of preserving the full length of this unique historical resource.

By Mr. BENTSEN:

S. 2842. A bill to provide for the continuing availability of capital for economic growth and the creation of new jobs and to provide for greater competitiveness in our economy by amending the Internal Revenue Code of 1954 to impose limitations on institutions holdings of securities and to encourage individuals to invest in securities. Referred to the Committee on Finance.

STOCKHOLDERS INVESTMENT ACT OF 1973

Mr. BENTSEN. Mr. President, one of the foundations of our competitive, free enterprise system has been the existence of broad-based stock markets which serve as a source of capital for persons striving to go into business or to expand an existing business.

Our securities markets have provided the capital that enabled companies like IBM and Xerox—which at one time were very small—to grow, provide thousands of jobs, offer innovative and competitive products and make a major contribution to our economic expansion.

The maintenance of strong and viable capital markets is essential to the economic well-being of every single American.

However, over the past several years we have been witnessing some very disturbing trends in our securities markets—trends that have a major impact on our economy.

Mr. President, these trends are having an adverse impact on the level of competition in our economy, and also on the ability of our economy to create new jobs and to provide the vast amounts of capital needed to meet such pressing challenges as our energy crisis.

First, there has been an increasing dominance of our securities markets by large institutional investors. In 1963, 35 percent of the trading on the New York Stock Exchange was attributable to in-

stitutions. Today that figure is 70 percent—just double. The eight-man investment committee of the largest bank trust department—these eight men alone—manage $21 billion worth of common stocks.

Furthermore, institutional investments have become alarmingly concentrated in a small number of select stocks. As examples, one large bank trust department has invested more than 60 percent of its total common stocks in just 20 issues. Another bank trust has concentrated more than 20 percent of its discretionary stock market investments in just two issues. Still another has concentrated more than 15 percent of its discretionary stock market investments in just two issues.

Meanwhile, the number of individual stock investors, who are so essential to a healthy economy, has been declining. It is estimated that the number of individual shareholders in the United States has declined by as many as 800,000 since early 1972.

Our stock markets have exhibited other disturbing characteristics in recent years.

A decade ago, few of us would have thought that America's securities markets would one day be compared to a well known bird named Jonathan Livingston Seagull.

Yet one member of the investment community has said:

> If you want to understand the stock market, read Jonathan Livingston Seagull. It's all there. Just like the believers in high multiple stocks, Jonathan Livingston Seagull came to believe it was possible to fly as no gull ever had before. He schooled and disciplined himself to find ways to do it and he found them.

How similar to a small number of large institutional investors who came to believe that at one point the stock of a cosmetics firm was valued higher than the entire U.S. steel industry. The very actions of these institutions succeeded, at least for a while, in making these dreams come true—in short, a self-fulfilling prophecy, an act of will rather than a judgment value, just like Jonathan Livingston Seagull's.

Or compare today's institutional market activity to that old parlor game favorite, Monopoly. Once all of the pieces of property are taken up, there may be nobody to sell to, and the limited market on the Monopoly board loses its liquidity. The game ends. In the real investment world, we must assure that our capital markets maintain adequate liquidity—that there will always be a sufficient number of buyers and sellers—so that our markets will price securities in accordance with their true value.

To investigate these disturbing questions, the Subcommittee on Financial Markets, of which I am chairman, has conducted two series of public hearings at which a broad spectrum of witnesses presented their views. Their testimony clearly demonstrated the need for congressional action to reverse these dangerous trends.

As a result, I am today introducing tax legislation which would help reverse these trends by imposing reasonable limits on stock holdings of any single institution and by offering incentives to encourage individual investors to return to the market.

The problems our subcommittee is studying are very difficult and complex. There are no easy solutions. My proposed legislation will not provide all of the answers to the many problems plaguing our financial markets. Further study may produce additional remedies. However, I hope that the introduction of this bill, followed by additional subcommittee hearings early next year, will create a meaningful dialog among all interested parties and lead to constructive solutions.

This legislation is a followup to the comprehensive pension reform bill, S. 1179, that I introduced last March, which was favorably reported by the Senate Finance Committee in July. That bill was merged with the Labor Committee's pension bill and was approved by the full Senate in September.

The pension reform bill focused on the impact of our private pension system on the individual American worker and established minimum standards of vesting, funding, eligibility and termination insurance to insure that every worker receives his earned retirement benefits. The bill I am now introducing focuses on the enormous impact that the more than $150 billion of assets in private retirement plans has on our entire economy.

The tax legislation I am introducing today contains four major provisions.

First, pension plans would be required to comply with a new qualification for favorable tax treatment. Tax-exempt pension funds would be required to be placed in the hands of a pension manager—either an outside management like an insurance company or bank trust department or "in house" management—that complied with reasonable limitations on the amount of shares in any one company that could be acquired. Acquisitions in excess of this limitation would subject the manager to a penalty tax.

This provision is necessary to protect the more than 30 million private pension plan participants from excessive concentration of pension investments in only a few select securities and to encourage greater institutional interest in well-managed small and medium-size companies.

In addition, these limits would help prevent a small number of large institutional investors from achieving too much control over our economy.

Second, investments of 1 percent of the assets in any pension fund would be exempt from the "prudent man rule." This would facilitate the flow of a limited amount of pension investments to new or expanding companies which present greater than normal risks but offer the opportunity for greater than normal returns.

Third, a graduated capital gains tax would be enacted to decrease the capital gains rate for an asset as the holding period increased. This provision would help reduce the present "lock-in" of long-term assets and provide greater liquidity in our capital markets. A graduated capital gains rate would also encourage the risk-taking spirit in America which has been so important to economic growth.

Fourth, the amount of ordinary income against which capital losses may be deducted would be increased. This would also encourage greater individual investment in our markets and result in greater turnover of securities.

Mr. President, I would now like to discuss these provisions in greater detail.

DIVERSIFICATION REQUIREMENTS FOR PENSION MANAGERS

A very disturbing trend in our economy is the extent to which tens of billions of dollars of pension investments are being concentrated in a small number of select stocks. Extensive data presented to the Financial Markets Subcommittee clearly demonstrates the tendency of large institutions to invest enormous amounts of money in a very few issues.

To help curb this excessive concentration, I am today proposing an amendment to the Internal Revenue Code which would impose reasonable limitations on the amount of shares in any company that a pension manager can hold. Under this legislation, a pension plan could not receive favorable tax treatment unless the assets of the plan were placed with a pension manager who invested no more than 5 percent of his total discretionary pension assets in one equity security and, in addition, acquired no more than 10 percent of any equity security of any one company with respect to his aggregate discretionary pension assets. However, this limitation would not apply retroactively. Managers of pension accounts would not be forced to dispose of current stock holdings to meet these limitations.

A number of our Nation's largest bank trust departments recognize the wisdom of these limits and, in fact, have already adopted these limits on a voluntary basis. The purpose of putting these limits into law is simply to insure that all pension managers follow the example that some of the best banks have established on their own.

Decades ago Congress enacted tax incentives to encourage the growth of pension plans. Under current tax laws, qualified pension plans receive three tax benefits. First, employers are given a tax deduction for all contributions made to a qualified plan. Second, the investment earnings of assets in the plan are tax exempt. Third, employer contributions are not taxable to the employee at the time of contribution. Rather, the income tax is deferred until the money is actually distributed to the employee after his retirement—at which time he is usually in a much lower tax bracket.

Tax-qualified pension plans today receive an estimated tax subsidy of $4 billion annually. Inasmuch as the Federal Government encourages the creation of pension plans through our tax laws, these tax laws must include safeguards to prevent excessive concentration of pension investments.

Our tax laws already include investment limitations for foundations and mutual funds as well as pension plans. The Internal Revenue Service has had years of experience administering these tax restrictions, particularly with respect to the prohibited transactions and investments of pension assets.

For example, under present tax law, the assets of a tax-exempt pension fund may be used only for the exclusive benefit of the employees or their beneficiaries. Under IRS rulings, an investment generally complies with the "exclusive benefit" requirement if it meets the following standards: the cost of the investment does not exceed fair market value, a fair return commensurate with the prevailing rate is provided, sufficient liquidity is maintained to permit distributions, and the safeguards and diversity to which a prudent investor would adhere are present.

Tax restrictions on excessive concentration of pension investment would simply be an extension of existing tax rulings on diversity and liquidity for pension assets.

There is substantial precedent under both State and Federal law for limitations on the amount of stock in one company that an institutional investor can hold. Insurance companies are so limited in practically every State. Mutual funds are subject to holding limits established by Federal law. Yet no such limits apply to banks which are the largest institutional investors and also the biggest managers of pension assets.

Insurance statutes in almost every State impose limitations on the investments of insurance company assets. Although the rules and the percentages vary from State to State, many States restrict insurance companies from holding more than 10 percent of the outstanding stock of a company or from investing more than 5 percent of the insurance company's separate or general accounts in one stock. These percentages are often applied to all of the accounts of an insurance company, in the aggregate.

Under Federal law, diversified mutual funds are restricted from holding more than 10 percent of the outstanding shares of any company or from investing more than 5 percent of the assets of the mutual fund in one security—however, this limitation applies only to 75 percent of the total assets in a mutual fund.

There are five essential reasons for imposing these limitations:

First, the extent to which institutions concentrate their pension investments in a few select stocks raises disturbing questions with respect to the safety of the enormous amounts of pension money that these institutions manage. In testimony before our committee, one trust department argued that those of us who advocate limits on their holdings are ignoring their fiduciary responsibility for these funds. Quite the contrary. Prior to coming to the Senate, I was involved in the management of an insurance company, a mutual fund, and a savings and loan association, as well as several banks—all of which involved fiduciary relationships. It is precisely because of the fiduciary responsibility that limitations are needed.

Today more than 30 million Americans participate in our private retirement system. The retirement incomes of these Americans depend directly upon the safety of the pension investments. Excessive concentration of investments in only a few stocks jeopardizes the safety of these assets since a major decline in value of only two or three of these select stocks will substantially reduce the value of the pension assets.

This was dramatically illustrated by a recent antitrust decision against IBM. Some of our largest bank trust departments are concentrating close to 10 percent of their total assets in this stock which lost $5.5 billion in 2 days of trading. Another of our largest bank trust departments has concentrated more than 20 percent of the assets over which it has complete investment discretion in just two securities—IBM and Avon. Little do the pension plan participants, who depend on this bank to manage their pension funds, realize that their future retirement benefits are so closely tied to the fate of one cosmetics firm and one manufacturer of computers. A high degree of concentration in any stock severely limits the ability of the manager to protect individual accounts in the event the stock gets into serious trouble. A pension fund manager simply is in no position to protect his individual accounts through orderly selling if he has a large percentage of his total assets in a stock or if his assets represent a large percentage of the company's outstanding shares.

Second, limitations on the investments of pension managers will prevent a small number of large institutions from achieving too much control over our entire economy.

We must never allow our institutions to control American business to the extent that institutions control German business. One of Germany's banks owns 25 percent of no less than 20 nonfinancial companies. The largest German bank owns one-quarter of the country's largest shipping company. Even these impressive shares of direct ownership do not reflect the true power of German financial institutions. Some observers estimate that as much as 60 percent of German industry is now effectively controlled by banks.

The Financial Markets Subcommittee has obtained data indicating the frequency with which American institutions hold large portions of the outstanding shares of a company. Earlier this year, one bank trust department held more than 14 percent of the outstanding shares of Walt Disney, almost 12 percent of Schlumberger, and over 10 percent of Polaroid. The aggregate discretionary accounts of another large bank include more than 18 percent of one company, close to 18 percent of the outstanding shares of a second company, and over 10 percent of a third.

When a single institution owns more than 10 percent of a company, it no longer is just an investor—it is an owner. Continued institutional acquisition of large portions of American corporations will lead to too few individuals possessing too much economic control over the entire economy. Limitations on institutional holdings will halt this trend.

Third, limits on the stock that one pension manager can hold in one company will limit the money this manager can pour into the market to bolster the price of any particular stocks. This will limit the ability to create self-fulfilling prophecies. The ability of pension managers to channel billions of dollars of new pension money every year into a few select stocks can have a very distorting effect on our stock market and our economy. The Morgan Guaranty Trust Co. alone receives over $800 million of new pension money each year, and over 70 percent of Morgan's pension assets are invested in stocks. The committee has received reports of foreign institutions purchasing only those stocks found on a few New York banks' investment lists because they believed those stocks would be supported.

Fourth, holding limitations could help provide greater liquidity in the market. Thousands of individual investment decisions, occurring hour after hour, are necessary to allow our capital markets to price securities in a manner which reflects their true value and to provide the liquidity that has made our capital markets unique in the world. One of the factors that detracts from liquidity of the markets is the holding by a few institutions of a substantial amount of the stock of a limited number of companies.

Finally, these limitations on concentration will encourage greater institutional interest in the many well-managed, small- and medium-size companies that have strong historical earning records, good growth prospects, and whose current access to our Nation's capital markets is seriously limited. Diversification of pension investments into these smaller companies will substantially increase competition in our economy at the same time the diversity provides greater safety for the funds.

Under the legislation I am introducing today, no pension fund could qualify for favorable tax treatment unless the assets of the fund were placed in the hands of a manager who invests no more than 5 percent of its aggregate discretionary pension assets in just one equity security and, in addition, who acquires no more than 10 percent of any equity security of any one company with respect to the aggregate discretionary pension accounts.

If any manager of tax-exempt pension funds exceeds these limitations—for example, by purchasing an additional 1 percent of the total outstanding shares of a company in which it already holds 10 percent—a penalty tax equal to 5 percent of the excess holdings would be imposed on the manager by the Internal Revenue Service. Then if the manager fails to dispose of the excess holdings within a specified time period, IRS will impose an additional penalty tax of 100 percent of the excess.

Excess holdings that result exclusively from fluctuations in market values will not be subject to a penalty tax.

These limitations will not apply to investments in companies with a capital account of less than $25 million. To limit investments in small companies would discourage institutional investors from looking for opportunities among smaller companies. The institutional investor wants a position large enough to have a real effect upon the portfolio. In addition, the cost of analyzing a company

relative to the potential dollar investment must be recognized. By excluding smaller companies from these restrictions institutions would be encouraged to take the time to analyze the smaller companies.

In addition, the holding limitations would apply only to pension plans and not to profit-sharing plans.

Before drafting this legislation, I sent detailed questionnaires to the 25-largest bank trust departments. Their replies enabled me to select the most reasonable percentage limits for holdings.

Many of the leading bank trust officers, themselves, indicated that no more than 5 percent of the aggregate discretionary assets should be invested in any one security. It is estimated that as much as two-thirds of the aggregate discretionary assets of our Nation's leading bank trust departments are represented by pension assets.

One bank executive said:

In no case do we hold more than 5% of our aggregate discretionary accounts in one security . . . it would be unusual to make an initial investment in a security with a market value in excess of 5% of the value of a portfolio and I would be inclined to feel that this might be a prudent limit on an original investment. However, in the event that over a period of time, the value of the investment in relation to the size of the portfolio grows to a percentage in excess (possibly substantially in excess) of 5%, which is relatively common, I would be opposed to a policy that would require selling off a portion of a good investment for no other reason than to bring it within a percentage limitation.

Still another bank trust executive said:

While we do not have a limit on how much of aggregate discretionary accounts will be allowed in one security, in order to insure liquidity for the individual accounts we would prefer not to have significantly more than 5% in any one common stock.

Many of the Nation's leading banks said that it would not be prudent for a trust department to hold more than 10 percent of the outstanding shares of one company.

In fact, some banks have indicated that a bank should hold no more than 5 percent of a company's shares.

Last year, Mr. Thomas C. Theobald, of the First National City Bank, stated:

If we held more than 5 percent of a company's stock, we'd be concerned that we could become locked in. That 5 percent limit is our working rule for good market liquidity.

Another bank has stated:

In the event that our total trust department holdings approach 5 percent of the aggregate market value of the individual company's common shares outstanding, we review the company and the nature of our holdings quite closely to determine whether any further purchases should be allowed. Only in rare instances do we permit additional acquisitions, and in no cases do our purely discretionary holdings exceed this limit.

Another bank said that as a general rule, it does not want its aggregate discretionary holdings to represent more than 5 percent of a company's outstanding shares. This bank pointed out that if a trust department holds more than 10 percent of a company's outstanding shares, the comptroller of the currency will routinely raise questions of "appropriateness."

Some argue that holding limits cannot be applied to the aggregate holdings of bank trust departments since banks—unlike mutual funds—do not deal with a common pool of funds but instead deal with many different individual accounts which must be treated separately.

VENTURE CAPITAL FROM PENSION TRUSTS

The second major provision of my bill would facilitate the flow of institutional money to small and medium-size companies.

A great deal of the recent growth of institutional investments has been due to the inflow of private pension funds. The assets in private pension funds currently exceed $150 billion, and the figure is rising by over $14 billion a year, most of it invested in common stocks. This year the Senate enacted a major pension reform measure and this bill is expected to promote the additional flow of funds into professional management. Judging from past performance, most of it will go into bank trust departments.

The pension bill includes a "prudent man" rule which exposes the managers and trustees of pension plans to liability for losses resulting from unreasonable investments. Certainly, this is necessary to protect pension assets against highly risky investments but it could also have an undesirable effect. It might lead to even greater concentration of investments in companies which have been thoroughly analyzed and stamped with the approval of giant bank trust departments. Trustees will be very reluctant to reach out beyond successful, solid, well-researched companies toward those which are newer, attractive but less completely tried. Yet we must not forget that at one time IBM, Xerox, and Polaroid were new and untried companies.

Legislation is desirable to provide pension managers with leeway to invest 1 percent of the assets of any pension plan in companies with paid-in capital of less than $25 million. This would be an exemption from any prudent man rule for 1 percent of the pension assets. However, the "leeway clause" would in absolutely no way relieve fiduciaries from any prohibitions against self-dealing or fraudulent transactions. The "leeway clause" would relieve a fiduciary from liability only with respect to the riskiness of an investment. Nor would the "leeway clause" imply that investment in all companies of less than $25 million are high risk investment. Many are not. This provision would allow a limited amount of pension assets to be invested in a small company which presents a higher than normal risk but offers what might be a higher than normal return.

The exit of the individual investor from the market has denied new businesses a traditional source of equity capital. New businesses have had a particularly difficult time raising equity capital this year. New Issue Outlook, Inc., which publishes weekly reports of the new issue market, reports that in the first 10 months of 1973, only 96 initial offerings began trading compared to 491 in the comparable period of 1972.

Even if individual investments in the market increase, institutions should be given the opportunity to make greater investments in unseasoned companies so as to insure an adequate source of equity capital for good new business ventures. A "leeway clause" which allows the investment of a small portion of the assets of each pension plan in new issues of somewhat higher risk would help maintain a viable equity market for these new issues.

A leeway clause would be similar to the so-called basket clauses found in a great many State insurance laws.

Many States permit life insurance companies to invest a small portion of their assets in companies which otherwise would not qualify as acceptable investments. A leeway clause for pension funds would be an exemption from any State or Federal "prudent man rule." It would help assure a ready source of risk capital for the new Xerox and the new IBM. The vitality of capitalism in this country demands an easier flow of capital into good, growing concerns which may not yet be as big or as familiar to investors as the institutional favorites.

An exemption from the prudent man rule for only 1 percent of the assets of a pension trust would certainly not jeopardize the safety of the pension assets. The leeway clause applies only to 1 percent of the assets of a pension trust and investments in unseasoned companies can be very profitable.

GRADUATED CAPITAL GAINS TAX

Now let us turn to an equally important need: How do we get greater investment by individuals in the market? For the first time since 1952, when record-keeping began, we find a decline in the actual number of individual stockholders in the United States. Unfortunately, the decline of the individual investors active participation in the market has been going on for some time. The individual investor has been selling more than he has been purchasing for the last 10 years. That selling has been accelerating since 1967.

This decline is alarming because individuals contribute the great variety of opinions and judgments that make a free marketplace. It is the individual investor who has traditionally invested in the new and smaller companies, and the exit of the individual investor from the market poses some very serious problems.

If well-managed companies with good growth prospects cannot raise equity capital, these companies may have to sell out to ones that can raise money. The smaller companies will be confronted with the choice of merging voluntarily or becoming the target of a takeover. If smaller companies cannot raise the capital required to grow, and if new companies lack the capital to get started, how are we going to generate the employment opportunities we need to create in the years ahead? I think we can do it by reasonable incentives to encourage more individual investment in securities.

Encouraging new investment in the stock market is not only important to

investors and brokerage firms, it is important to the economic well-being of all Americans.

A healthy securities market not only provides the capital for new jobs, it makes it possible for new firms with new products to raise the capital necessary to get started.

The entry of new businesses and products into our economy is what has kept our system efficient and competitive. As one of the witnesses before our subcommittee testified, a healthy stock market, where millions of investors participate and provide the ready pools of capital for new ventures, is one of the very few economic advantages which our Nation has not exported.

But unless steps are taken to increase participation in that market by individuals, I am afraid we will lose that advantage as well.

The provisions of our tax laws have a tremendous impact upon the direction of investment in our Nation. And I believe it is essential that those provisions give adequate recognition to the importance of risk investment.

Our present tax provisions may have been adequate for our Nation's economic needs in the 1950's but they do not meet the needs of the 1970's.

Since the late fifties our economy's capital needs have increased dramatically. Yet during this same period the growing inflation bias of our economy has discouraged capital investment. And the higher interest rates which have accompanied that inflation have improved the return on fixed income investments relative to common stocks which involve far greater risk. Changes in our tax laws have further reduced the after-tax return on higher risk investments. I believe that it is important to all Americans that sufficient incentive be provided to insure a reasonable amount of risk taking—even if some of those Americans never take advantage of these provisions directly.

I am today proposing a graduated capital gains tax which would decrease the capital gains rate for an asset as the holding period increases.

A graduated capital gains rate would serve at least four major purposes.

First, it would reduce the so-called "lock-in" of assets held for a longer period of time and provide for a more efficient allocation of capital resources. Under our present tax laws, individuals are discouraged from selling securities that have been held for longer periods of time.

These persons would be much more prone to dispose of long-term assets if the rate of tax on the gain realized on the sale of these assets were less than it is today. If "locked-in" assets were sold, then, a great deal of additional tax revenue would be collected.

A graduated capital gains rate would help avoid tying an investor to investments that may not be the most suitable use of his resources. With millions of investors making tax decisions, rather than investment decisions, a substantial amount of available capital is being put to less than optimum use. We do not live in a static economy. The capital needs of different sectors of our economy change. One function of the stock market is to direct capital where it is needed most and thus earns the greatest return. The present tax provisions hinder the flow of that capital.

While the "locked-in" investors lose, the greater damage is to the U.S. economy, which is falling short of its potential at a time when it must use all of its resources to their fullest to respond adequately to the challenges ahead.

Second, a reduction in the "lock-in" would provide a greater liquidity in our capital markets which is so important to insuring that the price of stocks accurately reflects the value of the companies being bought and sold.

Relative stock prices play an important role in the allocation of capital in our economy. Valuations—reflected in stock prices—govern the allocation of resources that produce the millions of different products and services turned out by the American economy. Whether a company is able to issue new stock or obtain additional debt to finance a new expansion frequently depends upon what its stock is selling for. It is essential to the health of the company that its stock be accurately priced.

In order to achieve the most efficient evaluation of stock prices and hence the most efficient allocation of resources—the securities market must have a multiplicity of decisionmakers—a large number of individual as well as institutional buyers and sellers.

Third, a reduction in "lock-in" would aid individuals in providing for their retirement years. Many middle income Americans invest in "growth stocks" when their children are grown and they are in their late forties or fifties. By the time they reach retirement they would like to sell those stocks and invest in income-producing stocks. Under present law they can do so only at a substantial tax penalty. My proposal would allow them to transfer their assets without incurring such a significant loss in their savings.

Fourth, a graduated capital gains tax would encourage the risk-taking spirit in America. We must provide potential investors with the incentives to take the risks inherent in equity investing if our economy is to continue expanding to provide more jobs and opportunities and a larger tax base for our Government. Venture capital must be available so that new and promising companies can 10, 20, or 30 years from now become the "new IBM."

Let us look at an example.

Let us suppose that two individuals each have the same income. One spends his income. The other is the adventurer who, by investing in his own or someone else's business, takes risks for the benefit of the whole economy through the creation of new businesses or the expansion of existing ones. If tax laws do not differentiate between these two, an important force for the creation of jobs will have been lost.

Our Nation currently faces great new challenges. For example, in developing new sources of energy, in financing our housing needs, and overcoming environmental and transportation problems. These challenges will require a great deal more capital from a great many more people.

Under present law, the maximum capital gains rate is 35 percent without regard to the special minimum tax preference provisions or any other provisions. Under the legislation I am introducing today, this maximum rate would decrease annually during the holding period of an asset until the maximum rate was approximately 14 percent for assets held 15 years.

Capital losses would be provided comparable sliding-scale treatment over the holding period of the asset.

The present 6-month holding period for capital gains treatment would be extended to 12 months. This would be phased in by 1 month per year.

Enactment of a sliding-scale capital gains tax could very well result in a net revenue gain due to the revenue generated by the trading of "unlocked" assets.

For every billion dollars of gains unlocked, it has been estimated that as much as $200 million in new tax revenues might be gained. One analyst has estimated that there are $233 billion of unrealized capital gain in equities and that 90 percent of these assets have been held for more than 7 years. Another analyst put the figure at $558 billion. Unlocking even one-half of the $233 billion and taxing them at, say, a 20-percent rate would produce over $20 billion in revenues for the Government that it is unlikely to receive otherwise.

LIBERALIZED TAX TREATMENT OF CAPITAL LOSSES

A second tax proposal which I am including in my bill would liberalize the tax treatment of capital losses. Today, if an individual's capital losses exceed his capital gains, he can deduct up to $1,000 against his ordinary income each year. This has not changed since 1942, yet per capital disposable income has risen over 400 percent since then. Taking into account this increase in income, my proposal would allow $4,000 in capital losses to be deductible against ordinary income. This provision would, in effect, allow the same tax treatment the investor received in 1942.

However, prior to offsetting capital losses against ordinary income my proposal would require that the taxpayer carryback provision which is available gains which had been realized during the previous 3 years. This is the same carry back provision which is available to corporations.

The opportunities for reward on the stock market are balanced by the risk that values will decline as well as rise. From the point of view of the investor, realizing a loss on assets hurts just as much as a loss in business or a loss from casualty or theft. We need to encourage investors to take their losses and reinvest their remaining capital.

Mr. President, for the reasons I have outlined, a graduated capital gains tax and liberalized capital loss treatment would have a very positive effect on our economy and would be of substantial benefit to all Americans by the creation of new jobs.

INSTITUTIONAL DISCLOSURE

A related issue which requires prompt legislative attention is the need for greater disclosure of institutional holdings and transactions.

Although the legislation I am introducing today contains no provisions relating to disclosure, I will most certainly support legislation to require increased institutional disclosure of meaningful information. My bill only contains provisions that amend the Internal Revenue Code or closely related pension laws.

There is a clear need for increased disclosure of the activities of bank trust departments.

Since 1940, mutual funds have been required to disclose on a quarterly basis their substantial holdings and transactions. Under State statutes, insurance companies face similar requirements. However, the biggest institutional investors of them all—the bank trust departments with investments in tens of billions of dollars—are free from any public scrutiny.

Disclosure would serve two very important functions.

First, it would increase the confidence of the individual investor that the markets are not being manipulated. The importance of disclosure has perhaps been best expressed by the chairman of the board of the Morgan Guaranty Trust Co. who recently commented:

The resulting greater availability of information would enhance public understanding of, and confidence in, the investment mechanism.

It would contribute to the efficiency of the securities markets. And it would be a useful input to the formulation of public policy.

Second, disclosure would provide meaningful information necessary for the formulation of sound public policy so that Congress and Federal regulatory bodies can more effectively safeguard the public interest.

Mr. President, I ask unanimous consent that at this point in the RECORD a fact sheet describing my bill, and an article from Business Week magazine be printed in full.

There being no objection the fact sheet and article were ordered to be printed in the RECORD, as follows:

FACT SHEET: SENATOR LLOYD BENTSEN'S PROPOSED "STOCKHOLDERS INVESTMENT ACT OF 1973"

1. LIMITATIONS ON THE STOCK HOLDINGS OF PENSION MANAGERS

No pension fund could qualify for favorable tax treatment unless the assets of the fund were placed in the hands of a manager who invests no more than 5% of its aggregate discretionary pension assets in any one equity security and, in addition, who acquires no more than 10% of any equity security of any one company with respect to the aggregate discretionary pension accounts. This limitation would not apply retroactively. Managers of pension accounts would *not* be forced to dispose of current stock holdings to meet these limitations, but they could not acquire additional shares of any security in which the pension manager had reached the limitation.

If any manager of tax-exempt pension funds exceeds these limitations (for example, by purchasing an additional 1% of the total equity securities of a company in which it already holds 10%), a penalty tax equal to 5% of the excess holdings would be imposed on the manager by the Internal Revenue Service. In the event that the manager fails to dispose of the excess holdings within 180 days, IRS will impose an additional penalty of 100% of the excess on the manager.

Excess holdings that result exclusively from fluctuations in market values will not be subject to a penalty tax. These limitations will not apply to investments in companies with a capital account of less than $25 million. These limitations apply only to pension plans and not profit-sharing plans.

Limits on institutional holdings are necessary to protect the more than 30 million private pension plan participants from excessive concentration of pension investments in only a few select stocks and to encourage greater institutional interest in well-managed small and medium-size companies. In addition, these limits would help prevent a small number of large institutional investors from achieving too much control over our economy.

2. VENTURE CAPITAL PENSION FUNDS

Pension managers would be given leeway to invest 1% of the assets of any pension plan in companies with capital accounts of less than $25 million. This would be an exemption from any prudent man rule for 1% of the pension assets. However, the "leeway clause" would not relieve fiduciaries from and prohibitions against self-dealing or fraudulent transactions. The "leeway clause" would relieve a fiduciary from liability with respect to the risk of an investment.

This provision would facilitate the flow of pension investments to new and expanding smaller companies that are in great need of equity capital and which present a higher than normal risk but offer the possibility of a higher than normal return.

3. GRADUATED CAPITAL GAINS TAX

Under present law, the maximum capital gains rate is 35% without regard to the special minimum tax provisions or any other provision. This legislation would decrease the maximum rate annually over the holding period of a capital asset until the maximum rate was reduced to about 14% for assets held fifteen years. Capital losses would be provided comparable sliding-scale treatment over the holding period of the asset. The present six month holding period for capital gains treatment would be extended to twelve months. This would be phased in by one month per year.

This provision would help reduce the "lock-in" of long-term assets and provide greater liquidity in our capital markets. A graduated capital gains rate would also encourage the risk-taking spirit in America which has been so important to economic growth and the creation of new jobs.

4. LIBERALIZED CAPITAL LOSS TREATMENT

Today, if an individual's capital losses exceed his capital gains, he can deduct up to $1,000 against his ordinary income each year. This hasn't changed since 1942, yet per capital disposable income has risen over 400% since then. This bill would allow the individual to deduct up to $4,000 of capital losses against ordinary income. It would also allow a three-year carryback of capital losses against capital gains.

Liberalized loss treatment would encourage more risk investment which is so important in starting new businesses and creating new jobs. It would also encourage investors to take their losses, thus providing greater liquidity in our capital markets.

CAN U.S. INDUSTRY FIND THE MONEY IT NEEDS?

"A great deal of American capitalism will be dead," warns Senator Lloyd M. Bentsen, Jr. (D-Tex.), if institutional concentration in a few "religion" stocks eliminates the ability of U.S. markets to provide capital for thousands of other corporations.

As Bentsen's subcommittee on financial markets resumes hearings next week, it is clear that his concern is well founded. Institutional dominance of trading has combined with historically high interest rates to drive most individual investors out of the marketplace. Institutional concentration in a tiny handful of high-priced, high-visibility securities has driven most stocks down to historically low p/e ratios. Unable to raise new equity, companies are contracting ever-increasing interest costs that cut down their existing equity's attractiveness. Except for the benefit of a few famous institutional favorties, the equity markets have ceased to fulfill their primary purpose. Stock issues have effectively ceased. In just the first six months of 1973, more than 300 offerings were withdrawn as unsalable. The stream of equity capital to U.S. industry has run dry.

In the view of James M. Roche, until recently chief executive of General Motors Corp., such a situation could scarcely have come about at a less appropriate point in time. "In the next few years," he stated recently, "the American economy faces an unprecedented need for capital." The domestic oil industry, according to the economists at Chase Manhattan, will require some $200-billion by 1985. Power utilities will want about $70-billion in outside capital in just the next five years. Just one company, American Telephone & Telegraph Co., will, according to executive vice-president and treasurer John J. Scanlon, need $40-billion to $50-billion for itself and its subsidiaries in the next decade. And Stewart S. Cort, chairman of Bethlehem Steel Corp., says his industry needs $3-billion to $4-billion a year between now and 1980 to replace obsolete facilities, install pollution control equipment, and expand capacity by the additional 20-million to 25-million tons it expects to need.

"Our competitive free enterprise system," Roche emphasizes, "has succeded in large part because of the success of our capital-raising mechanism." When this mechanism falters, as it is faltering today, it rapidly affects thousands of American companies. They drop into debt. They cut back. They get taken over—sometimes by companies whose institutional sponsorship has provided or preserved a higher p/e multiple, and sometimes by foreigners.

THE DANGERS OF EQUITY SHORTAGE

If the short-term effect of the equity shortage is painful for individual American corporations, the long-term effect on the American economy could be agonizing.

This is why some thoughtful securities industry leaders see the Bentsen committee as among the most significant on Capitol Hill today. Whereas other important—and more celebrated—Congressional committees are considering problems vital to the securities industry, Bentsen is examining questions vital to all industry. Among them: the possibility he raises that "the current two-tier market system may be stimulating the takeover of U.S. companies by foreign entities," and "the effect of institutional investors on the ability of new or small and medium-size firms to acquire the capital they need to survive and compete with U.S. corporate giants and foreign producers."

Institutional dominance of the markets has, of course, impaired the equity-raising ability of many U.S. corporate giants too, unless they're lucky enough to be numbered among the institutions' "sacred cows." Donald T. Regan, chairman of Merrill Lynch, Pierce, Fenner & Smith, has noted that "it's just as essential, from an economic viewpoint, that an established corporation should be able to raise capital as that capital should be available to emerging companies." Other early witnesses before Bentsen's committee, which first met for three days in July, left no doubt of the urgency or the global nature of the problem. C. V. Wood, Jr., chairman of the Committee of Publicly Owned Companies (BW—June 2), asked: "Can small and me-

dium-sized—and even a large number of very big companies—survive? Can they have access to equity capital?" Wood's group now claims as members nearly 600 corporations, and he testified, "They feel keenly that they are being starved out of the capital markets."

Among his preliminary ideas, Bentsen told BUSINESS WEEK, he is leaning toward limitations on institutional holdings. Such legislation could have two highly desirable effects. On the one hand, a reduction of institutional concentration in a few stocks would eventually spread an enormous amount of wealth among hundreds of others. The top 10 U.S. banks alone have concentrated about $27-billion in just 10 sacred cows. This huge equity represents 3% of the value of all 2,700 stocks listed on both New York and American stock exchanges. At the same time, limitations on institutional concentration would do much to eliminate the violent sell-offs in fallen institutional favorites—the plunge by Levitz Furniture Corp. from $60 to $6 being a prime example—that have done so much to destroy individual investors' confidence in the market.

A restoration of such confidence, it is clear today, is essential if the market is to recommence its function as a provider of equity capital, a function it has ceased to perform (tables). Merrill Lynch's Regan, the first witness before Bentsen's committee, testified that the value of new industrial equity issues had tumbled from $4.8-billion in the first half of 1972 to $1.2-billion in the first half of 1973. And James W. Davant, chairman of Paine, Webber, Jackson & Curtis, says: "Whatever the situation in the first six months, you can bet it's a lot worse in the last three."

Last year Davant's firm brought to market eight companies offering stock to the public for the first time; this year, there was one. "The use of equity financings for emerging companies," says Davant, "has not just diminished; it's ceased." The figures bear him out. In July and August last year, according to *New Issue Outlook*, there were 78 new issues; in July and August this year, 7.

THE TREMORS ARE INDUSTRYWIDE

The result is grim for literally thousands of companies, large and small, established as well as emerging. The problems of Reliance Steel & Aluminum Co. (box) are typical of those plaguing medium-sized corporations in the sort of basic industries in which sophisticated financial institutions have lost interest. So are those of Franzia Winery, Stouffer Foods, and American Metal Climax.

Franzia, California's fifth-largest winery, has increased sales from $16-million two years ago to an estimated $30-million in fiscal 1973. Earnings, too, are expected to double the 1971 figure of $542,000. But when Franzia planned an equity offering to help finance 1973 capital expenditures of $2-million, "the market was a disaster," and the issue was abandoned. In its place came an acquisition offer from bibulous Coca Cola Bottling Co. of New York (BW–July 7), which also took over Mogen David wines in 1970. Like that institutional darling and more famous relative, "Coke" of Atlanta, Coca Cola of New York has managed to maintain the reasonably high multiple essential to takeovers.

Stouffer Foods also was taken over when a public share offering was seen as unlikely to produce a satisfactory price for its owners, Litton Industries. In its place, Litton accepted a bid from Switzerland's Nestlé, and ownership of the familiar household brand passed into foreign hands. So did much of the aluminum business of American Metal Climax, the fourth-largest U.S. fabricator of aluminum. Eager to expand capacity, but strapped for equity and burdened with a debt that had tripled since 1967, Amax (BW–Aug. 25) sold a half-interest in its aluminum operations to Japan's Mitsui for $125-million.

While a handful of banks (such as California's Security National) and famous retailers (such as Gimbel's) are among the U.S. corporations whose control has passed to foreigners since the establishment of the two-tier market, power over even more of them seems rapidly to be passing to creditors—particularly to bankers.

Reginald Jones, chairman of General Electric Co., recently fretted that the volume of corportae long-term debt issues had virtually "exploded," with debt-to-equity ratios for the S&P Industrials leaping from 26% to 41% in just 10 years. And Thomas I. Unterberg of Unterberg, Towbin, a New York investment firm with a respected record in the underwriting of smaller companies, answers the question of what happens to such companies when they cannot raise equity cash: "They merge. They reduce expansion. They pay the banks 1½% over prime, plus 20% compensating balances. They got out of business."

The list of companies forced by the two-tier market to cut back on expansion or fall back on their bankers would stretch from coast to coast—and from Florida to Minnesota.

In Miami last month, diversified Pershing Industries withdrew an offering of 200,000 shares at $7 a share and, says President Maurice Revitz: "This has caused us to approach any sort of expansion with a lot more caution." To acquire additional cars for Pershing's leasing division, he would have to pay "2% to 2½% over prime, which means the customer would pay $30 to $40 a month more for his car."

In Minneapolis, Wilson Learning Laboratories, manufacturers of video educational programs, had seen sales soar 90% last year and was seeking $1-million in equity to finance further expansion. Instead, they were obliged to turn to banks—"a hard route," says founder and chairman Larry Wilson, "because you never get as much money as you really need." Wilson emphasizes that "not getting the money from the stock offering has hurt. We are running from month to month, project to project—with a real cash flow crunch."

Among the young, thriving electronics companies in the San Francisco peninsula's "silicon valley," Advanced Memory Systems withdrew a 460,000 share offering in May, and added $2.5-million to its $6.5-million in short-term bank borrowings. Said a spokesman: "It would have been nice to sell those additional shares, rather than borrow more from the bank with interest rates so high."

In Fayetteville, N.C., the building business of American Classic Industries dropped a series of expansion and development projects when its public offering was withdrawn. Says Barry Barnard, vice-president for finance: "We've leveraged ourselves a little more highly than before. We are pretty much trapped between high interest rates and not being able to go public."

A bottling firm in Baltimore withdrew an offering of common stock intended to replace high-cost indebtedness. Instead, worries its treasurer, "our interest cost is bearing on our earnings." His lament points up a problem like an exposed nerve in a tooth cavity—a cavity which, left unfilled, could rapidly deteriorate into the general decay of profitability. As C. V. Wood told the Bentsen committee: "When we can't raise [equity] money for expansion, replacement of facilities, or pollution control, we have to go to the banks and saddle our companies with very high interest rates and fixed charges." Salomon Bros.' chief economist, Henry Kaufman, recently noted that bank loans to business had expanded, in the first seven months of this year, nearly four times as fast as even in 1969. The result of consistent debt financing, as GE's Jones makes clear, is to "exacerbate the compression of profit margins." Jones quotes statistics showing that in the early 1950s, nonfinancial corporations earned a pretax 23% on total capital. "Ten years ago it had dropped to about 18%, and in 1971 it was down to 13%."

LITTLE ROOM FOR OPTIMISM

With short-term interest rates at their historic highs, and long-term rates nearing them, there is no reason to suppose that this situation has improved since 1971. Nor are there grounds for optimism that it will—miraculously or otherwise—get better in the foreseeable future. In 1946, AAA bonds yielded an average 2.5%, but those days are gone forever. With an "inflation expectations component" (BW–Sept. 8) of 4% to 5% to be added to the "real" rate of interest of another 4% to 5% that is normal for a period of economic expansion, the cost of servicing debt can only bear down more heavily on corporate profits. Economist Kaufman warns that "Many corporations face refinancing requirements. There's $37.9-billion in corporate bonds maturing by 1985 that needs to be refunded.

In debt financing, as Paine Webber's Davant points out, "The government pays half." Interest, for corporations as for individuals, is deductible dollar for dollar against taxes, so its net effect on the earnings per share of most companies is only 50% of its actual cost. Furthermore, Davant says, "companies that borrow are expecting their return on new investment will be higher than their normal return." Take a steel company with $1-billion in debt outstanding and a return on investment of 8%. Suppose it borrows an additional $100-million. At 10%, its interest cost is $10-million. If it can make 12%—half as much again as its normal return—it can add $1-million post-tax to earnings. But if the economy goes into a recession, or even just a dip, and return on the new investment drops to the level of the old, it represents a drain of $1-million on post-tax earnings. Unfortunately, in practice, corporate results frequently fail to live up to corporate expectations. Speaking of the performance of the S&P Industrials in the five years from 1966–71, GE's Jones notes that "many a company didn't earn the equivalent of interest charges on newly added funds."

David Healy, vice-president and director of research at Drexel, Burnham, who has specialized in analysis of the steel industry, notes that steel's earnings coverage (of interest costs) got "really bad" at the beginning of this decade "because of deteriorating profits and increasing debt."

This combination, it should be noted, is what pushed the Penn Central into bankruptcy. On the eve of its collapse, moreover, the Penn Central was planning a further massive increase in its debt burden. But if added debt financing is undesirable for the majority of U.S. companies—and all evidence suggests that most of them should be decreasing rather than increasing their borrowings—where is the capital they need to come from?

This is the central problem confronting Bentsen and his committee, and it is a vital as well as a thorny one. Unless corporations can obtain large infusions of equity, they will be obliged either to stop expanding, or to expand via debt. In taking on more debt, at inevitably high interest cost, they increase what Healy calls the reverse leverage on their equity. Their expansion reduces, rather than improves, their per-share earnings—as does the necessity of refinancing old debt on which interest costs represented substantially less of an earnings drain. The "embedded" cost on AT&T's total debt has risen 1.15% since the beginning of this decade. This, Scanlon notes wryly, "costs us $250-million extra a year."

THREE SOURCES OF EQUITY CAPITAL

The high cost of new debt will trap most corporations in a tightening noose from

which they can escape only by selling off operations or going out of business—unless they can obtain equity, and obtain it soon. Apart from retained earnings, there are for U.S. corporations today essentially three sources of equity capital for plant and equipment: institutional investors, individual investors, and venture capitalists.

Of these, the richest and the most reluctant are the institutions. Largely because of the banks' traditional policy of concealing the scope and size of their holdings, there is much confusion as to exactly how much of American industry they now effectively control. It is a common practice of bankers to pooh-pooh the notion that institutions now dominate the markets. Thus Samuel R. Callaway, executive vice-president of Morgan Guaranty, cites SEC figures showing that, at the end of 1972, individuals owned 63% of all equities, and claimed this as "impressive evidence that the individual is not out of the market." SEC figures cited by another banker (C. Roderick O'Neil, executive vice-president of Manufacturers Hanover) show, however, that individual ownership at the end of 1971 had been 66.8%. The rapid decline, 3.8% in one year, appears to indicate that the individual is quitting the market in a hurry. In terms of dollars, the 3.8% shift means that individuals own some $40-billion less of the equity of U.S. corporations, and institutions own some $40-billion more—in one single year.

Furthermore, such figures do not by any means tell the whole story of the new institutional dominance. This was well illustrated when James J. Needham, chairman of the New York Stock Exchange, told the Bentsen committee that institutions owned approximately 30% of Big Board-listed equities by the end of 1972. But he emphasized that this figure specifically excluded the banks' personal trust holdings. He said that were these and other smaller institutional groups to be included, the figure would probably total 45%. Figures released last week by the FDIC reveal that just 300 U.S. banks control trust assets of $365-billion. Institutional holdings of equities now total half a trillion dollars, give or take a billion or two.

By restricting their sponsorship to what Needham calls an "ever-narrowing circle" of investments, the institutions have created a self-perpetuating downward spiral for other stocks. According to the Economic Report of the President for 1973, individuals have been selling more of their holdings of equities than they have bought since 1962—and the stocks they have been selling have been those not favored by the institutions. Since the institutions control the pension money that provides virtually the only fresh flow of funds into the market, there has been no way for these stocks to go but down. The result, as expresesd in Securities Industry Assn. (SIA) testimony before Bentsen: "When the valuation mechanism is distorted, the whole capital formation process—and the nation—suffers."

HERD PSYCHOLOGY AND STARVATION

While one product of the institutional philosophy of concentration (less politely known as "herd psychology") is equity undernourishment for nonglamour companies of any size, another is equity starvation for small and emerging companies of almost every type. Few big banks—and the top 20 U.S. banks control 48% of all America's trust and pension assets—will consider investments in companies capitalized at less than $5-million. Chalkley J. Hambleton, president of the Harris Trust & Savings Bank in Chicago, a forward-looking bank that is the nation's 12th largest in terms of trust assets, says that $5-million worth of stock in the hands of the public is the smallest situation in which Harris Trust would invest—"but we would much prefer a minimum of $50-million".

Morgan Guaranty is unquestionably the most progressive of the really big banks in its seeking out of smaller companies as potential investments: Whereas First National City Bank and Bankers Trust are invested in about 400 companies each, and Manufacturers Hanover in around 250, Morgan is invested in 569. Callaway told the Bentsen committee that the bank had established two funds: one specializing in "smaller companies, defined as those with market capitalizations of up to $100-million," and another specializing in "small to medium companies," which Morgan defines as from $100-million to $500-million. Although the bank invests, through the funds, in some 268 companies, Callaway allows that they do not represent a very large proportion of Morgan's equity investments. Of the bank's $21.4-billion in common stocks, well over $19-billion is in the shares of "larger" companies, those with capitalizations of more than $500-million. Moreover, Callaway says that "while I'm sure we have invested in companies with capitalizations of as little as $5-million, we'd have to be really interested to do so."

If institutions are limiting themselves to corporations worth $5-million—or, as in most cases, a great deal more—it is evident that equity capital for emerging companies is going to have to come from somewhere else. The same is true of nonglamour companies—that overwhelming majority of small, medium, and large companies whose industries just do not interest the institutions. The major potential source, because of his propensity to save 6% to 8% ($50-billion a year) of his disposable income, is the individual investor.

Just as Bentsen's prime concern in establishing his committee was the new institutional dominance of the markets, so one of his primary objectives is to bring the individual investor back. Several witnesses, however, raised questions about his absence. Morgan Guaranty's Callaway, as noted, questioned whether the individual had ever gone. And Merrill Lynch's Regan suggested that he might be coming back already. Regan pointed to the fact that Merrill Lynch is opening new accounts at "the highest rate in our history"—a sentiment echoed by Paine Webber's Davant and (with some exceptions) by brokers all over the U.S., in a survey conducted by Business Week.

One explanation was provided by Stan West, research director of the New York Exchange: "Given the well-publicized problems of the Street, a lot of shareholders may be switching to well-capitalized firms as a matter of self-protection. These people show up as new accounts at Merrill Lynch, even though they're not new shareowners. And when a firm like Reynolds takes over Courts in Atlanta, the people that go with Courts' registered representatives to Reynolds won't show up as new account openings. But, if Courts' R.R.s take them to Robinson-Humphrey (another Atlanta firm), they'll show up as new."

Just as consolidations produce new accounts for some firms without actually bringing new investors into the market, so do liquidations. The 48,000 investors who had accounts at Weis Securities will show up as new accounts somewhere, even if all they do is liquidate what is left of their holdings.

WHERE IS THE INDIVIDUAL?

In any case, however many accounts are opened, individual business in the equities market is off sharply. Through Aug. 10, business on the Amex—which is dominated more than 70% by individuals' trading—was off 32%, in relation to the same period last year; business on the Big Board—which is dominated to about the same extent by institutions—was by contrast off only 7%. If the individual was indeed coming back, he was doing so very slowly.

Furthermore, Business Week's survey showed that many erstwhile investors had grave doubts about coming back to the market at all:

Gary A. Daum, administrative vice-president of General Nutrition Corp., a Pittsburgh food supplements retailer, says: "I'm a gambler by instinct, and I still have a yearning to play the market. But not now. There's too much risk involved, because the worth of a company no longer determines the value of its stock. Stocks move to the pressures of big investors."

Other investors find the interest rates on fixed income securities too tempting for equities to appear attractive. Says Barry E. Tague, an investor who is vice-chairman of the Philadelphia-Baltimore-Washington Stock Exchange: "It's that time now when you should be content with 9% on your money, and go fishing for a while."

And others, of course, are indeed girding their loins and preparing to reenter the fray. For example, David W. Eaton, a Los Angeles management consultant, is anxious to get back—despite punishing losses in 1968–69: "I bought companies at $35 that are going for 7c," he says.

It is perhaps investors like Fred Torres, general sales manager of Cleveland's Woodhill Chemical Co., who represent the biggest challenge to the Bentsen committee. Torres says he has "definitely lost confidence in the stock market," and he has cut his investments to perhaps 20% of what they were a few years ago. For one thing, he has bought a house. For another, he has put some of the money into bonds. And he has been "shaken by what has been happening to the brokerage industry." Torres had money in an account with Dempsey-Tegeler, another brokerage firm that went under, and he says "I almost never did get that thing straightened out."

If many people feel as do Torres and most of the ex-investors in Business Week's sample, Bentsen faces a severe struggle to get them back in the equity market.

One additional difficulty in doing so is noted by former SEC chairman G. Bradford Cook. He feels that, in these days of increased Social Security and improved pension possibilities, many of the sort of people who once invested in the stock market to build up a nest egg no longer do so. Instead, feeling that their nest egg needs will be taken care of, and disillusioned by market gyrations and manipulations, they look to other outlets for spare money and savings. Among the most important, Cook suggests, may be second homes.

The present prospects for raising large amounts of fresh equity capital from these investors appear bleak. Indeed, these prospects appear downright forbidding when the third basic source of equity is also considered—for the venture capitalists are not able to provide more than a tiny percentage of what is needed.

No exact figure exists on how much the equity venture capitalists do provide, but the generally accepted figure is $100-million a year.

Obviously, this is a drop in the bucket of equity capital that U.S. companies require. Obviously, too, although some venture capitalists are now taking advantage of low p/e multiples to move in one relatively large businesses, they only invest, in principle, in a rather restrictive type of company: the type that can provide them, as Leroy W. Sinclair of Technimetrics says, "with at least 40% on their investment, compounded annually."

"STARTUP CAPITAL IS TIGHT"

Venture capitalists are now able to make investments on terms that attract them, says Stanley M. Rubel, who runs his own venture capital consulting firm in Chicago, "because a lot of companies are desperate for capital." Despite this demand, and despite the fact that as much money is available for venturing as ever, an anomalous situation has developed. "Startup capital is tight," Rubel

says. "More venture capital money is flowing into secondary financing, because venture capitalists are waiting to see how companies perform before they invest."

This impression is confirmed by venture capitalists themselves—such as Edgar F. Heizer, of Chicago's Heizer Co. Because of low multiples in the stock market, he says "start-up investors don't see their stock being tradeable for five or six years, and they're backing off from startup investing."

The multiples that venturists are looking for moreover are clearly very different from those being paid these days on most emerging companies. It is evident, too, that while there is equity ready, waiting, and to spare for a new Polaroid, an Itek, or a Digital Equipment, venture capitalists are not going to solve the equity problems of stodgier, more basic, less spectacular companies.

Here, in fact, is one of the most exasperating examples of the waste that is a byproduct of the two-tier market. Venture capitalists have plenty of money available for the right deal. Indeed, they are scrambing over each other to get into the deals that offer some prospect of venture capitalized returns. In the same way among the few established companies that qualify for institutional interest, there is no practical limit on the amount of equity available. This is, says Paine Webber's Davant, an effect of the institutionalization of savings. Says Davant: "Where decisions are made by a handful of money managers, instead of by a large number of individuals, only the institutional darlings are able to sell equity."

An excellent example is Digital Equipment. A "religion" stock as far as institutions are concerned, it recently sold 750,000 shares to bring in some $66-million. Digital's p/e was then 40, and it is interesting to note the primary object of its offering: the repayment of Digital's bank debt. By paying off the debt with capital obtained at 40 times its earnings, the company would be able to improve these earnings still further, thus, conceivably, justifying the institutions' putting an even loftier multiple on its stock.

THE EUROPEAN PATTERN

Digital Equipment illustrates another problem put by C. V. Wood to the Bentsen committee: "Will America follow the pattern of Europe—where the economy is controlled by a few great banking houses?" While the concept is utterly foreign to the U.S., it no longer appears altogether implausible. The economist Richard Scott-Ram says: "Unless we can get the stock market back on course, many companies won't be able to raise equity capital. The banks are going to be called on to provide most financing—just as they do in Germany."

As part of the "Universalbank" or total financial services concept that characterizes the German banking system, the banks there function as the only underwriters. They are heavy purchasers of the issues they sell, with the result that they maintain absolute authority over a large part of German industry. Bentsen says some observers estimate that 60% of German business is now effectively controlled by banks.

Woodrow Wilson noted in 1911 that, "The great monopoly in this country is the monopoly of money." The investment policies of banks are now preventing most companies from raising equity capital and obliging them to come back to their bankers for borrowings. One of Miami's leading bank officials says frankly that the kind of companies that generally go to the public for risk capital, and are currently stymied, now have to pay 2% to 2½% above prime for expansion money—plus compensating balances. At that rate, companies are effectively paying 14% to 16%.

Although few companies relish the idea of paying this sort of short-term interest cost, they may find the thought of locking themselves into today's levels of long-term interest rates even more distasteful. Economist Paul Markowski, a vice-president of Laidlaw-Coggeshall, reckons that any company with a credit rating lower than BAA would have to pay 10½% or more on long-term money today. This means in effect, that smaller companies, and those of medium or lower quality, have nowhere to turn but their banks. The reason is that public marketing of debt at 10½%, as the Penn Central discovered three years ago, is just not feasible.

As for private placements, volume in the first half of this year soared to an all-time high, with lenders expanding from the traditional small band of huge "life" companies to include more than a thousand varied institutions; among them are savings and loans, insurance companies of all sorts and sizes, and pension plans. However, the "letter stock" fiascos of 1969–70 have dulled institutional taste for private equity deals, and—with the exception of some convertible preferred—private placements now consist almost entirely of debt. In any case, as Markowski observes, smaller and non-blue chip companies find it extremely difficult to tap the institutions in the private market—"unless they're willing to give up control."

INTERNAL SOURCES ARE DRYING UP

This points up the crucial problem that is about to confront the management of almost every U.S. company outside the institutions' "favorite 50"—if indeed it is not already staring them in the face.

Corporate capital expenditures are now running at around $100-billion a year. Between now and 1985 (box), they are expected to total well over a trillion dollars in the last two years, corporations have been able to rely more heavily than usual on retained earnings, partly because profits have been so high, partly because—owing to dividend restrictions—they have been limited in the amount they could pay out to stockholders. Now this situation has changed in two key ways. First, shareholders are allowed higher dividends, and indications from Wall Street are that they are going to demand them. Second, as Salomon Bros.' Kaufman points out: "Corporate profits are going to come down, and internal cash generation is going to slow." For equity capital, in other words, corporations must look much more to external sources.

When they do, their welcome is likely to be more frigid than many of them would imagine in nightmares. Jim Davant stresses that many of the hundreds of equity offerings that have been withdrawn this year could have been sold—"if the managements had been willing to accept 5 or 10 times earnings, where they had been expecting 15." Economists confirm such gloomy predictions. Kaufman says: "It's a question of price. If companies have the earnings, they can probably get the equity money—if they're willing to pay the price." Scott-Ram feels most companies will be forced to sell equity at eight or nine times earnings, or less.

The question immediately arises, is this worth it? A. Gary Shilling, the chief economist of investment bankers White, Weld, points out that, already, the height of some companies' debt-equity ratios may force them to sell equity "at multiples they won't like." The electric utilities, says AT&T's Scanlon "are being obliged to sell equity at or below book value. They don't want to erode any further the interest coverage on their debt."

But for thousands of companies selling "below book," this option is hardly practicable. Tom Killefer, vice-president for finance at Chrysler Corp., whose stock is selling at $24 against a book value of nearly $50, says: "We just couldn't do an issue of equity in these circumstaces. It doesn't make sense, and the stockholders would never tolerate the dilution." Chrysler, happily, can finance expansion internally: but what happens to a less fortunate company—such as a steelmaker with less cash flow and a lower rate of return? "You have a heart-breaking decision," Killefer suggests. "You pay the money, or you put off your plans." W. B. Boyer, chairman of Republic Steel Corp., leaves little doubt of what his company's answer would be. "We're not interested in maintaining a share of industry," Boyer says. "We're interested in profits. If that means we have to contract the company, we'll do it."

QUESTIONS AND ANSWERS

Unless Bentsen and his committee can come up with some solutions to U.S. corporations' capital crunch, it is clear that choices and prospects for many of these companies are less than brilliant. Like Republic, they can cut down or cut back. They can go deeper into debt. They can, if their earnings are presently high enough, raise equity capital by selling stock at ridiculously low multiples—a process eventually as harmful, since it cuts down earnings per share, as an excessive reliance on debt.

There are basically four ways Bentsen can move to solve the problem:

1. By placing limits on the dominance of institutions. Almost everyone who has examined the question feels that some sort of action is essential. The exchanges agree. The SIA agrees. Don Regan agrees. Wood agrees, vehemently. Even some institutions agree by implication—since they say they self-impose certain limits, in theory, already.

Bentsen favors formalizing such limitations, to the extent of setting a limit on how much of a company any one institution can hold. He also favors the bill recently introduced by Senator Harrison A. Williams (D-N.J.), under which institutions would be obliged to stop concealing their holdings and their trading, through prompt, regular disclosure of both.

The advantages of such measures are evident. Surveys by the NYSE, and SIA, and Arthur D. Little, Inc., all reveal one fundamental reason for the individual's absence from the market. As GM's Roche puts it: "More than seven out of 10 believe the market is manipulated."

2. By encouraging both institutions and individuals to invest in "noninstitutional" stocks. Regan, who would like to see institutions make public all their transactions monthly or even weekly, says: "I can see no logical objection to the point that the new power of institutions puts on them a new responsibility to disclose quickly." Were they to do so, and were each institution to be limited to, say 3% of any company, the benefits to the market would certainly be at least twofold.

First, there would be a steady inflow of institutional cash into the stocks of hundreds of sound corporations that, despite steady and even startling earnings growth, have not benefited from this inflow, simply because they were not numbered among the institutions' favored few. Second, the fact that this process was taking place, and that because of disclosure it was seen to be taking place, would also encourage individuals to invest again. Some authorities, such as Charles F. O'Hay, senior vice-president and director of research at the Provident National Bank in Philadelphia, believe that the mere existence of the Bentsen committee and its leanings are exerting a healthy effect on securities prices. In the last few weeks, hundreds of low p/e stocks have advanced while a series of "superglamors" such as IBM, Avon, Merck, and Polaroid have hit or approached new 1973 lows. This at least suggests that the movement is under way.

Regan would also like to see a greater effort by the banks to assist the development of emerging companies. "They're the ones that can afford it," he says with emphasis.

But whatever the banks can be encouraged

to do, the main burden of financing emerging companies with equity will still fall on the individual. Nashville broker J. C. Bradford says: "The institutions always want the hot issues but are usually unwilling to buy the ordinary ones. I'd say 90% of an average issue goes to our retail customers." The Philadelphia firm of Suplee-Mosley, Inc., is typical of the underwriters who normally bring half a dozen new companies public each year, and who depend on the individual investor to do so. "This year," says Senior Vice-President William Z. Suplee III, "we'll be lucky to do one."

3. By increasing the market participation of individuals. Bentsen is leaning toward some sort of relief on tax treatment of gains—and everyone concerned with the health of the equity-raising markets seems to agree that it is essential, GE's Jones admits that this may be contrary to "the rhetoric loopholes" but stresses: "Our present tax structure has a vigorous bias against private saving and capital attraction." Equity would seem to demand some adjustment. Morgan Guaranty's Callaway makes the point that taxes put the individual investor at a considerable disadvantage in competition with the institutions, and Bentsen notes that the "indirect tax subsidy" from the Treasury to private pensions alone is estimated at $3-billion to $4-billion a year. Even on long-term capital gains, the SIA points out, the individual can wind up losing very nearly half of any profit when state and city taxes, and a basic federal tax rate, which now reaches 36½%, are factored into the whole equation.

Regan proposes replacing this with a sliding scale to provide a taxbite graduated according to the length of time an asset is held. His range: 30% after six months, descending to 10% after five to seven years. He makes the point that a large factor in most assets' appreciation is inflation, and he does not see why investors should be taxed on this unwanted ingredient of their profit.

SIA Chairman John C. Whitehead also proposes a sliding scale and demonstrates that the present level of capital gains taxation is actually keeping large amounts of revenue from the government. At least $200-billion of capital gains are "locked in," Whitehead explains. If just half of these were unlocked, and if they were taxed at 20%, they would produce a bonus of $20-billion for the Treasury. The market can also benefit: By their nature, holdings of high-flyers such as IBM and Xerox account for a preponderance of locked-in gains; were these gains to be unleashed, economists believe, a hefty proportion would gravitate into "value" securities with lower multiples.

In the view of Regan, Whitehead, and the NYSE's Needham, equity would seem to call for some revision of the tax treatment of losses, particularly if individuals are to invest again in the relatively high-risk situations represented by most emerging companies. Regan and Whitehead suggest, simply, that the tax treatment of losses should match that of gains. Needham proposes raising investors' loss deduction from its present $1,000 to $5,000. He also favors treating brokerage commissions as "investment expenses," deductible against ordinary income. Bentsen says he is "very sympathetic" to that idea.

4. By making foreigners and their surplus dollars more welcome. "Foreigners," says Merrill Lynch's Regan, "find it difficult to understand why we seem to want to make it hard for them to invest in our securities." One particular bugbear is the tax (generally 30%) the U.S. withholds from dividends and interest due foreign investors. Regan told the Bentsen committee that Merrill Lynch could sell an estimated 15% to 30% more U.S. common stock abroad if withholding were ended. He said: "There is lots of money out there looking for a happy home."

Indeed there is. John Scanlon spent last week with AT&T Chairman John D. deButts talking with investors in London, Paris, Zurich, Geneva, and Amsterdam. Says Scanlon: "There are those vast pools of dollars accumulated abroad, maybe $100-billion. I think it would be good to eliminate this [withholding tax] deterrent."

If foreigners can be encouraged to increase their investment, if individual U.S. investors' confidence can be repaired, much of the erstwhile robust health of America's capital-raising process may be restored. Most important, as Whitehead told the Bentsen committee: "Distortions caused by institutional dominance must be corrected if national markets are again to do their job of allocating resources, and attracting new capital to risk situations popular and unpopular, large and small."

Bentsen recently told BUSINESS WEEK: "We don't want a situation in this country like you have in Germany." As he said in the Senate: "Mr. President, unless changes are made in the current investment picture, I am concerned we will see many of our companies acquired by foreign interests, while those which retain U.S. ownership will be subject to the control of a few institutions."

John Whitehead, chairman, SIA: "Distortions caused by institutional dominance must be corrected, if national markets are again to do their job."

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

S. 2844. A bill to amend the Land and Water Conservation Fund Act, as amended, to provide for collection of special recreation use fees at additional campgrounds, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, I am sending to the desk for appropriate reference legislation designed to clarify the present controversy over the charging of use fees at parks and recreation areas.

Earlier this session, legislation was enacted to limit fees to specialized facilities—facilities beyond those minimal conveniences which a person would normally expect. That legislation has subsequently been interpreted to, in effect, prohibit any use fee charge.

This legislation, which I am introducing for myself and the distinguished Senator from Washington (Mr. JACKSON) would amend section 4 of the Land and Water Conservation Act. Specifically, section 4(a)(1) would be amended to clarify the extent of the Golden Eagle passport privileges and to use the term "permittee" rather than "bearer." In order to make the Golden Eagle more readily available, the section is also amended to enable them to be purchased at any area where they may be used.

Section 4(a)(4) is amended to make the Golden Eagle a lifetime pass rather than one which must be renewed annually. Since the only requirement for obtaining a Golden Eagle passport is that the recipient be 62 years or older, it seems unlikely that a person who once becomes eligible will ever cease to be eligible.

The central thrust of this bill, however, lies in the amendment to section 4(b) dealing with recreation use fees. Rather than attempting to list those facilities which must be provided before a fee may be charged, as was done earlier this year, the amendment lists those facilities, such as drinking water, for which no charge may be exacted.

In addition, several technical and perfecting amendments are included.

Mr. President, I deeply regret the necessity for this legislation. I think that the Solicitor's interpretation of Public Law 93–81 was unfortunate and I hope that this legislation will finally settle this question.

By Mr. NELSON:

S. 2845. A bill to amend the Federal Food, Drug, and Cosmetic Act in order to protect consumers against food additives which have mutagenic or teratogenic effects on man or animals. Referred to the Commitee on Labor and Public Welfare.

Mr. NELSON. Mr. President, the safety of many chemicals in our food supply continues to be challenged.

For this reason, I am introducing today a bill that will strengthen the Government's food additive protection capability, by requiring testing of additives prior to their approval to determine whether they cause birth defects or genetic damage. At present, there is no requirement for such testing prior to approval of food additives.

WHAT THE BILL DOES

This bill requires that applicants for Federal approval of food additives provide reports of tests conducted to determine whether the additives cause mutagenic or embryotoxic—teratogenic—effects when ingested by man or animal.

Such tests must utilize the most up-to-date methods available for such purposes, as determined by the HEW Secretary.

If an additive is found to cause either effect, the Secretary must make an affirmative decision, based on the recommendations of ad hoc advisory committees of experts, to allow the substance, if he finds that it would be more hazardous to the public health to deny use of the additive than to permit its use.

The bill sets up a system by which the Secretary must convene expert committees to review additives that are found to cause mutagenic or teratogenic effects; and requires that the Secretary publish his proposal for use of such additives in the Federal Register, if he determines to allow the additives in the food supply.

Within 6 months of the date of such notice, he must make his affirmative finding final, or the additive is not approved.

The Secretary is given authority to weigh the benefits of permitting the use of certain additives against the possible dangers to the public health and safety of such additives. The bill makes it clear that such determinations shall not affect the Delaney anticancer clause, which prohibits any substance in the food supply that causes cancer in man or animals.

Whenever the Secretary decides to allow an additive that has shown mutagenic or teratogenic effects, such a finding must be on the labeling of foods containing the additive.

The Secretary is required to report to Congress annually on the status of such additives, including justification for permitting their use, a review of current research activities being carried out with regard to such additives, and a review of

current research into possible alternatives to them.

The Secretary must also determine which additives currently in use, including those on the "generally recognized as safe" (GRAS) list, should be tested for mutagenic and teratogenic effects, and provide for such tests to be conducted, after which the Secretary must make affirmative findings as regards their continued use. Such a review must be made within 2 years after enactment, with an annual status report to Congress.

Mr. President, the Food and Drug Administration now lists some 3,000 food additives that have been approved for use in the food supply: Some 1,000 are used directly in food, and 2,000 contact food through packaging or other indirect means.

The 1958 food additives amendment to the Federal Food, Drug and Cosmetic Act defines a food additive as—

> Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use. (Section 201(s)).

According to the FDA, the United States probably approves the use of more kinds of food additives than any other nation. And, more are being developed and approved every year. In 1972, the FDA received 109 petitions for new uses of food additives; 77 were approved. In the first half of 1973, the FDA received 47 new petitions for food additives; 27 were approved.

Dr. Jean Mayer, professor of nutrition, Harvard University, and Chairman of the first White House Conference on Food, Nutrition and Health, 1970, has written:

> Many Americans see the extensive use of food additives as raising not only profound health and economic implications, but also general questions about the very nature of our civilization. (Foreword to "Eater's Digest," by Michael F. Jacobson.)

Any number of these additives are safe, economic to use, and make it possible for the proliferation of processed foods with a long shelf life.

However, many of these additives may be unnecessary and dangerous to our health, either on a short- or long-term basis.

An FDA opinion poll about the safety of food containing pesticides, added color, or preservatives, which was published in its magazine, FDA Consumer, June 1973, shows that between 1966 and 1972, consumers' belief in the safety of these chemical additives dropped dramatically. The poll is as follows:

OPINION ABOUT THE SAFETY OF FOOD CONTAINING PESTICIDES, ADDED COLOR, OR PRESERVATIVES IN 1966 AND 1972

Question: How do you feel about the safety of food which contains:

	Percent of respondents—					
	Pesticide residues		Added color		Preservatives	
Safety scale	1966	1972	1966	1972	1966	1972
Very safe	24	4	41	15	33	7
Not safe at all	8	20	9	12	7	18
Don't know	4	5	7	5	14	6

Source: "FDA Consumer", June 1973, p. 17.

The National Research Council's Committee on Food Protection recently reported:

> The preponderance of data concerning food additives confirms that they have been used safely, effectively, and to the benefit of consumers. . . . There is no evidence that consumption of foods in which these substances and regulated additives were properly used has endangered human health.
>
> Experience has amply demonstrated that chemical aids of this kind can be used safety and beneficially, but *it is imperative that competent, strong regulatory agencies and a public-spirited, ethical industry apply the measures necessary to ensure that they will be so used in the future. It should be pointed out that methods of detecting toxicity, especially long-term effects, have steadily improved and are likely to become more sensitive and reliable and that health safeguards will continue to require revision according to gains in knowledge.* (Emphasis added.)
>
> Source: "The Use of Chemicals in Food Production, Processing, Storage and Distribution," National Academy of Sciences, Committee on Food Protection, National Research Council, Washington, D.C., 1973, pp. 30–31.

Despite this conclusion, the fact is that strong evidence exists to contradict the NRC. Recent scientific studies and incidences dramatically illustrate that many widely used food additives may not be as safe as it has been believed.

These new scientific findings are the result of new techniques for detecting physiological and toxicological effects of chemicals on man and animals. The NRC agrees that, since "methods of detecting toxicity, especially long-term effects, have steadily improved and are likely to become more sensitive and reliable," it is necessary to continuously revise the data on which additives are judged safe.

Following are some examples of new scientific study results.

A team of San Francisco investigators, headed by Dr. Ben Feingold, of the Kaiser Foundation Hospital-Permanente Medical Group, found in a preliminary study that behavioral disturbances in children, such as hyperkinesia and learning difficulties, may be directly attributable to the ingestion of certain food additives. Reporting to the American Medical Association Section on allergy in July 1973, Dr. Feingold noted that a graph indicating the increase in dollar value for the production of artificial flavors and soft drinks parallels a graph for the increased incidence of hyperkinesia and learning difficulties among schoolchildren. Further study is necessary to confirm these findings, including to what extent food additives ingested by a mother during pregnancy affect an unborn child.

A Georgetown University study in Washington, D.C., in collaboration with the National Institutes of Health, shows that some chemical compounds used to preserve beverages and canned and frozen foods are harmful to human cells. The laboratory study of tissue cultures, conducted under the direction of Dr. T. Sreevalsan, associate professor of Microbiology, shows that antibacterial food additives, such as fatty acids and nitrites, inhibit cell growth, alter the shape of certain cells, and in some cases, destroy cells. Dr. Sreevalsan said, "Further study is necessary, but present evidence would urge caution in eating large quantities of food containing such additives." Mr. President, I ask unanimous consent that a release describing these findings be printed in the RECORD following these remarks.

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

(See exhibit 1.)

Mr. NELSON. Mr. President, the Joint FAO/WHO Expert Committee on Food Additives recommended recently that toxicological testing be carried out on tissue storage of macromolecular food additives. The recommendation is contained in the Committee's 17th report, which concludes that information on tissue storage of macromolecular materials is frequently lacking. For example, Carrageenan, a widely-used food additive, is stored in certain cells of rhesus monkeys for 6 months or longer, and the consequences of such long-term storage are not well understood, the expert committee said—Food Chemical News, November 12, 1973, page 12.

Two widely used preservative additives, BHA—butylated hydroxyanisole—and BHT—butylated hydroxytoluene—have been shown in a recent study to cause significant brain and behavioral changes. The offspring of pregnant mice, which were fed large quantities of BHA and BHT, suffered major changes in brain chemistry and showed abnormal behavioral patterns. As a result of recent tests in Britain, BHT has been banned and the use of BHA restricted. These two preservatives have been used for more than 20 years to replace the natural vitamin E—antioxidant—lost in processing. Drs. C. L. Scuffer and A. G. Karzmar and a team of Loyola University's Institute of Mind, Drugs, and Behavior, concluded in their study that BHA and BHT should be reevaluated.

BHA and BHT are on the FDA's generally recognized as safe (GRAS) list, meaning that they were given a blanket approval when the 1958 food additives law was enacted.

There are some 600 additives on the GRAS list, including saccharin, monosodium glutamate, nitrites and nitrates, all of which are now under review by the FDA, and some of which are being seriously challenged as to their safety. Cyclamates were on the GRAS list when they were banned from foods because of

evidence that they caused cancer. Diethylstilbestrol (DES), an animal feed additive hormone used as a fattener, was banned because of new evidence that residues left in meat could induce cancer.

If we are going to continue the widespread use of these chemicals and, in fact, increase their use, there must be carefully developed scientific evidence showing they are safe and necessary.

At present, the Federal Food, Drug, and Cosmetic Act requires only that additives be shown to be safe, but as we are finding, new scientific testing methods show many additives thought to be safe are not.

The law does not require an additive to be proven necessary, only to do what it purports to do, which, in fact, may be merely cosmetic.

A bill that I have introduced, the Food Protection Act of 1973 (S. 406), would require evidence that an additive is necessary prior to its approval for use.

Today, I am introducing a bill that would close another gap in the food additives law, relating to safety.

This bill requires that additives be tested prior to approval and use to determine whether they cause birth defects—teratogenesis—or genetic damage—mutagenesis—which may be passed on through generations with such results as hemophilia, cleft palate, mental retardation, Mongolism, and decreased resistance to disease.

New scientific evidence, such as described above, illustrates the need for such testing. The Environmental Protection Agency, in its booklet, "Health Effects of Environmental Pollution," page 19, says:

Numerous environmental pollutants are not only carcinogenic but teratogenic and mutagenic as well. Teratogens may cause monstrous deformities. Congenital defects account for 14 percent of all infant deaths and are the third most common explanation for death in the newborn. Many substances induce abnormalities in a fetus at levels below those needed to make the mother ill.

Mutagens result in transmissible changes which affect potential offspring. If a pollutant damages a cell while its capacity for division remains unimpaired, the result may be defects among future generations.

According to the National Foundation-March of Dimes, every year 250,000 American babies are born with such defects as mental retardation, blindness, and heart defects. The foundation estimates that 20 percent of all birth defects are hereditary; another 20 percent are thought to be caused by diseases of the mother, drugs, or radiation exposure; and the remaining 60 percent may be due to the interaction of heredity and environment—"Facts, 1974," National Foundation-March of Dimes, page 7.

FEASIBILITY OF TESTING

Under present law, no substance that is found to cause cancer in man or animal is permitted in the food supply. Thus, additives must be tested and shown to be noncancer causing before they are approved. Cancer screening tests have been developed and applied for a number of years.

Test methodologies for mutagenesis and teratogenesis are different from cancer tests, and the states of the art differ between mutagenic and teratogenic testing.

Geneticists developed practical methods of detecting chemical mutagens in the 1960's, which tests are feasible at a reasonable cost for screening large numbers of substances, such as food additives.

There are now three well-known methods for mutagenic testing.

These include: the dominant lethal test; the host-mediated assay; and the in vitro cytogenetic test. New research continuously leads to better test systems.

The National Cancer Institute and the National Institute for Environmental Health Sciences are now jointly undertaking an examination of some 85 substances known to cause cancer in animals to learn which ones also are mutagenic.

Testing for teratogenesis also has been developed, but is less far along than mutagenic test protocols. Nevertheless, the state of the art is sufficient for mass screening now, and is being refined by the National Institute of Environmental Health Sciences and the FDA.

FDA advises us that they can now test for teratogenesis on a feasible, short term screening basis, and that they will be able to regulate on the basis of such tests.

At the present time, FDA, as part of the GRAS list review, plans to test, under contract, 100 GRAS chemical compounds for mutagenesis.

The FDA also is conducting tests in-house. The Division of Toxicology in the FDA's Bureau of Foods is conducting tests to determine whether GRAS substances are toxic to the fetus or embryo as well as teratogenic.

A three-generation reproductive study is underway in-house at FDA, to study both teratogenesis and mutagenesis.

At the National Center for Toxicological Research, Pine Bluff, Ark., the FDA is conducting dose-response teratogenic studies with the herbicide 2,4,5-T, which will serve as a protocol for later work; and a mutagenesis program has been started under an interagency agreement with the Atomic Energy Commission using work performed at the Oak Ridge, Tenn., National Laboratory.

All of these activities indicate both the need and the feasibility for such screening.

DISCRETIONARY AUTHORITY

An important issue is how to relate animal tests to humans and human consumption. Teratogenic and mutagenic testing show that a number of substances have caused these reactions in animals. Subcutaneous injection of salt—sodium chloride—an excess of vitamin A administered orally; and zinc, an essential mineral, when injected intravenously, have all been found to be teratogenic in animal test systems.

A straight prohibition of substances found to be mutagenic or teratogenic, therefore, may not always be feasible or in the best interests of public health. Many essential foods and nutrients might be banned under such a prohibition.

For this reason, this bill provides for a system of evaluation and determination by the Secretary as to whether it is better for the public health to allow such substances into the food supply than not to.

NEED FOR TESTING

Virtually everyone agrees that testing for these reactions is necessary.

The need for such data has long been recognized as overdue by the scentific community.

William D. Ruckelshaus, while Administrator of the Environmental Protection Agency, told the American Society of Toxicology in Washington, D.C., March 9, 1971:

For the past several decades, we have been heedlessly introducing into our environment a multitude of chemical, biological and physical contaminants with very little idea of what we are doing to ourselves or other life forms with whom we share this planet. . .

We need to know more—far more—about what we are doing to ourselves and our planet, and to the fetuses of our unborn children, and to the genetic heritage of those children by the pervasive use of the chemical wonders of our age.

There are gross inadequacies in our knowledge of the properties of various agents in producing cancer or congenital anomalies or mutations. And yet, it is well-known that many chemicals have such properties.

The truth is that most of the pollutants of the environment which engage our concern today have never been evaluated in these terms. Yet, I am informed that recently developed techniques are available that offer practical procedures for routinely testing for the hazards of mutations, cancer induction, or fetal damage. The need for such routine testing is clear. Certainly we ought not to wait for tragedies like the thalidomide incident of the 60's before responding to the need. And surely it would be unconscionable—inconceivable, in fact—that we should wait for time to reveal harmful mutations before we try to search out and eliminate the chemical mutagents. ("Chemicals and the Future of Man," Hearings, Senate Subcommittee on Executive Reorganization, April 6–7, 1971, p. 65–68.)

Dr. Marvin S. Legator, former Chief, Cell Biology Branch, Division of Toxicology, FDA, now at Brown University, said in an address in 1970:

In the last 30 years there has been a dramatic increase in the number of environmental agents to which we are all exposed—food additives, pesticides, antibiotics, drugs, and industrial chemicals. Many of these biologically active agents are recent additions to our environment, not present 20 or 30 years ago; hence we are besieged with chemical compounds to which we have not become adapted through the normal process of natural selection . . .

In the past few years relevant methodologies have been developed to evaluate mutagenic agents in mammals.

Achievements of screening for mutagenic activity, and the predictive value of mutagenicity testing: The value of screening compounds for mutagenic activity has been dramatically illustrated in the last two years. Without systematic screening of chemicals for mutagenic activity, and with methodologies just recently developed, these studies have already played a significant role in characterizing the genetic hazards of widely used environmental agents. To draw upon examples from the research group at FDA alone, I can list the following:

1. Characterization of the naturally oc-

curring mycotoxin, aflatoxin, as a mutagenic agent;

2. Determination of the in vivo cytogenetic effects of cyclohexylamine, a metabolite of cyclamate;

3. Characterization of the widely used agricultural fungicide, Captan, as a mutagenic agent;

4. Induction of dominant lethal effects of the chlorinated hydrocarbon DDT.

Legator concluded:

It is unfortunate that in the area of public health safety we have only responded after some disaster such as the elixir of sulfanilamide catastrophe in 1935, or the thalidomide tragedy in the '60's. The routine evaluation of chemically induced mutations, proceeding in an orderly manner without the emotional pressure of an apparent catastrophe, represents a unique step forward in the field of safety evaluation. The continual involvement of geneticists in this area and in the general area of toxicology should be of great benefit to mankind. ("Chemicals and the Future of Man," Hearing, pp. 253–256.)

James F. Crow, Ph. D., professor of medical genetics, University of Wisconsin Medical School, in a report published following a 1966 conference on population hazards from induction of mutations by man-made chemicals, recorded the following conference summary:

There is reason to fear that some chemicals may constitute as important a risk as irradiation, and possibly a more serious one. Although knowledge of chemical mutagenesis in man is much less certain than that of radiation, a number of chemicals—some with widespread use—are known to induce genetic damage in some organisms. To consider only radiation hazards is to ignore what may be the submerged part of the iceberg. (J. F. Crow: Chemical Risk to Future Generations, Scientists and Citizens, June–July, 1968, pp. 113–117.)

In another report Crow stated:

The major effects of increased mutation rates would thus be less obvious and spread over many generations, and would include ill defined abnormalities, such as premature aging, and enhanced susceptibility to various diseases, notably leukemia and cancer, and alterations in sex ratios. (Crow, 1968: Report of the Advisory Panel of Mutagenicity, HEW, 1969.) (See Hearing, Food Additives, Senate Select Committee on Nutrition and Human Needs, Sept. 20, 1972, pp. 1265–66.)

Samuel Epstein, M.D., Swetland professor of environmental health and human ecology, Case Western Reserve Medical School, testified before the Senate Select Committee on Nutrition and Human Needs, September 20, 1972:

Carcinogenicity, mutagenicity and teratogenicity are unique and irreversible manifestations of chronic toxicity. No valid data exist indicating the existence of threshold levels for mutagens of teratogens, as indeed for carcinogens . . .

In spite of repeated recommendations of expert advisory groups—Genetic study section of the NIH, Crow Report, 1968; Report of the Advisory Panel on Mutagenicity, HEW, 1969; Report on the National Institute of Environmental Health Sciences Task Force, 1970; Report of the FDA Advisory Committee on Protocols for Safety Evaluation, 1970—that mutagenicity testing with currently available and practical methods be made mandatory or otherwise introduced into the standard armamentarium of toxicity testing, protocols for mutagenicity testing have still not yet been promulgated in the Federal Register, nor even have guidelines for such testing yet been published by the FDA. (Hearing, Food Additives, Senate Select Committee on Nutrition and Human Needs, Sept. 20, 1972.)

H. V. Malling, Biology Division, Oak Ridge, Tenn., National Laboratory, in 1970 wrote:

Are mutations mostly a problem for our progeny? Let us, for example, consider the present stage of births in the United States today. About one out of seven pregnacies fails to produce a living child. Approximately one-fourth of these spontaneous abortions are associated with chromosome abnormalities. More than one out of 50 babies have some other serious genetic abnormality. Most mutations, induced or spontaneous, give rise to individuals with less fitness. Furthermore, cancer is common and is a serious problem; and it is likely that a part of the tumors arise from induction of mutations. Background radiation exposure can only account for a small portion of the genetic damage induced.

Mutation can be induced both by radiation and chemical compounds, and the greatest majority of these mutations might be due to the latter. ("Chemicals and Future of Man," Hearing, pp. 257–266.)

It is clear that the scientific community has been concerned about the long-range effects of mutagenic and teratogenic substances for many years, and that governmental action to prevent such substances from endangering the public health is long overdue. This bill will correct that serious gap in governmental regulation regarding food additives that may be found to cause these deleterious and hazardous effects on the future of mankind.

Mr. President, I ask unanimous consent that an article from the Medical Tribune of July 25, 1937 be printed at this point in the RECORD.

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

[From the Medical Tribune, July 25, 1973]

FOOD ADDITIVES ARE LINKED TO CHILD BEHAVIOR PROBLEMS

NEW YORK.—Behavioral disturbances in children are probably the most important and most dramatic of all the adverse reactions attributable to food additives, a team of San Francisco investigators reported here.

The clinical pattern is chiefly that of hyperkinesia, which interferes with the child's attention span and is reflected in complete disruption at home and at school, Dr. Ben Feingold, of the Kaiser Foundation Hospital-Permanente Medical Group, told the Section on Allergy at the American Medical Association Convention. Their impaired attention span, he added, leads to learning difficulties, despite a normal or high I.Q.

These children, he said, are "baffling" pediatricians, pediatric neurologists, psychiatrists, psychologists, and educators in the field of hyperkinesia and learning difficulty. Many of them, he noted, are being treated with either methylphenidate or amphetamines.

"In our experience," Dr. Feingold reported, "we have successfully treated some of these children with the salicylate-free diet, which eliminates 80 per cent of the food additives, including the artificial flavors and colors."

He cited the case of a seven-year-old boy with a history of hyperkinesia of several years' duration. No therapy was successful, he said, until the child was put on a salicylate-free diet. After a few weeks the child became well adjusted both at home and at school.

Infractions of the diet, he emphasized, led almost immediately to a recurrence of the hyperkinetic behavior patterns.

"In view of our ability to relate this behavioral disturbance in children to food additives by 'turning on' and 'turning off' these adverse clinical responses," said Dr. Feingold, "we raise the following question: 'Is it possible to attribute the increase in hyperkinesis and learning difficulty . . . to the increased consumption of these chemicals in our foodstuffs?' "

He cited a California study estimating that in the past 10 to 12 years the incidence of hyperkinesia and learning difficulties rose from 2 per cent to an average of 20 to 25 per cent and, in some cases, 40 per cent of the entire school population. These figures, he said, have no relationship to socioeconomic background.

He noted further that a graph projected for the increase in dollar value for the production of artificial flavors and of soft drinks parallels a graph for the increased incidence of hyperkinesia and learning difficulties among schoolchildren in the United States for the past 10 years.

He described an average child's breakfast as follows: A cereal "loaded with nonessential flavors and colors added to entice the child. A beverage, either chocolate or other drinks, most of which are rich with many artificial flavors and colors. Pancakes made from a mix, frozen waffles dyed with tartrazine, or frozen French toast.

AT SCHOOL MORE OF SAME

"Then the conscientious and concerned mother" gives the child vitamins, usually chewable, which are also loaded with additives. "To cap the ironical situation, the child is given a dose of methylphenidate or amphetamine before he is off to school." At school, where "the same ritual is continued at lunch," the child receives hot dogs, luncheon meats, ice cream, and various beverages. "Is it any wonder that our children are jumping and failing to learn?" he asked.

He acknowledged that elimination of only the food additives is not always successful. In some cases, especially when an allergic constitution is suggested, he said, it is necessary to institute a dual program: (1) control of the allergy through environmental control and food restrictions and (2) the salicylate-free diet.

He emphasized the following note-worthy features of the clinical pattern: the behavioral disturbance occurs almost exclusively in boys; usually only one child in a family is affected; most of the children but not all have a history of an allergic diathesis; the children usually have a normal or high I.Q.; and a diet diary will reveal the ingestion of rather large quantities of food additives.

There is no explanation, said Dr. Feingold, for the observation that the behavioral disturbance occurs mostly in boys and usually in only one child in a family. These facts could serve as a clue, he remarked, for an investigation into the differences between children who do develop the adverse reaction and those who do not. "At present, however, we really do not know," he said.

Dr. Feingold raised still another question. "Do the additives ingested by the mother during pregnancy affect the unborn child?" He replied to this question by saying that, like drugs, "food additives are low molecular chemicals which can cross the placental barrier to have a pharmacological and developmental influence on the unborn child."

It is therefore conceivable, he said, "that the increased consumption of food additives by pregnant women is an important factor in causing untoward reactions in the fetus, which later in life are manifested as hyperkinesis and learning difficulties."

Coauthors were Drs. Donald F. German, Alice Friedman, Richard Braham, and Ellamae Simmons.

EXHIBIT 1

FOOD ADDITIVES STUDIED

WASHINGTON, D.C.—A Georgetown University study in collaboration with the National Institutes of Health shows that some chemical compounds used to preserve beverages and canned and frozen foods are found to be harmful to human cells.

The laboratory study showed that some food additives most commonly used to prevent food spoilage caused by bacteria and other microbes capable of producing disease, act just as strongly against human and animal cells as they do against bacteria.

In tissue culture studies the additives were shown to inhibit cell growth, to alter the shape of certain cells, and in some cases to destroy them. The chemicals did not selectively act only against the bacteria but also were anticell agents.

"Further study is necessary," said Dr. T. Sreevalsan, associate professor of microbiology at Georgetown University, "but present evidence would urge caution in eating large quantities of food containing such additives. There may be a mechanism whereby the stomach tissue in a whole organism is able to detoxify the compounds in humans but even in that case, ingesting too much might overload the mechanism and still pose a danger.

"Most antibacterial food additives are fatty acids that have not exhibited any gross animal or human toxicity at the concentrations at which they are currently used.

"Since these compounds, as well as nitrite, inhibit all human cells tested in this study at least as effectively as they inhibit bacteria, the large consumption of food containing such compounds may potentially interfere with the function of some human cells."

Similar considerations, he added, apply to extensively used drugs that are lipophilic (fatty) acids such as salicylates, e.g., aspirin. He noted the recent studies were done in tissue cultures and did not involve whole tissues or animals.

In the GU study, human liver and intestinal cells as well as chicken embryo cells were grown in tissue cultures in the laboratory. Food additives (lipophilic compounds and nitrite) were added to the cells. The effects of the compounds on the cells showed the following results:

Certain concentrations of these compounds inhibited cell growth while higher concentrations killed them.

Some of the compounds also induced a jagged cell shape in a number of cell lines.

Coinvestigators with Dr. Sreevalsan were Mr. E. Ginsburg and Mrs. D. Salomon, research assistants, Department of Microbiology, GU Schools of Medicine and Dentistry; and Dr. E. Freese, Laboratory of Molecular Biology, National Institute of Neurological Diseases and Stroke, National Institutes of Health.

The research was reported in a paper titled, "Growth Inhibition and Morphological Changes Caused by Lipophilic Acids in Mammalian Cells," in the Proceedings of the National Academy of Science, Aug. 1973.

The work was supported by a contract from the National Institute of Neurological Diseases and Stroke, National Institutes of Health.

By Mr. HART (for himself, Mr. MAGNUSON, Mr. CHILES, and Mr. EASTLAND):

S. 2846. A bill to protect the flow of interstate commerce from unreasonable damage to environmental health by assuring an adequate supply of chlorine and other chemicals and substances which are necessary for safe drinking water and for waste water treatment. Referred to the Committee on Commerce, by unanimous consent.

Mr. HART. Mr. President, today I introduce the Emergency Chlorine Allocation Act of 1973 along with the Senator from Washington (Mr. MAGNUSON), the Senator from North Carolina (Mr. ERVIN), the Senator from Florida (Mr. CHILES), and the Senator from Mississippi (Mr. EASTLAND).

The Safe Drinking Water Act of 1973, reported from the Commerce Committee and passed by the Senate on June 22 of this year, is still under consideration by the House Interstate and Foreign Commerce Committee. While the purpose of that bill is to establish a program within the Environmental Protection Agency to regulate drinking water, and is of prime importance, the chlorine shortage being faced by many municipalities which treat drinking water raises the possibility of health hazard of mammoth proportions.

Chlorine is an absolute necessity for water supply safety and water waste treatment. While chlorine for public health sanitation purposes demands only approximately 5 to 7 percent of the chlorine market, several municipalities have been unable to obtain chlorine supply contracts for 1974, for example in the States of Florida, Colorado, and California. Some cities have already been required to pump nontreated sewage into lakes and rivers due to the lack of chlorine for waste water treatment; and other cities have been down to a few hours supply of chlorine for the treatment of drinking water or waste water, including Detroit, Denver, and New York City. Increasing industrial demands for chlorine, lack of expansion of production facilities, and the high energy requirements of processing chlorine contribute to the chlorine shortage. The shortage would be most detrimental to our cities.

The bill we introduce today requires the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, to promulgate regulations establishing a mandatory allocation system for the distribution of chlorine used in the treatment of drinking water and waste water. Discretionary authority to allocate other essential chemicals and substances necessary for water treatment is also given to the Administrator. The allocations should give priority dispersal of chlorine to municipalities and water treatment facilities. If voluntary compliance with the regulations under this act cannot be obtained, the Administrator is authorized to issue orders to force compliance. Violators of the regulations or of compliance orders would be subject to a criminal penalty of up to $10,000 per day and up to 1 year imprisonment, or a civil penalty of up to $5,000 per day of violation.

Government personnel and chlorine producers predict that the chlorine shortage will be at its worst during the summer of 1974, and that production should increase sufficiently to meet demands thereafter; therefore the emergency chlorine allocation authority granted under this bill will terminate on June 30, 1975. To avoid risking a major health hazard, I urge my colleagues in the Senate to join me in supporting the Emergency Chlorine Allocation Act of 1973.

Mr. President, the nature of the emergency requires that the Congress take swift action. If we do not, there is a likely possibility that municipalities will have insufficient chlorine to treat drinking water early next spring. Therefore, it is imperative that the legislative process move quickly. It is my intention to hold hearings on this legislation very early in the next session of Congress. Hopefully the committee will approve the legislation soon thereafter. The Congress has demonstrated that it can act quickly when confronted with the energy emergency. Hopefully the Congress will move as quickly in dealing with this emergency.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at this point and that the bill be referred to the Committee on Commerce.

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

S. 2846

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

FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that

(1) there is a national shortage of chlorine for safe drinking water and waste water treatment purposes;

(2) this shortage has resulted in an uncertainty in the procurement of chlorine by municipalities and other persons;

(3) many municipalities may be forced to terminate chlorination due to this shortage; and

(4) the termination of such chlorination presents a real and substantial threat to the public health.

(b) It is the policy of the Congress to require priority dispersal of chlorine for the treatment of safe drinking water and waste water and to encourage priority dispersal of other chemicals and substances necessary for the treatment of safe drinking water and waste water.

DEFINITIONS

SEC. 102. (a) As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Municipality" means a city, town, borough, county, parish, district, or other public body created by or pursuant to State law and having jurisdiction over the supply of water to the public or to an Indian tribe or an authorized Indian tribe organization.

(3) "Person" includes a State or political subdivision thereof, municipality, corporation, partnership, association, private or public nonprofit institution, or an individual.

(4) "Chemicals" and "substances" means activated carbon, lime, ammonia, soda ash, or any other chemical or substance used in the treatment of drinking water or waste water.

(5) "Protect the public health and environment" means to protect against any unreasonable threat to human health or the environment resulting from the use or distribution of chlorine, chemicals, or substances.

(6) "Waste water" means any discharge from municipal, industrial or other sources into the natural waters of the United States.

(7) "State" means any state, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

ALLOCATION OF CHLORINE AND OTHER CHEMICALS AND SUBSTANCES

SEC. 103. (a) Within 30 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Commerce, shall promulgate regulations providing for mandatory allocation of chlorine from the processing of chlorine to its final use in amounts specified in such regulations to the extent necessary to protect the public health and environment. If necessary, the Administrator is authorized to promulgate regulations providing for mandatory allocation of other chemicals and substances used in the treatment of drinking water or waste water. The Administrator shall promulgate regulations for the allocation of other chemicals and substances only after he investigates the situation and determines that such chemicals or substances are in short supply and allocation of such chemicals or substances is necessary to protect the public health and environment.

(b) Any allocation under subsection (a) shall apply to all chlorine, chemicals or substances processed in the United States or imported into the United States at any time.

(c) Whenever the Administrator finds that any person does not comply with any regulation or priority established under this Act, he is authorized to issue an order enforcing compliance. Any order issued under this subsection shall be issued only after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code.

ALLOCATION PROCEDURE AND STANDARDS

SEC. 104. (a) The regulations and allocations under section 103 shall be promulgated pursuant to section 553 of Title 5, United States Code, except as provided in section 105.

(b) The Administrator is authorized, for the purpose of carrying out this Act, to hold hearings, to receive evidence, to administer oaths to witnesses appearing before him, to gather information from, to require reports from, and to inspect records and physical facilities during reasonable hours of any processor, distributor, importer, repackager or other provider of chlorine, or other chemical substance which may be allocated under section 103.

(c)(1) The Administrator is authorized to issue regulations, pursuant to section 103, for performance under existing contracts for the processing, distributing, repackaging or providing of chlorine or other chemical substance. Such regulations shall be designed to protect the public health and environment.

(2) Allocations, regulations, or performances under existing contracts under section 103 shall be equitably distributed to the extent possible among all processors, distributors, repackagers, other providers, or importers of chlorine or other chemical or substance.

(d) The Administrator shall consult with the Office of Preparedness of the General Services Administration, the Department of Commerce, and the Department of Health, Education and Welfare to determine the quantities and proper allocation of chlorine or chemicals or substances under section 103.

IMMINENT HAZARD

SEC. 105. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that shortages of chlorine, chemicals, or substances for treating drinking water or waste water will result in any unreasonable threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to impose allocations as is authorized under section 103 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 103 or 104 of this Act.

RESPONSIBILITY FOR ALLOCATION PROGRAM

SEC. 106. Within 30 days after the enactment of this Act, the Administrator, in consultation with the Secretary of Commerce, shall promulgate regulations delineating which functions under this Act shall be performed by the Environmental Protection Agency, the Office of Preparedness of the General Services Administration, the Department of Commerce, or the Department of Health, Education and Welfare.

SEC. 107. The Administrator in consultation with the Secretary of Commerce, shall prepare and submit to the Congress, within 30 days after the date of enactment of this Act, a report reviewing by state (1) the number of drinking water and waste water treatment facilities with projections for 1974 and 1975 on the minimum amount of chlorine and other chemicals and substances needed by type of use to preserve the public health and (2) the number and capacity of chlorine processors, distributors, importers, repackagers and other providers.

ENFORCEMENT

Criminal Penalty

SEC. 108. (a) Whoever willfully violates any regulation under this Act or willfully fails to comply with any order issued pursuant to section 103(c) shall be fined not more than $10,000 for each day of violation or failure to comply or imprisoned for not more than one year, or both.

Civil Penalties

(b)(1) Whoever violates any regulation or fails to comply with any order issued pursuant to this Act shall be subject to a civil penalty of not more than $5,000 for each day of violation or failure to comply.

(2) Whenever the Administrator believes that any person engages in or has reason to believe will engage in any act which the Administrator believes constitutes a violation of any order or regulation issued pursuant to this Act, he is authorized to petition the United States district court having jurisdiction to issue an injunction or temporary restraining order to enforce the provision of such order or regulation.

(c) The district courts of the United States shall have jurisdiction over violations under this Act.

CITIZEN CIVIL ACTIONS

SEC. 109(a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 103 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 15 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator of the regulation or order, or

(B) If the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: *Provided*, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a)(2) of this section prior to 15 days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this section involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

SEC. 110. (a) Except as specifically provided in this section, no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator shall establish such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by the Administrator. The meetings of such committees shall be open to the public.

(2) Any such committee shall consist of members, appointed by the Administrator, who shall represent the following interests: the chlorine or other chemicals and substances industry, including but not limited to processors, distributors, importers, repackagers and other providers.

The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting of such committees and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) Within 30 days after the date of enactment of this Act, the Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of processing, distributing, importing or repackaging of chlorine or other chemical or substance allocated under section 103 may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of Title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular fulltime Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of Title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of processing, distributing, importing or repackaging of chlorine or other chemical or substance allocated under section 103 that—

(1) Such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) Such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred; (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act.

(l) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

TERMINATION DATE

SEC. 111. The provisions of this Act shall terminate on June 30, 1975.

APPROPRIATIONS

SEC. 112. There are authorized to be appropriated such funds as are necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 1326

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

S. 1486

As the request of Mr. INOUYE, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 1486, to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes.

S. 2690

At the request of Mr. MUSKIE, the Senators from Utah (Mr. Moss), North Dakota (Mr. YOUNG), Connecticut (Mr. RIBICOFF), Florida (Mr. CHILES), South Dakota (Mr. ABOUREZK), Massachusetts (Mr. BROOKE), South Carolina (Mr. HOLLINGS), Missouri (Mr. EAGLETON), Michigan (Mr. HART), Illinois (Mr. STEVENSON), Rhode Island (Mr. PELL), Minnesota (Mr. HUMPHREY), Wyoming (Mr. MCGEE), Vermont (Mr. STAFFORD), Massachusetts (Mr. KENNEDY), New Jersey (Mr. WILLIAMS), West Virginia (Mr. RANDOLPH), South Dakota (Mr. MCGOVERN), Minnesota (Mr. MONDALE), Nevada (Mr. BIBLE), and New Mexico (Mr. DOMENICI) were added as cosponsors to S. 2690, to amend title XVIII of the Social Security Act to liberalize the conditions under which posthospital home health services may be provided under part A thereof, and home health services may be provided under part B thereof.

S. 2695

At the request of Mr. CHURCH, the Senators from Maine (Mr. MUSKIE), Utah

(Mr. Moss), North Dakota (Mr. YOUNG), Connecticut (Mr. RIBICOFF), Florida (Mr. CHILES), South Dakota (Mr. ABOUREZK), Massachusetts (Mr. BROOKE), South Carolina (Mr. HOLLINGS), Missouri (Mr. EAGLETON), Michigan (Mr. HART), Illinois (Mr. STEVENSON), Rhode Island (Mr. PELL), Minnesota (Mr. HUMPHREY), Wyoming (Mr. MCGEE), Vermont (Mr. STAFFORD), Massachusetts (Mr. KENNEDY), New Jersey (Mr. WILLIAMS), West Virginia (Mr. RANDOLPH), South Dakota (Mr. MCGOVERN), Minnesota (Mr. MONDALE), and Nevada (Mr. BIBLE) were added as cosponsors to S. 2695, to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies which will provide home health services.

S. 2747

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2747, to amend the Fair Labor Standards Act, providing for an increase in minimum wage rates.

S. 2789

At the request of Mr. INOUYE, the Senator from Montana (Mr. MANSFIELD), the Senator from New Jersey (Mr. CASE), and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of S. 2789, the Vietnam veterans GI bill.

NOTICE OF CATTLE FEEDING HEARINGS

Mr. CLARK. Mr. President, last week I met with a delegation of cattle feeders from Sioux County, Iowa. They had come here to tell a story that needs telling, and when they had finished, it was clear that those who minimize the possibility of more—and worse—fluctuations in meat prices are living in a world of fiction.

A survey last August indicated that there had been an 80 percent increase in net worth of cattle feedlot operations since the beginning of the year in western Iowa. Two months later, a similar survey of the same operations showed a 120 percent decline from the August level. In other words, 2 bad months have completely wiped out the gains of 9 months. Cattle feeders have suffered a 40 percent decline in prices over the last 90 days while watching retail beef prices drop just 3.5 percent. The situation has become desperate—with cattle feeders losing an average of $100 to $200 a head. Glenn Gregg of Haywarden, Iowa, perhaps summed it up best when he said:

> We've made four to five trips back to Washington to defend the price of beef. Now we're here to defend our very occupation.

This situation not only has caused great economic hardship for cattle feeders, but it will soon affect consumers as well. In Iowa alone, the replacement of cattle is down 20 to 30 percent, which virtually insures shortages of meat in the future and an accompanying jump in prices for the first and second quarters of the coming year. Unfortunately, the waves of price increases and decreases always seem to get bigger and bigger. The uncertainty caused by the beef freeze earlier this year—combined with the prices of corn rising steadily into the future, particularly because of the fertilizer shortage—has caused feeders justifiable concern. And it is very possible that many of them will turn to grain farming, where the future seems more certain, or simply get out of the cattle business.

That is why the Sioux County delegation came to Washington last week. They met with the Iowa delegation and the Midwest Democratic senatorial caucus. They talked to representatives of USDA, the Cost of Living Council, representatives of the large chain grocery stores, and consumer groups in an effort to tell their side of the story. And they make a compelling case for the need for strong, affirmative leadership to deal with this desperate situation before it gets worse—for feeders, bankers, consumers, and every other sector of our inflationary economy.

But before any solutions can be found, it is essential to locate the causes of the problem. The chairman of the Agriculture Committee (Mr. TALMADGE) has agreed to a 2-day schedule of hearings in January by the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices which will attempt to find those causes. The hearings will include testimony from every sector of the meat production cycle—ranging from the cattle feeder, to the order buyers, the packers, the retailers, and consumers. In addition to the Iowa congressional delegation, other members of the Senate Agriculture Committee and other interested Members of Congress have been invited and are expected to attend. The first day of hearings will take place on Wednesday, January 16 in Sioux Center, Iowa, and it will be followed the next day in Maquoketa. The hearings are tentatively scheduled to run from 9 a.m. to 3 p.m. Hopefully, the information presented at these hearings will provide the basis for positive, long-range solutions to this urgent problem.

NOTICE OF HEARINGS ON BIG THICKET NATIONAL PRESERVE

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that the Parks and Recreation Subcommittee of the Senate Interior and Insular Affairs Committee, will hold public hearings on February 5 and 6, 1974, at 10 a.m. in room 3110, Dirksen Senate Office Building, on S. 11546, a bill to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes; on February 7, the Parks and Recreation Subcommittee will hold an open public hearing on S. 2844, a bill which I have introduced today, to amend the Land and Water Conservation Fund Act, as amended, to provide for collection of special recreation use fees at additional campgrounds, and for other purposes, in room 3110, Dirksen Senate Office Building, at 10 a.m. Anyone who wishes to testify at these hearings should notify the staff of the Senate Interior and Insular Affairs Committee.

NOTICE OF HEARINGS ON CONGRESS AND MASS COMMUNICATIONS

Mr. METCALF. Mr. President, the Joint Committee on Congressional Operations, which I chair in this Congress, will open public hearings on February 20, 1974, on the general subject of Congress and mass communications.

During these hearings we will examine the growing imbalance between the capabilities of the Congress and the Executive to reach the American people through the mass communications media. We will invite opinions from many sources on how Congress, as an institution, can more effectively communicate the meaning of its constitutional role and daily activities.

Among others one question that will be asked is the advisability of opening Senate and House Chambers to coverage by the broadcast media. We expect to receive testimony from witnesses from State legislatures which have established procedures for coverage by television and radio, as well as from the United Nations and other nations which have opened their national legislatures or parliaments to broadcast coverage. We also hope, of course, that Senators and House Members who have been interested in this subject will be willing to give us the benefit of their advice and judgments.

Additionally, these joint committee hearings will examine such questions as the opportunities for congressional spokesmen to present their views directly to the people on network television and radio, the facilities and staff Congress may require for working with the news media, and the kind of informational services available to assist citizens in understanding the role of Congress in our governmental system.

The importance of these and related questions was pointed up in results of the survey reported recently by the Subcommittee on Intergovernmental Relations of the Committee on Government Operations: First, the survey found that many Americans do not clearly understand the operations of their Federal Government and that this lack of understanding is a contributing factor in their growing loss of confidence in government and public officials. Second, the survey results indicated a definite interest among citizens in learning more about their government.

And perhaps most significantly, in the context of our forthcoming hearings, the survey report concluded that, "Public officials are trying hard to reach their constituents—through personal contacts, open office doors, speeches and newsletters. But it is evident that these channels have not been adequate and likely that other avenues remain to be explored."

The purpose of the Joint Committee's hearings in February is to explore some of these other avenues. The hearings will be structured to develop information for Members of Congress to consider, not to build a case for a particular point of view or a specific course of action.

It is also clear that there are no easy or self-evident answers. But we hope to bring together, for the first time, the broad range of questions that should be asked in considering ways to improve the capability of Congress to reach the American people with its views and decisions.

Early in the next session, I will announce additional details of these hearings. Meantime, those Senators and their staffs who wish to discuss their scope and purpose further may wish to call John G. Stewart, extension 8267.

ADDITIONAL STATEMENTS

THE PLIGHT OF THE NATION'S RAILROADS

Mr. HUGH SCOTT. Mr. President, we need our railroads—a point that no one can dispute, especially during this period of severe energy shortages. The Congress has acted wisely to save seven Northeast railroads which are in deep trouble. The rail reorganization bill, I believe, has been drawn with judgment and prudence, weighing the heavy cost of abandoning our railroads against the great gain that would result by constructive measures to aid them.

An editorial in the Pittsburgh Post-Gazette on December 15 eloquently described the plight of the railroads. 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:

SALVAGING NORTHEAST RAILROADS

Congress rightly has acted to salvage seven failing railroads in the Northeast. The Senate overwhelmingly passed a bill to establish a private, profit-making corporation to run a restructured rail network made up of parts of seven railroads—the Penn Central, Reading, Erie Lackawanna, Lehigh Valley, Central of New Jersey, Boston and Maine, and Ann Arbor.

The measure now goes to conference with the House, which has approved similar legislation. However, it faces a possible veto from President Nixon, concerned about the costs of provisions for indemnifying workers whose jobs may be lost.

But, one way or another, a solution is imperative. The current energy crisis and the problems with truckers point that up vividly.

Surprisingly, there is a strong environmental argument for saving the railroads. This was convincingly laid out in a Harper's magazine article, "Trains Into Flowers," by Barry Commoner, a leading spokesman for ecological causes. To be sure, Mr. Commoner's thesis is the eventually there will be no alternative to nationalizing the railroads. Regardless of one's reaction to that particular recommendation, Mr. Commoner's article makes several convincing points.

Can we afford the ecological cost of abandoning our railroads? he asks. "Per ton of freight carried, trucks use four to six times as much fuel as the railroads, and produce about that much air pollution," he writes.

Furthermore, railroads could handle two to three times the present freight traffic without clogging up. Most truck-bearing highways now operate close to capacity, which means that if the railroads aren't salvaged, we'd have to build more highways to handle the extra trucks. From an ecological viewpoint alone, Mr. Commoner writes, that would have damaging effects.

Like old-fashioned coal, "outmoded" railroads suddenly assume vital dimensions in the energy crisis. We dare not lose them and the sooner the new "salvage corporation" can start, the better.

NATIONAL OCEAN POLICY STUDY RESOLUTION—SENATE RESOLUTION 222

Mr. PASTORE. Mr. President, I am delighted to cosponsor Senate Resolution 222 to authorize a national ocean policy study. My interest in the development by the United States of a comprehensive national oceans policy is paramount because my own State of Rhode Island is known as the Ocean State. Although my State is only about 48 miles by 37 miles, Rhode Island has nearly 400 miles of coastline.

Rhode Island is dependent upon the sea as few other States are. The sea, in one way or another, touches the life of every Rhode Islander. In Rhode Island, where we are not blessed with agricultural resources or with natural resources in our earth, the sea, its fishes and its minerals constitute our only natural resources. If we as a nation cannot learn to use the oceans in a rational manner, if we cannot prevent the despoilation of our dwindling fishery resources, if we cannot learn to mine the mineral wealth of the seas without destroying the seas then Rhode Island will suffer first and will suffer hardest.

Commercial fishing has always been important to the economy of Rhode Island and Point Judith and Newport are today the third and fourth largest fishing ports on the northeast coast. The retail value of commercial fishing to the Rhode Island economy has been estimated at more than $35 million annually.

The port of Providence is a small port but vital to the Rhode Island economy. The port is growing in importance and tonnage of cargo handled as the nearby ports of New York and Boston have become choked with traffic.

Narragansett Bay is one of the most beautiful estuaries of the Atlantic Ocean and we Rhode Islanders are proud that the bay remains for the most part a clean body of water despite the fact that it is part of the oldest industrialized State in the Union and perhaps the most densely populated.

Ask any small boat sailor and he will tell you that Narragansett Bay, with its islands and its countless inlets and coves, is one of the most delightful places for cruising or sailing along the Atlantic coast. Rhode Islanders turn to the sea for their recreation. There are tens of thousands of motor craft of all descriptions berthed in marinas that dot our bays and coves and tidal rivers and which have become a major element in the Rhode Island economy. There are at least as many sailboats that enjoy Rhode Island waters and some of the finest racing sail craft built in America have been built in Bristol, first by Herreshoff and then by Pearson. In Rhode Island, most people do not go to the mountains or the country for summer vacations. They go to the sea. Tens of thousands of Rhode Islanders own summer cottages by the sea so they can enjoy some of the finest of Atlantic beaches.

In commerce and in recreation Rhode Island has always turned to the sea from pre-Revolutionary days when Newport and Providence were great privateering ports to 1974 when Newport hopefully will again host the America's Cup races—the greatest amateur sailing competition in the world.

To be more specific and to illustrate the importance of commercial fishing to my State, in Rhode Island alone 2,000 families depend directly upon commercial fishing for their livelihood.

In the southern New England region of Rhode Island, southeastern Massachuetts, and southeastern Connecticut, there are about 420 firms that depend entirely and directly upon the marine environment. These firms, in this tiny region of our Nation, employ more than 41,000 persons and have gross sales of more than three-quarters of a billion dollars. This does not include any naval or other military installations or employment with those installations.

These industries in turn generated well over a billion dollars in transactions about $500 million of which was personal income. About 13 percent of the total transactions in this southern New England region and about 11 percent of personal income can be traced directly to marine-related industries.

It is essential, therefore, to the Nation and particularly to my region of New England to develop an orderly ocean use program and I am proud to lend all of the support at my command to the ocean policy study resolution.

CONFIRMATION OF SENATOR SAXBE'S NOMINATION TO BE ATTORNEY GENERAL

Mr. BAKER. Mr. President, I enthusiastically support the nominaton of my good friend and colleague, Senator WILLIAM SAXBE, to be Attorney General of the United States. Having served with the distinguished Senator since he came to Washington in January 1969, I have no doubt that he will discharge the functions and responsibilities of the job upon which he is about to embark to the best of his ability.

The fact that he is an attorney and has served as a State legislator, Speaker of the Ohio State House, Ohio attorney general, and most recently as the senior Senator from that great State, uniquely qualifies him to be Attorney General of the United States. Moreover, despite a career in partisan politics, he is aware that the task which lies before him requires an individual who can rise above such politics for the good of the Nation; and in this regard, he is most capable.

He is an independent thinker and a free spirit of sorts. He exercises good commonsense and has an incomparable sense of humor. And most important, he is a man of deep conviction and high integrity. For all of these reasons, I am glad to see him serve as Attorney General, but I am sad to see him leave the U.S. Senate.

However, we should be pleased that

he and his wife will remain in Washington so that we might continue to have the benefit of their company and friendship. I join with all my colleagues in wishing Senator SAXBE the best of luck in his new job, and I am confident that he will live up to our expectations.

DOT–SAE INTERNATIONAL CONFERENCE ON TIRE SAFETY

Mr. RIBICOFF. Mr. President, last March 27, I inserted in the RECORD the staff report of my Subcommittee on Reorganization, Research, and International Organizations on Mr. Ralph Nader's charges concerning the safety of the 1960–63 Corvair automobile. As a result of this investigation I urged the Department of Transportation to sponsor an international conference on the safety of replacement tires.

Secretary Claude S. Brinegar has now informed me that such a conference will be held October 21–25, 1974, in connection with the Society of Automobile Engineers International Automobile Engineering Meeting in Toronto, Canada. Automobile and tire manufacturers from the United States, Canada, Europe, and Japan will participate in the conference.

The theme of the conference will be "Effect of Replacement Tires on Vehicle Dynamics." The conference agenda will include:

Performance properties of generic—radial, bias ply, snow, et cetera—tire types.

Ranges of tire performance properties and consumer influence on tire performance.

Influence of tire properties on vehicle dynamics; that is, braking, directional control, traction, et cetera.

Methods for classifying tire properties; that is, skid, traction, high speed, road hazard, noise, vehicle directional control, et cetera.

Mr. President, I am very pleased that DOT has accepted my suggestion and will sponsor an international conference on replacement tire safety. This is an important traffic safety problem affecting the lives of millions of motorists daily. I commend Secretary Brinegar and the DOT for their action.

BRISTOL BAY SALMON STOCK DEPLETED

Mr. STEVENS. Mr. President, on December 7 I addressed the Senate, once again emphasizing exploitation by the Japanese and the devastating effect of their fishermen in disregarding conservation practices in the Bering Sea and North Pacific fisheries. Time and again, I have made references to this issue. Until our Nation recognizes its responsibility to North Pacific fishermen, and provides effective programs of protection and rehabilitation, I will continue to raise my voice against our lethargic attitude toward saving our ocean resources.

Early in December, Governor Egan of Alaska was informed by the Alaska Board of Fish and Game that the Board would no longer be able to carry out its constitutional mandate to manage the Bristol Bay salmon stocks due to the continuing depletion of fish brought on by Japanese high seas fishing. This announcement coincided with my introduction of Senate Resolution 213, which requests that the President of the United States declare a moratorium on commercil fishing, other than United States and Canadian, in North Pacific waters. Mr. President, I ask unanimous consent that the Governor's new release be printed in the RECORD.

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

DECEMBER 10, 1973.

JUNEAU.—Governor William A. Egan has been informed by the Alaska Board of Fish and Game that the board is no longer able to carry out its constitutional mandate to manage Bristol Bay salmon stocks because of Japanese high seas fishing.

The governor, calling the development "a bitter reality for the state of Alaska to face," said U.S. "diplomatic appeasement of Japan and shameful disregard of federal responsibility to a state of the Union, the state of Alaska, have brought about conditions simply making it impossible for Alaska to manage the Bristol Bay salmon fishery."

The board, in the final session of a 10-day meeting in Juneau, drafted and sent the following mesage to the governor:

"The Alaska Board of Fish and Game wishes to report to the Governor of Alaska that, due to the Japanese high seas fisheries efforts on Bristol Bay red salmon stocks, the Board is no longer able to carry out its constitutional mandate to manage those stocks on a sustained yield basis."

Egan commented: "This is a sad situation when such a competent board as the Fish and Game Board, representing all Alaskans, is forced to admit in total frustration that they are unable because of circumstances completely beyond their control to manage the remains of a once-great fishery.

"I fervently and sincerely hope the federal government will immediately take such actions as are necessary to enable the Fish and Game Board to resume fully meeting its obligations of managing the Bristol Bay fishery."

Egan, who has waged a long and angry fight against high seas fishing for Bristol Bay salmon, lays major blame for destruction of that fishery on Japanese fleets.

After this year's Bristol Bay run proved a disaster, he dispatched state International Fisheries Director Harold Hansen to a Tokyo session of the International North Pacific Fisheries Commission (INPFC) with instructions to strongly advocate a sharp curtailment of foreign fishing for Alaska salmon stocks.

But Egan says results of the Tokyo INPFC session "were, once again, highly disappointing". The Japanese out of hand rejected the recommendations of the United States and Canadian sections of the Commission to abstain from fishing for salmon with nets on the high seas in the areas of intermingling of Asian and North American salmon for any effective length of time. Hence, an already small anticipated Bristol Bay salmon return may be almost totally decimated in 1974.

"This action which the Board of Fish and Game was forced to take signals the final nail in the coffin of the Bristol Bay fishery unless decisive and prompt federal action is taken."

Egan has strongly urged adoption of pending legislation in Congress which would extend the U.S. territorial sea limit to 200 miles and U.S. jurisdiction over anadromous fish to wherever they may roam on the high seas.

"Unless some meaningful federal action to remedy this tragic situation is forthcoming," he said, "we will be looking strongly at measures the state itself can take.

"We simply cannot go on here with the Japanese, through their interests in fishery shore facilities and other Alaska resources, having their cake and eating it too, so to speak.

"We in Alaska simply cannot go on tolerating a situation whereby we are spending millions and millions of dollars building up our fisheries and getting no cooperation in conserving and perpetuating them."

The governor said Japanese fishing companies "have expert biologists who know as well as our biologists know what is taking place. They are fully aware of the damage they are doing. It is long in the past that there can be any excuse on the basis that they do not know what they are doing out there."

He said Japanese fishing companies have "completely abandoned any decency in this. I would hope there would be some moral feeling in their minds. However, it's hard to tell what is in the minds of people who have done what they have done."

Mr. STEVENS. Mr. President, I submit that the time for action is running out. We have under consideration some very meaningful fisheries legislation. Let us here resolve that with the coming of the new year, that 1974 will be remembered as the time when the United States committed itself to a dedicated effort of ocean resource management.

THE SUBSTITUTE MINIMUM WAGE BILL

Mr. DOMINICK. Mr. President, on December 4, 1973, Senators DOMINICK, TAFT, and BEALL reintroduced the substitute minimum wage bill, increasing the minimum wage rate under the Fair Labor Standards Act, which had previously been offered by them in the Labor and Public Welfare Committee and on the floor. Recognizing that there would again be difficulty in passing some of the controversial provisions, a substitute was offered by the same three Senators which made no changes in existing law except to raise the rates, a raise badly needed to take care of the inflationary pressures since 1966. It was our feeling that if we could get away from the difficult questions of coverage, exemptions, and youth differential till a later date we could get the needed wage rate increase passed.

Unfortunately a motion which had the effect of killing both proposals was offered and passed by the Senate backed by many of my colleagues who had been talking often about the need for a higher minimum wage. It seems strange indeed that their attitude was taken and Congressman JOHN ERLENBORN who has been making valiant efforts in the House to increase the minimum wage had some comments on the House side on December 5, 1973, which although somewhat acerbic are in my opinion totally justified. These remarks are well worth reading by my colleagues and I ask unanimous consent that they be printed in the RECORD.

Mr. President, on December 19, 1973, we passed a conference bill on health maintenance organizations which I supported. This conference report was almost identical to the bill which I offered in the Labor and Public Welfare Committee and on the floor which were rejected. If accepted we could have had this legisla-

tion 2 years ago. The same fate will be true eventually on minimum wage but the action taken by the Senate will postpone for almost 3 years the wage raises which were badly needed then and are badly needed now.

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

WE NEED A NEW MINIMUM WAGE BILL

Senators Dominick and Taft made a valiant, but vain, try for a new minimum wage bill yesterday. They proposed that we increase minimum wage rates and leave the thorny issues—those that have stood in the way of a new bill—for a later time.

That their effort failed underscores a point I have been making for the past year: that some people would rather have an issue than a bill.

At first, my feeling was that our General Labor Subcommittee Chairman (Mr. Dent) was the leader of the intransigents, and I directed plea after plea to him. In this Chamber last week, however, I mused that perhaps I should be directing my entreaties to Organized Labor instead.

Well, the proof of the pudding is in the eating. Yesterday, by a vote of 55 to 29, the Dominick-Taft amendment was tabled in the other body.

Why? Would you believe that an army of labor lobbyists was on hand urging a vote against the increase?

But why? Why would those who speak for Organized Labor lobby against a pay increase for unorganized, unskilled workers?

Perhaps George Meany can tell us.

If he can, then the next question is: Will he?

ACTION ON GENOCIDE LONG OVERDUE

Mr. PROXMIRE. Mr. President, it was in 1950 that President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. No action was taken for the succeeding 21 years either.

During the time that the convention has languished in the Senate, it has been ratified by 75 nations. This includes virtually every major nation in the world.

In May 1971, the Foreign Relations Committee finally reported the convention to the Senate floor, with the recommendation that the convention be ratified. Unfortunately, no action was taken in 1971 and 1972. However, in the spring of this year, the convention was again sent to the floor by the Foreign Relations Committee, and we now have an opportunity to act upon it.

Mr. President, let us not lose this opportunity. The Genocide Convention, which would make unalterably clear the opposition of the civilized world to the hideous crime of genocide, deserves to be ratified. I hope the Senate will be permitted to act upon it without further delay.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, since the Senate will not be in session on January 1, I would like today to report that, according to U.S. Census Bureau approximations, the total population of the United States as of that date, January 1, 1974, will be 211,678,845. In spite of widely publicized reductions in our fertility levels, this represents an increase of 117,376 since December 1, 1973—that is, in just 1 month. It also represents an increase of 1,483,481 since January 1, 1973.

Over the year, therefore, we have added enough additional people to fill a city larger than Houston, Tex. And in just 1 short month, we have added as many people as now reside in two cities the size of Galveston, Tex.

CONTINUING REPRESSION OF SOVIET JEWS

Mr. WILLIAMS. Mr. President, since the deplorable Arab aggression of this past October, the attention of the world has been focused on events in the Mideast. All peace-loving people throughout the world fervently hope that the parties to the Mideast conflict can now speedily agree to an arrangement that will produce a lasting peace, and one that will guarantee immediate repatriation of all prisoners of war, and secure defensible borders for Israel.

However, despite our concern for the Mideast, we must not forget the continuing tragedy of the repression of Jews in the Soviet Union. Earlier this year, largely because of the overwhelming weight of world opinion, the Soviet Union relaxed somewhat its restrictive and repressive policies toward Jews wishing to emigrate to other nations. This was encouraging to people the world over concerned with the fundamental issue of human rights.

Unfortunately, reports from the Soviet Union in recent weeks indicate that harsh repression of Soviet Jews who wish to emigrate has again increased. There have been reports of a new round of trials of such persons on a variety of flimsy charges and of invariably harsh sentences. There reports are summarized in a document prepared by the National Conference on Soviet Jewry, and I ask that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. WILLIAMS. Mr. President, this Congress has already clearly demonstrated its concern for the plight of Soviet Jews by resisting extension of most-favored-nation status for any Communist nation that restricts emigration of its citizens. But we must now be as vigilant as ever to the treatment of Soviet Jews, and we must not fail to speak out when that treatment violates the basic rights of every human being. World opinion has proved to be a powerful force for justice in the past, and I hope it will be again.

EXHIBIT 1

THE NEW TRIALS: BACKGROUND

1. Too late the West learned that Pieta (Piotr) Pinkhasov, a carpenter in Derbent, Dagestan ASSR, (Russian Republic), was sentenced to five years in a labor camp. The trial, originally scheduled for November 15, was completed on Tuesday, November 13. The remote Caucasus town on the Caspian Sea is more than 1,000 miles from Moscow and was not visited by journalists or foreign diplomats. Thus, the trial was held virtually in camera.

Pinkhasov is the father of 6 children, aged 2 to 15. The family has a visa and was set to leave for Israel when Pieta was arrested on charges that years ago he did some free-lance work, which is considered "illegal." The Jews in Derbent believe the arrest is really part of an intimidation campaign aimed at deterring potential emigrants, since authorities told the family that if they remain in Derbent the charges would be dropped. Until now few applicants for emigration were known in Derbent and the action will be a deterrent to others. The wife, Yalta, and the children left and arrived in Israel on September 20 expecting the husband to follow.

Among other charges Pinkhasov was reportedly tried under Article No. 156 concerning "deception of purchasers." If this information is correct, the defendant received the maximum sentence, or one more appropriate for a "second-offender." The economic nature of the charges is reminiscent of trials held during the Khrushchev era when "economic trials" were levelled against Soviet Jewish activists in what was clearly an anti-Jewish campaign. The trials abated only after strenuous protest abroad.

2. On November 8, the investigation of twenty-six year old Aleksandr Feldman of Kiev was concluded. One of the "Kiev Four" (see Outlook No. 7), *Feldman is to stand trial on November 19* on charges of "malicious hooliganism." In a dramatic 11th hour appeal, friends in Kiev and Moscow asked Soviet authorities to halt the trial and release the "accused." The signatories accuse the Soviet regime of, among other things, grave violation of the law in the investigation of Feldman; they consider the charges as "an illegal repressive measure." Among the signatories were Saul Raslin (himself the target of police harassment); Aleksandr Tsatskis, Viktor Polsky and Vladimir Prestin.

On October 18 and 19 Kiev authorities conducted a search of Feldman's apartment, took him into custody and charged him with allegedly assaulting an as yet unidentified woman. Feldman, who has been trying for nearly two years to emigrate, was on his way to synagogue, since it was Shemini Atzereth. According to the Ukrainian equivalent of the RSFSR Criminal Code, article No. 206, "malicious hooliganism," constitutes "the same actions ... (as petty hooliganism) ... distinguished in their content by exceptional cynicism or special impudence, or connected with resisting a representative of authority or representative of the public fulfilling duties for protection of public order or other citizens who are restraining hooliganistic actions and, likewise, actions which are committed by a person previously convicted of hooliganism, (and) shall be punished by deprivation of freedom for a term of one to five years." This may be considered a second offense as Feldman had already served a fifteen-day detention for the same charge; the fact that Feldman may be considered a "recidivist" adds severity to the case and has led friends to believe he could receive the maximum sentence of five years.

The recent accusation by Kiev newspaper ("Vecherni Kiev") of erratic behavior means that Feldman is libel to be interned in a psychiatric institution; officials have already threatened to put him in the Pavlov psychiatric hospital near Kiev. Karapinkov, Feldman's interrogator, reportedly refused to receive any supporting materials from Aleksandr's brother, Leonid, or to hear witnesses attesting to Feldman's innocence. When relatives of other prisoners were allowed to bring warm clothes (October 25, 1973), Feldman's relatives were denied permission.

Thus far, no attorney has agreed to defend Feldman; and his friends are desperately seeking one.

3. Information is still being gathered by Soviet officials in the "Moscow Conspiracy" case, which could focus on Alla Layasoyeodva, her father-in-law Abraham I. Gelikh, and

two Moscow activists, Dina Beilina and Tamara Galperina. *Material was sent on November 8 by this office, and the NCJRAC to local CRC's and federations.* No word has been received about any date for a trial, although there is grave concern that this is imminent.

4. Thirty-two year old Leonid Zabelishensky of Sverdlovsk is now being investigated on criminal charges of alleged "parisitism" (article No. 209–1, RSFSR Criminal Code), having been unemployed for several months. An electrical engineer who taught at the Ural Polytechnic Institute in Sverdlovsk, Zabelishensky's field is the theory of computer calculating.

An activist in the small Jewish community of Sverdlovsk, he and his family applied for exit visas in November, 1971. On October 25, 1973, Zabelishensky was taken to an undisclosed place after being arrested by local police. It was later learned that he is being accused of "parasitism," although his wife works and earns a substantial income. Zabelishensky is currently taking care of their sick son. In a search of the apartment, police reportedly confiscated a voucher from Switzerland, notification from a bank of a money transfer, and a receipt for a letter to Israel.

Other activists from remote Sverdlovsk include Valery Kukui and Vladimir Markman, both now serving prison sentences.

5. On November 6, the Security Police (KGB) resumed surveillance of another Kiev activist, 28-year old Saul Raslin. Raslin apparently disappeared that day and has not been heard from. He is a friend of Aleksandr Feldman.

6. Rumors are circulating in Tbilisi that the Goldshtein brothers, Grigory and Isai, may be brought up on charges once again. Their case has been discussed in the past and, recently, we reported that proceedings had been lifted. Not allowed to emigrate since the suspension of judicial proceedings, it appears that the trial against the two activists might resume.

The whereabouts of Solomon Rozin (Leningrad), are still unknown. The thirty-eight year old engineer/electrician disappeared recently, shortly after the KGB began to follow him. Friends believe Rozin is being held by the security forces, who may be preparing a case against him.

DAVID BEN-GURION
1886–1973

Mr. SCHWEIKER. Mr. President, the world lost the greatest Jewish leader and statesman of his generation with the passing earlier this month of David Ben-Gurion, a founding father of Israel and its first Premier. No man better symbolized the hopes, the aspirations and the determination that once again transformed Palestine into the promised land for Jews throughout the world.

From his beginnings in a ghetto in Plonsk in Russian Poland; through his service with the Jewish Agency, the executive body of world Zionism; through the birth of the Jewish State on May 14, 1948; and through his service as Premier and minister of defense, Ben-Gurion was the personification of his adopted name—which means "son of a lion cub" in Hebrew. He was a fierce advocate of Israel's struggle for liberty and human dignity, and his death is lamented by all men who share his dedication to peace and justice.

In 1946, when the British were persecuting the Jewish leaders of Palestine, Ben-Gurion left a valuable gift to his people, a gift which has taken on added significance in light of the current crisis in the Middle East. He wrote:

No dispair and no illusions. No Massada and no Vichy. While bitter and difficult struggles lie ahead of us we are not preparing for a final battle. Nor do we wish to die with the Philistines. On the other hand we must recognize that the moment we give in and bow our heads and lose our will to stand up fearlessly, we begin to roll down the slope which leads to the abyss.

Mr. President, as long as the memory of David Ben-Gurion lives with the people of Israel, Israel's "will to stand up fearlessly" will not die.

PROPOSAL TO CREATE A FEDERAL OIL AND GAS CORPORATION

Mr. CLARK. Mr. President, Mr. Lee C. White, chairman of the energy policy task force of the Consumer Federation of America, testified before the Senate Commerce Committee December 12 on a proposal to create a Federal corporation to explore for oil and gas deposits on public lands.

Mr. White is the original advocate of this proposal, and has researched it extensively, and his testimony offers an excellent, thorough summary of the proposal's merits, which are many.

It is particularly important that it be given careful consideration now, in light of our current energy shortage.

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

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

STATEMENT OF LEE C. WHITE

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: My name is Lee C. White, and I am here today in my capacity as Chairman of the Energy Policy Task Force of the Consumer Federation of America. The purpose of our Task Force, which currently has 22 member organizations (see attached list), is to ensure that the consumers' views are expressed and considered in the energy policy debates taking place publicly and, in particular, within the Congress. We recognize that there is no necessary single "consumer interest" in any of the numerous issues that comprise the energy policy debates; nevertheless, we have undertaken to do the best job possible in assessing and stating the views of the consuming public and, as the broad base of our membership suggests, we do indirectly represent millions of Americans.

Throughout its entire history, this Nation has demonstrated a capacity of adapting to new and changed circumstances. Today we are on the threshold of the worst energy crisis we have ever experienced. This calls for an examination of our existing process and for modifications necessary to deal with the circumstances that exist today and that we can project into the future.

Accordingly, we believe that hearings on a proposal to establish a government-owned corporation to explore for oil and gas deposits on public lands are most appropriate. We welcome the opportunity to participate in these hearings and to make our views known. On the subject of a government corporation to explore for oil and gas on public lands, our Task Force has taken a positive stand in favor of the concept.

The current energy crisis has shaken the country down to its shoe laces. The President and the Congress are, in a general way, responding appropriately to the short term requirements which basically are to make every reasonable effort to diminish the consumption of energy. These steps are in the right direction, but it is our view that many more steps must be taken and that we are not going to be able "to get by" without serious disruptions and dislocations. Some drastic changes in our life styles are going to have to occur—and not for only a few months. While we are focusing on the immediate problems of the current winter season, we must also make some national decisions that are going to influence the course of this country's energy actions for at least two decades.

I hope that while we have the attention of the public, the Administration and the Congress, we will make those tough, essential long-term decisions right now. It would be tragic if an easing of the Middle East oil embargo, for example, distracted our attention from long range requirements. I think we have already made two basic national decisions and both of them are constructive: (1) to use our energy resources in the future on a far more judicious and cautious manner than has been true in the past; and (2) to mount a research and development program by which we commit $2 billion annually to improving existing technology and develop new processes and techniques for producing energy.

THE BASIC ELEMENTS OF A FEDERAL OIL AND GAS CORPORATION

Amendment 643 to S. 2506, introduced by Senator Stevenson and eight other members of the Senate, is the first effort to put into legislative form an idea that was enunciated as long ago as July 1969. To some extent, I have a special interest in the subject since, so far as I know, I was the first individual in or out of government to advocate a government-owned corporation that would make it possible for citizens of this country who own valuable oil and gas deposits to have an agency seeking to discover and produce those deposits in a manner that will benefit the public, particularly in a period when the existing conventional privately-owned corporations were not meeting the needs satisfactorily. In the simplest terms, the corporation would have the following responsibilities imposed upon it: It would be charged with exploring for oil and gas to meet national fuel needs, not maximizing profit. Additionally, it would be directed to develop and use the most advanced techniques for minimizing environmental damage in all aspects of the petroleum process. It would provide complete and accurate data, for governmental and public review, of the costs of producing oil and gas—data that today is woefully inadequate. It would be assigned the task of managing national petroleum reserves to provide this country with some protection from reliance and overdependence on foreign petroleum sources. It would be directed to operate in a fashion that would promote and foster a truly competitive petroleum industry in this country. And most importantly, it would provide a competitive spur to the privately-owned petroleum industry.

OTHER ALTERNATIVE APPROACHES CONSIDERED

We have examined other points on the organizational spectrum in reaching our decision to support as vigorously as possible the government corporation approach. For example, nationalization is certainly one alternative, but it is not a realistic alternative in my judgment.

There has been some suggestion that energy companies are so crucial to national health and well-being that those that want to be in that business should be transformed into public utilities, thereby giving much greater governmental control over how those companies shall operate. On the production of electrical energy, public utility status has been maintained throughout the life of that

industry. Similarly, the natural gas industry, because of the physical properties of natural gas, has been on a public utility basis in its transportation and distribution aspects—this, of course, has not been true of the producing end although there has been regulation of rates and terms for the sale of natural gas that moves into interstate commerce. The idea of putting petroleum companies, coal companies and uranium companies in a public utility status has been suggested, but so far as I am aware, there is no legislative proposal, nor do I personally believe at this point in our national development that this alternative ought to be adopted. That does not mean, however, that the subject should not be carefully explored. It may well be that my own assessment which, quite frankly, is not based upon a detailed analysis or study, but is instead simply a visceral reaction requires re-examination.

There are, of course, some variations on the type of government corporation that could be examined, including the hybrid Comsat model. But, having seen the Tennessee Valley Authority operation from the inside and being somewhat familiar with the Bonneville Power Administration, I strongly prefer the wholly owned government approach.

The Comsat public-private arrangement, in large part, flowed from the fact that traditionally the United States Government had, unlike the energy field, not been engaged in such activities on any major operating scale. Furthermore, Comsat was going into a new field, satellite communications, whereas the Federal Oil and Gas Corporation would merely take up its duties and activities alongside existing privately-owned corporations.

ARGUMENTS SUPPORTING THE FEDERAL CORPORATION

No one can be sure today how long our critical energy deficit situation will last—in fact, it may be with us for decades. In such circumstances, there should be in the very important area of activity that includes exploring for oil and gas, developing the fields and producing those vital petroleum products an institution that is motivated by meeting national needs, not by the primary or sole goal of maximum profits. There is nothing inherently wrong or improper about the profit incentive, but where the product or commodity involved is as essential to national health, well-being and security as energy, at least a portion of the national effort ought to be driven by the objective of meeting the security, personal, commercial and industrial needs of this country.

We have seen just this year that a voluntary fuels allocation program will not work, primarily because it runs head-on into the profit picture. Who can fail to understand why the management of a private corporation would refuse on a voluntary basis to sell its product for a higher public purpose, for example, bus fuel for city bus systems, at a price lower than it can get for that same basic fuel from homeowners who need the product for home heating. At this very minute the Administration is arguing that we must let the price of heating fuel go up so that integrated petroleum companies will change their refinery mix so that less gasoline will be made from the limited crude and instead those volumes will be diverted into heating and residual oil. I simply cannot understand why the President is unwilling to exercise his existing statutory authority to *require* that shift if the Government believes it should be done.

The Government has made royalty oils from off-shore Federal lands available to independent refiners in small quantities. I applaud that action, but believe the Administration should go much further. Additionally, as indicated, there should be a significant volume of petroleum under the control of the Federal Oil and Gas Corporation to be used in a manner deemed by the Government to be best suited to meet national needs.

So far as I know, there is no major industrialized nation in the world, other than the United States, that leaves the entire handling of petroleum and petroleum products to privately-owned corporations, where management must be responsive to stockholder, as distinguished from national, priorities.

With regard to environmental concerns, we find ourselves forced to delay meeting established environmental goals. It has to be done, and hopefully on the most acceptable terms. But the Federal Corporation could help reassure, not only those who call themselves environmentalists and ecologists but all citizens, on environmental protection because the Corporation would have imposed on it the statutory burden of proceeding by using the most advanced and effective techniques to protect the environment that are known and available. Furthermore, it would be enjoined to develop new methods with such a goal in mind. I believe we are to step up drilling in offshore areas, and possibly in the Atlantic and the Pacific Oceans. Citizens, especially those living in coastal areas, should be somewhat more confident in activities undertaken by a government corporation rather than by companies whose primary goal is money-making. Under proper leadership, I can see the Federal Corporation challenging its sister corporations on the environmental front, and, frankly, it's an appealing sight.

One of the greatest frustrations of government is its inability to obtain comprehensive and accurate data from the petroleum industry. There perhaps are valid reasons such as the unwillingness of one company to let its counterparts know what data and information it possesses for business reasons. But that reason must be weighed against others. I believe the public's need to know what is going on—and, of course, that is true also for Government—is paramount to private business requirements.

Surely the costs of production; the reserves, proved and potential; and everything else about the Federal Corporation's activities should and would be public information. If it discovers a safer way environmentally to drill wells and handle petroleum, that information should be made available to all, not treated as a private patent upon which huge profits could be realized.

This Nation has long accepted the principle that it should hold petroleum reserves for military defense purposes. Our new experience with an effective oil embargo by some Middle Eastern oil producing companies surely has taught us that we should push that concept further. Thus, an additional benefit of having a Federal Corporation would be its ability to hold proven reserves of oil and gas in sufficient quantities to decrease our dependence on foreign nations who today hold us almost in the palm of their hands despite the fact that a comparatively small fraction of our total needs are met by their oil. It would be unfair to ask a private corporation to sit on reserves and perhaps lose substantial markets or profits to meet some possible future need. It would not, however, be unfair to ask a government agency to do that since, as I conceive it, that would be one of the principal objectives of such a corporation. Wouldn't it be comforting today if the Federal Oil and Gas Corporation had available for this country petroleum reserves it had already discovered and which were capable of being fed into the market to meet any deficiency.

Many of us have wrung our hands over the independent refiners and marketers of petroleum products which, until now, have played a constructive role in the pricing structure of petroleum markets. Thousands of gasoline stations have gone out of business in 1973, and many independent refiners are barely hanging on. The Federal Corporation would be required to allocate its crude oil in a pattern that would ensure that a fair share would go to the independents. Things may never be the same in the petroleum business in this country, but we ought to take measures we believe to be protective of the public interest and protecting the independent refiners and marketers is one of those objectives we should articulate and attempt to achieve.

Integrated petroleum companies have a hard time voluntarily helping the independents whom they regard as competitors. As one executive told me, "there's no place in our corporate charter, the Constitution, the law, or the Bible where it says we majors must protect and preserve our competitors." He's probably right, but I believe the Congress ought to exercise its ability to change circumstances so that the majors' competitors will be able to stay in business and provide some price protection.

It is not difficult to predict opposition to the proposal from the petroleum industry. But one would think the industry would welcome the competition, the opportunity to demonstrate its capacity for doing a better job than some run-down, inefficient government agency beset with red tape and other bureaucratic deficiencies. In fact, there are some proponents of the government corporation plan who believe its most appealing feature is the competitive spur it would give to the industry.

OBJECTIONS TO THE PROPOSAL

The idea has been discussed sufficiently in the recent past to have elicited some criticism and some questions about it. I think it would be useful to try to focus on some of those more important points and to respond to them.

1. *The inefficiency of government corporations generally*—Critics frequently ask whether the Postal Service or the Amtrak experiences warrant trying to create yet another government corporation to undertake responsibilities traditionally performed by private corporations. It seems to me that Amtrak may, indeed, prove to be a very worthwhile invention in light of the sharply increased passenger traffic resulting from our awareness of our reaction to the energy shortages. The U.S. Postal Service is a very new instrumentality, and I am not aware of any private counterpart that provides a good comparison.

But even if these particular illustrations are not able to stand on their own two feet—and I do not know that is the case—I would prefer to look to the Tennessee Valley Authority as a closer analogy. TVA was born in controversy and is not totally free of it today. But there is no longer any dispute over its electric generating operations. It is among the leaders in the country and has worked in harmony with privately-owned electric utilities, with municipally and cooperatively-owned electric generating, distributing and transmitting systems. The Bonneville Power Administration also provides an example of efficient operations in the energy field by a government agency. I am confident that with the right management and support by the Administration and the people of this country, a government corporation could be developed which would be as efficient and as successful in its operations as TVA and Bonneville.

2. *The inability to obtain necessary qualified personnel*—The argument that says there are only a limited number of geologists, engineers and other technical competence and that a government-owned corporation would only drain off such talent from private corporations thereby producing no net benefit seems to me to indicate little confidence in the people in the petroleum industry and in our educational institutions. Such an argument is applicable to any new develop-

ment and misses the point completely. The purpose of setting up the government-owned corporation is to establish a corporate mechanism where the motivation and the thrust is keyed to national needs. I don't know how many major league baseball teams that were "expanded" teams have managed to win league pennants or the World Series, but the notion that things ought to stay the way they are simply because that is the way they are, won't do the trick. Referring again to the TVA analogy, it somehow was able to attract talent to it without disrupting other utilities that had to give up some of their trained personnel. Moreover, I would expect that our educational institutions will respond to the current energy crisis as it did to the sputnik-space challenge in the 50's and 60's by emphasizing the development of energy oriented scientists and technicians. It may also be asked how an industry that has not been able to produce all of the oil and gas that is needed will be able to get by with only the scientific and technical talent it presently possesses.

3. *This is the first step to nationalizing the petroleum industry*—Not only is it clear from the language of Senator Stevenson's proposal that this is not the case, it is my view and, so far as I know, the view of every other interested participant in energy policy debates that nationalization of the industry is not a desirable alternative. Certainly it is not a practical political reality. TVA was similarly hailed as the beginning of the end of the private electric utility industry in the 1930's and it, as well as the Bonneville Power Administration, has demonstrated that governmental activity in an energy field need not and has not had the effect of nationalization. Nationalization is an understandable concern of citizens in this country, and I assume that no such step would ever be taken without public awareness and, indeed, without public clamor for it. I do not detect that mood today nor do I foresee it for the future. I think it is a specious argument, and I hope that it will not be used to divert attention from serious discussion of the merits of the Federal Oil and Gas Corporation proposal.

4. *The incomparability of data*—Although the Federal Corporation would operate on a basis somewhat different from that of the private segment of the industry, there are accounting techniques for taking into account the differences. It should not be very difficult to separate the various components of total production costs to provide comparability with privately-owned companies. Most importantly, the public and the government would begin to accumulate information and data capable of being analyzed and critiqued. Whether or not the "yardstick" would be 36", 35" or 37", at least we would have the beginning of a measuring device.

5. *It would take a considerable period of time for the new corporation to develop the expertise and to have a sufficient petroleum supply to be worthwhile*—The length of time to get started and to be able to make a significant contribution will depend upon who is selected by the President to run the corporation and a host of other variables. One thing is certain, however, and that is that the earlier the corporation is created, the earlier it will be able to make a contribution to the consumers of this country.

Undoubtedly, there are other questions and criticisms that will be leveled at the proposal. This Committee is capable of receiving all questions, criticisms and complaints and in evaluating them. I am confident there are satisfactory responses. The basis idea is what ought to be tested and discussed, and these first hearings provide the appropriate opportunity to do so.

CONCLUSION

The consumers of the United States are facing a very bleak period. The President, his Administration and the industry have asked that the consumers tighten their energy belts, delay achieving environmental goals and be prepared to pay greatly increased costs for their fuels and energy. In our view, this simply is not good enough. Congress has a solemn obligation to protect the consumers of this country and one of the most direct and hopeful approaches is through a government corporation that will make available to people in this country the oil and gas deposits which they own. We have not done a very good job in managing our petroleum deposits in this country—and that is a criticism that reaches across party lines. We can no longer permit ourselves to be totally dependent for basic energy supplies on an industry that is privately owned and which has failed to develop our resources on a basis that meets national needs and provides protection for the consumers of this country.

I do not believe that anyone can claim that the creation of a Federal Oil and Gas Corporation is that single dramatic solution that will handle this Nation's energy needs for the next 20 years. I do contend that it is a minimal step that should and even must be taken and without delay. I sincerely believe that if this step is not taken, there will be increasing pressures from across this country, from consumers, from government at various levels and from industries which require energy for more drastic steps. This is a moderate proposal that deserves prompt attention and action.

APPENDIX A: MEMBERSHIP OF THE ENERGY POLICY TASK FORCE

American Public Gas Association.
American Public Power Association.
Consumers Education and Protective Association International.
Consumers Union.
Cooperative League of the United States.
Industrial Union Department of AFL–CIO.
International Brotherhood of Electrical Workers.
Kansas Municipal Utilities.
Lincoln, Nebraska, City of.
National Farmers Organization.
National Farmers Union.
National League of Cities.
National Rural Electric Cooperative Association.
New Populist Action.
Northeast Public Power Association.
Northwest Public Power Association.
Oil, Chemical & Atomic Workers International Union.
Service Employees International Union.
Tennessee Valley Public Power Association.
United Auto Workers.
United States Conference of Mayors.
Wisconsin State AFL–CIO.

EFFECTS OF ENERGY CONSERVATION ON THE ELDERLY AND THE HANDICAPPED

Mr. WILLIAMS. Mr. President, I am greatly concerned about the effect that current legislation to ease the energy crisis may have on our Nation's elderly and handicapped.

All too often when the Congress passes far-reaching, emergency-type legislation, the specific needs and problems of the elderly and the handicapped are overlooked. I am anxious that this common oversight be avoided as we search for measures to counteract the impending shortages.

Both the Senate and the House have passed major bills to deal with the energy crisis (S. 2589 and H.R. 11882). The final product from the conference committee is not yet determined, but I am particularly concerned about how the eventual emergency powers will be implemented. Many specific orders and decisions in this type of emergency legislation must, with good reason, be left to the administration. The potential for unnecessary hardship to elderly and handicapped persons needs to be recognized.

I am calling out for caution and care as various actions are made and as specific rulings are decided. Those charged with implementing any new legislation dealing with the energy crisis must not forget that there are different groups in the population, and that some actions will harm certain groups more than others.

Strong concern has been conveyed to me about the possible ill effects of proposed legislation on the elderly and handicapped.

For example, the following letter was sent to the Special Committee on Aging enumerating several concerns with regard to the elderly and handicapped and the possible hardships they could experience if steps are not carefully taken to protect their needs. This letter is from James J. Pennestri, the director of the New Jersey Office on Aging.

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

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

STATE OF NEW JERSEY,
DEPARTMENT OF COMMUNITY AFFAIRS,
November 9, 1973.

We in this agency are concerned, and have received expressions of concern from several areas, that the energy-conserving program called for by the President might well cause further hardships for the elderly.

Specifically, we could hope that any legislation considered would exempt people age 60 and older from the following:

1. Maintaining temperatures in living quarters at a day-time average of 68 and lower at night. I believe the reason for such an exemption is self-evident.

2. Blocking off certain city sectors to cars with only one occupant. Obviously, this could curtail essential travel to doctor's offices, clinics, meetings, recreational facilities, etc., for elderly singles unless the "blocking off" is limited to peak traffic hours.

3. Preferential parking for car pools. This could be a serious handicap for the older worker who is unable, by reason of physical problems associated with the aging process, to maintain a rigid schedule based on the considerations of other people.

4. High parking rates. This would have an adverse effect on retirees living on fixed and inadequate income as well as on older workers who are husbanding their resources in preparation for retirement and the income reduction attached to it.

These points, of course, would also apply to the physically handicapped.

Any law which is enacted should not overlook the problems of the elderly and the handicapped, as is so often the case. Some provision for exemption should be included. I hope you will agree, and that you will bring this to the attention of the Special Senate Committee on Aging in time for amending as necessary the legislation which the Senate is going to consider very soon.

As always, your usual valuable cooperation will be appreciated.

Sincerely,
JAMES J. PENNESTRI, *Director.*

Mr. WILLIAMS. Mr. President, in short, I am asking that those persons

who are charged with the responsibility of drafting and implementing the needed emergency measures which are to come, take careful account of the effect their decisions will have on the aged and handicapped. Too often these special considerations are ignored.

SENATOR ROTH'S RECOGNITION OF THE ENERGY CRISIS IN MAY

Mr. DOMENICI. Mr. President, it is my practice to acquire and keep on file all information and points of view relating to important national issues, as I imagine is the practice of all my colleagues.

When reviewing that file recently I was struck by the fact that the distinguished Senator from Delaware (Mr. ROTH) gave clear recognition of the gravity of the impending energy crisis, and the interrelation of various contributing factors, in a speech given way back in May of this year.

Senator ROTH's speech contained many points that have proven to be extremely accurate and worthy of our consideration—then and now. For that reason, I would call the attention of my colleagues to Senator ROTH's remarkable speech of May 18, 1973, and accordingly, I request unanimous consent that that speech be printed in the RECORD.

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

ENERGY AND THE ENVIRONMENT

(By Senator BILL ROTH)

It gives me great pleasure to welcome you to this year's Youth Leadership Conference. You have been chosen for your interest in "energy and the environment," and, I trust we have devised a program and invited a group of experts that will sufficiently challenge your thinking on these topics and provide you with new insights into one of today's most complicated set of issues.

I am not an expert in this field and don't pretend to be. What I want to do, therefore, in opening this conference is to discuss in a general way in the manner in which environmental and energy issues appear to be interrelated to each other and related to other current problems as well. The important thing at the outset is to try to get an overview of the issues involved so that when you break up into more specialized seminar groups, you won't be like the proverbial blindmen who got into a violent argument over what an elephant must look like. As you may recall, the first blindman felt the elephant's leg and said, "An elephant is like a tree trunk;" the second blindman hit the elephant's side and said, "No, an elephant is like a brick wall;" and a third blindman, having touched the elephant's trunk said, "Both of you are wrong, an elephant is like a python;" and so on. Each had felt a different part, and none had seen the whole.

Today, it is commonly assumed that energy concerns and environmental concerns are in almost total opposition. That is, if we want to solve our energy problems, we are going to have to relax our environmental protection laws, or if we are going to clean up our environment, we are going to have to accept gasoline shortages, heating oil shortages, or brown-outs. Many in the energy industries point out that anti-pollution devices on automobiles requiring more gasoline consumption, regulations governing air and water quality controls, and environmentalist-inspired opposition to the construction of new refineries, nuclear power plants, and superports have contributed to what is now popularly called "the energy crisis." On the other hand, environmentalists note that our love affair with the big automobile, the emissions from our refineries and power plants, and the oil spills have all contributed to what might be called the "environmental crisis."

Most of us, however, would be unwilling to make an absolute choice between energy needs and environmental protection; we want both sufficient energy to maintain the standard of living that we have worked so hard to achieve and a clean, healthy environment. Both are part of good living, and I, for one, think that both can be obtained, but we have to realize that to do so we will have to make sacrifices. It will undoubtedly require large sums of money to develop new sources of energy, as well as to clean up the environment. Later, I will return to this theme but, first it is important to explore "the energy crisis" in some depth and try to determine what it is and how we should react to it.

One thing which I have learned in my years as a public servant is that there are always a few who have simple solutions or explanations for even the most complex problems. In the case of the energy crisis, the simple explanation is that the shortages of gas and heating oil are merely staked by the oil and gas industries to get government subsidies, tax breaks, and higher prices and profits. This particular explanation reminds me of similarly simple ones which sought to blame all of America's ills on a communist conspiracy or on our involvement in Southeast Asia. At the same time, it is important for us to recognize that the energy industries will try to use the shortages to promote their own particular points of view. The problem we face is to sort out the reality from the rhetoric and to discriminate between solutions that are for the common good as opposed to those that would benefit particular interest groups.

It is one of the realities of the energy crisis that our supply of energy has increased rapidly every year. Our demand for energy, however, has increased at an even faster pace. Americans now make greater use of cars as opposed to buses, and cars require 4 times as much energy per person as buses. Americans now depend more upon airplanes than upon trains, and planes require an average of 9 times as much energy per person as trains for the same distance. In 1960, only 15% of American homes were air-conditioned; now 45% are. Then, only 7% of our cars had air-conditioners, and now 61% do. In 1955, the average American used the energy equivalent of 42 barrels of oil for a year; now he uses an equivalent of 61 barrels; by 1985, it is projected to be nearly 100 barrels.

A second reality is that our way of life and economic system are so built upon energy-consuming machines that energy shortages and resulting higher prices would affect all of us and in many different ways. Everyone, for example, is concerned about food prices, and one way to bring prices down is for farmers to plant more acreage in food and feed grains. But, if the farmers are limited to the gasoline supply they had last year, or less, they will not be able to plow or irrigate more land. If there are widespread shortages and the price of fuel goes up, the cost of producing industrial goods will go up, and this cost will be passed on to the consumer. The cost of public and private transportation would go up, the cost of almost everything would increase, and the efforts that have been made to try to control inflation would become further unraveled. Americans are used to cheap energy, only 4% of our entire national income is devoted to securing our energy needs. This is very likely to go up and each of us will have to reshuffle our own budgets accordingly to reflect higher costs of heating our homes, getting to work and school, and of buying food and other goods.

A third reality is that the energy crisis is not just an American problem; it is a problem which affects our relationship with the rest of the world. Some of you will be examining in greater detail the international implications of increased oil demands. But you should all understand that there appears to be no alternative in the short run to the greater importation of foreign petroleum. We have only 8% of the world's proven petroleum reserves, but we consume a third of all the world's production. Increasingly, we are looking toward the Middle East and Indonesia for crude oil and Algeria and the Soviet Union for natural gas.

This raises a host of problems. Two years ago, for the first time in more than eight decades, the United States had a balance of trade deficit. We are trying to achieve a position of surplus again by devaluing the dollar and taking measures to increase our exports to other countries, but these efforts may be undermined by our needs for such vast amounts of oil. We may have a $10 billion dollar trade deficit in energy alone in 1975, and this could double by 1980 if current trends continue.

What makes these figures so large is not just our demands alone—they also reflect the higher prices that foreign supplying countries are charging for their oil. The Middle Eastern countries and other oil suppliers have formed an organization of Petroleum Exporting Countries to work together in getting more money for their oil. They are tough bargainers, and they make no bones about what they want. As one Saudi Arabian government minister said recently: "We have the oil they need, and we are going to be very rich." At the same time, the U.S., Japan, and the European countries are all petroleum short and all are offering higher and higher prices for secure supplies. If we are going to keep prices within a reasonable range, I think we are going to have to work very closely with Japan and the European countries to solve the common problem.

Another complication is that the Arab countries have so few people, they don't know what to do with all the money they are getting. Like the Texas oil millionaires, the rich Arabs have bought Rolls-Royces and jewelry. But others have engaged in currency speculation and contributed to the run on the dollar that caused the most recent devaluation. Still others have loaned money to Egypt for military purchases, or like Lybia, have purchased jet fighters, thus increasing tensions in the Middle East. Many fear that if we become too dependent on the Middle East for petroleum, we will be subject to blackmail in our policy of supporting the independence of Israel. But, even aside from this very important consideration, can we afford to depend, for a major source of our energy, on an area so far away, so politically unstable, and so vulnerable to the Soviet Union?

This leads into another aspect of the energy crisis, one which we have included as a seminar topic because it so vitally affects our home state. If ever increasing amounts of foreign oil must be imported, how are our present ports going to handle these volumes and the huge tankers that are being built, at a reasonable cost and with minimal damage to the environment? In his energy message, the President said, and I quote, "The answer to this problem lies in deepwater ports which can accommodate those large ships, providing important economic advantages while reducing the risks of collision and grounding." Various government sponsored studies have surveyed the possible sites for such superports, and they have concluded

that one of the prime sites lies in the ocean off Rehobeth Beach.

What would a superport mean for Delaware? It would mean that our small state with its 12 miles of ocean coastline would be assuming the major share of the environmental risk for oil imports for the entire East Coast. What is less understood and less appreciated is that the superport would also have a tremendous impact on the future economic development of our State, particularly its lower two counties. One estimate is that the refineries, the petrochemical plants and the related industries that would be established adjacent to the superport would result in a population for Kent and Sussex Counties of more than a million persons by the end of the century. This would be more than four times the population that could be expected in the absence of a superport.

It seems to me that Delawareans should have something to say about whether we are willing to accept the environmental risks and the economic growth involved, and therefore, I introduced a bill that would give each state's legislature a veto over the construction of a superport off that state's coast. I, for one, have long opposed a superport being located in or near Delaware waters. To me, it is imperative that we protect and conserve these shorelines to serve as vacation land for thousands of Americans.

A final reality that I want to touch on is that half of the energy we produce is wasted, either by inefficient machines, inefficient means of converting and transmitting energy, or by improper attention to energy conservation. While homes and industries are relatively efficient users of energy, two-thirds of our potential electric energy is lost in the conversion and the transmission process. Three-fourths of the energy used in the transportation sector is wasted, mainly as heat and exhaust.

Many of you will be examining energy conservation in greater depth. Improved mass transportation is certainly one means of conserving energy. Recycling is another, because for many materials, recycling requires only a fraction of the energy required to make it in the first place. Better means of insulating homes and of designing factories can save heating and cooling costs. Certainly, energy conservation is an area that merits much greater attention because it is one place where energy and environmental concerns do not clash, but instead reinforce each other.

One key problem in this area, however, is a psychological one. Americans are used to cheap energy and plenty of it, and we are not, as a nation, "energy conscious." How can we become energy conscious? By advertising on radio, television and road signs, with little jingles or messages like those that tell people not to be litter-bugs? Or, will we need laws requiring people to bring their solid waste to recycling centers, to better insulate their homes, or to only use their air-conditioners on days when the temperature is more than 85 degrees?

This leads me to the question of how we should react to the energy crisis. What can we do to ensure the continued availability of energy and still continue to make progress in cleaning up the environment? Someone has suggested that we ought to round up Henry Ford, Ralph Nader, the presidents of all our major energy industries, and the presidents of all our major environmental groups, lock them in a room and tell them they can't come out until they have devised a common solution to the problem. Even if it were possible to do this, I am afraid we might find everybody torn to bits when we opened the door.

On the more serious side, there have been numerous suggestions to increase the supply of gas and oil. For example, the President's energy message suggested the following: end quota restrictions on foreign imports, which has now been done, deregulate the wellhead price of natural gas, construct the Alaskan pipeline to bring North Slope oil to the continental United States, and accelerate exploitation of continental shelf areas, including the Atlantic continental shelf, a topic which some of you will look into in one of the seminars.

While these measures might help in the next decade or so, they raise important environmental problems and can, at best, only stave off the day when we will not have enough fossilized fuels—that is, oil and gas—and will have to look toward other sources of energy.

There are some, and I am one of them, who believe that we should begin now to work on these alternative energy sources in a very serious way. What we need is a technological break-through, and our chances of getting such a break-through, in time to avoid a much severe energy crunch, are greatly enhanced the sooner we get to work. To date, the government has been engaged in a major way in the development of only one non-traditional energy source—nuclear energy, another topic which some of you will discuss as a seminar.

But, there are many other possibilities—for example, solar energy, geo-thermal energy, coal gasification, the use of tidal movements, and the extraction of oil from oil shale. Research in a number of these areas is already underway. For example, for the past year and a half, the Institute of Energy Conversion at the University of Delaware, which is directed by one of our panelists here today, Dr. Karl Böer, has been engaged in a major effort to develop a practical system for solar energy use. If all goes well, solar energy could begin to make an impact in the late 1970's and early 1980's in supplying the energy needs of private homes.

For most of the alternative energy areas, it is going to require a very big effort to develop the needed technology and to avoid ecological costs. To stimulate such an effort, Senator Henry Jackson, who is Chairman of the Interior Committee and is generally acknowledged as one of the Senate's leading experts on energy matters, has drafted legislation that would initiate a national effort in developing alternative clean energy sources. This effort would be similar to the program that got men to the moon or which, during World War II, developed the first atomic bomb. I support such an effort because I feel that the problem that is facing us is similar to the problem we perceived after the launching of Sputnik—it is a national problem and requires full resources of the Federal Government to overcome it.

Such a program would be very expensive. Senator Jackson estimates that it would cost $20 billion dollars in ten years, but it could well be more in this day of cost over-runs and rising prices. This is where, in closing, I want to return to the theme I mentioned previously—that we can work toward having both adequate energy and strong environmental protection—but it will be at a cost. One of the difficult questions is, how is this research going to be financed?

This is what so far is left out of Senator Jackson's bill. His present bill does not provide for any additional revenues to finance the energy effort; hence, it could end up increasing the national debt and in effect be financed by inflation. Inflation caused by budget deficits is a back door, hidden cost, but it is a cost nonetheless, and this cost falls most heavily on the poor and the elderly, that is, on those who have fixed incomes or do not have interest-earning savings.

It is my understanding that Senator Jackson intends to hold hearings on the question of how to finance such an ambitious program. One possibility is that there could be created an Energy Research and Development Trust Fund. The Fund could be used to promote technological developments in alternative energy sources and in anti-pollution devices. It could also be used to help develop energy saving machines, to build more recycling centers and improve recycling techniques. What should go into the Fund? First of all, if we are going to charge fees for foreign petroleum imports, these fees could be applied toward energy research. They won't amount to very much at first—a total of $178 million dollars in Fiscal Year 1975, according to the Treasury Department. But, by Fiscal Year 1980, the take will have increased to $1.2 billion dollars. Secondly, if gasoline prices are going to go up because of shortages, it has been suggested that part of the increased price could be put into an Energy Research and Development Trust Fund. No one knows yet what the answer is, but if Congress is to adopt an intensive energy research program, as I think it should, it also must wrestle with the problem of how to responsibly finance it.

I regret that I cannot tell you that the energy crisis is a myth or that all environmental problems will be solved only by passing the appropriate laws. It is important, however, to recognize most of life's problems—both public and personal—are not so easy; they require hard thinking, hard work, and often hard-to-swallow costs. When Winston Churchill accepted the charge for the British war effort during World War II, he told the House of Commons that he had "nothing to offer but blood, toil, tears, and sweat." Fortunately, I have something more to offer you today—a panel of experts from Delaware and from the Federal Government—to talk to you with greater insight and from a greater depth of knowledge and experience about energy and environmental issues. I would like to introduce them now, and then you can separate into your respective morning seminars.

THE SOUTH DAKOTA SCHOOL LUNCH PROGRAM

Mr. McGOVERN. Mr. President, the National School Lunch Act is one of our most important and successful Federal programs. With the help of local, State, and Federal money, over 25 million schoolchildren each day receive a nutritious meal designed to meet one-third of their recommended daily allowance. Educators and parents have praised the efforts of Congress in this area, and I am proud to have been part of its success.

The school lunch program in South Dakota is one of the Nation's best. Students, teachers, and administrators work together to insure its success. I have long felt that school lunch workers do not receive enough credit for the excellent services they perform.

It is a pleasure to insert into the RECORD an article published in the Sioux Falls Argus-Leader on Sunday, December 16, 1973, concerning the school lunch program in that city. The ingenuity and ability of those involved in the production of meals there is clearly remarkable. After reading the article, it is clear to me why their program enjoys such great success. I ask unanimous consent that the article may be printed in the RECORD.

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

A LOOK AT THE OPERATION THAT FEEDS LUNCHES TO 12,000 STUDENTS

(By Mary Edman)

Try this on for size.

Brown 2,100 pounds of ground beef, add

98½ gallons of concentrated tomato juice, 22½ gallons of barbecue sauce, 67½ quarts of chopped onions, 22½ cups of worcestershire sauce, 37½ cups of salt, 30 tablespoons of pepper and 30 quarts or more of flour, and simmer.

Know what you've got? Enough barbecue to fill 12,000 buns and feed nearly 12,000 students one of their favorite meal items.

Barbecues are just one of the items included on some school menus next week. Favorite foods, Christmas cookies, ice cream bars and gaily decorated gelatin molds are the cafeterias' ways of wishing students a "Merry Christmas" during the week prior to vacation.

BEHIND THE SCENES

Special holiday menus have been planned several weeks in advance by public and parochial school managers. However, meal preparation progresses on a day-to-day basis for the 108 regular cafeteria personnel employed by the schools.

Mrs. Angela Johansen, cafeteria manager of lunch programs in Sioux Falls public schools, explained that meals for elementary, special education and vocational education students are prepared in kitchens at the Career Center, 701 S. Western Ave. Each junior and senior high school in the district operates their own kitchen for meal preparations.

Touring the kitchens at the Career Center is like visiting a factory complex. Machinery includes two conveyor belt assembly lines for packaging lunches, a five-tier bake oven, 80, 60 and 20-quart mixers, a bun divider, a doughnut machine, a cooking machine, 80 and 60-gallon steam kettles and a bread buttering machine.

Here are some interesting figures about the capacity of the machinery at the central kitchens and the ability of the 17 regular employees to operate them. "Cold packs" (those which include salads, sandwiches, carrot sticks, etc.) can be packaged at a rate of 35 per minute. Hot lunches can be assembled at a rate of 60 per minute when using the conveyor belts; the bread-buttering machine butters 1,500 slices per hour and the doughnut machine produces 125 dozen pastries per hour.

Mrs. Johansen explained that cold packs are prepared the morning they are to be served. Women begin meal preparations at 6 a.m. each school day. By 8:30 a.m. approximately eight women position themselves along a conveyor belt and adroitly place luncheon items in clear plastic cellophane-wrapped cartons. These cold packs pass through a shrink tunnel which seals the cellophane to the carton and are loaded onto racks which will be distributed to various schools throughout the city.

After the cold packs have been sealed and readied for delivery, the women shift their attention to a second conveyor belt, where hot lunch items are packaged in aluminum foil-wrapped packages.

HOT LUNCH PROGRAM

Mrs. Johansen revealed hot lunches are prepared and packaged the morning prior to their serving and are refrigerated overnight at the kitchen's walk-in coolers.

When the hot lunch menu calls for barbecues, goulash, macaroni and cheese, chili, pizza or tuna and noodles, kitchen workers prepare about 220 gallons of these recipes in the stainless steel steam kettles. The steaming contents are transferred to mobile serving discs and placed within easy access of conveyor belt workers. Packaging of the nearly 5,000 meals each day takes about two and a half hours on the cold pack line and two hours on the hot pack line.

"Good back-up workers really keep the operations running smoothly," observed Mrs. Myrtle Walser, cafeteria manager of the central kitchens.

Elementary schools begin calling in their orders to the central kitchens at 9:30 each morning, and deliveries begin almost immediately. Besides providing lunches for students in the district's elementary schools, the central kitchens also serve hot meals to Early Childhood students at Emerson, Mark Twain, Lowell and O'Gorman high schools, pre-school students at Beadle and students at the Area Vocational School.

Each elementary school is equipped with an oven designed to heat the aluminum packs. In addition, the schools are supplied with "spork" (a plastic combination between a spoon and fork) kits, which includes a napkin and straw for milk.

"Using disposable serving trays and utensils really cuts down on clean-up and labor," Mrs. Johansen smiled.

The ovens, which range in capacity from 180 to 300 hot packs at a time, heat the contents for 20 minutes. Students pick up their lunches to eat either in gymnasiums or classrooms, depending on school facilities.

KITCHENS IN DIFFERENT SCHOOLS

The central kitchens employ a full-time baker who prepares dinner rolls, doughnuts, cookies, cakes and bars to be included with lunches. Junior and senior high schools in the district receive most of their bakery products from the central kitchens.

Kitchen facilities at the junior and senior high schools are comparable to those of the central kitchen, except on a smaller scale. An average of 11 regular workers report every morning to each junior high school to begin meal preparations. Cafeteria managers Mrs. Bernadene Stoll at Axtell Park; Mrs. Delores Butcher, Edison; Mrs. Ruby Miller, Patrick Henry, and Mrs. Viola Olson, Whittier, supervise kitchen personnel in preparing nearly 3,400 type A student and adult meals each day.

Mrs. Shirley Matzen and Mrs. Mary Engelkes, cafeteria managers at Washington and Lincoln High Schools respectively, oversee daily preparations of 2,100 type A and ala carte meals for students and adults at their schools.

Cafeteria at St. Joseph and Little Flower elementary schools operate on much the same basis as those at the public junior and senior high schools. However, the atmosphere at the two kitchens is more casual and cozy, with a total of nine persons employed by the cafeterias.

Mrs. Marjorie Hartwick, cafeteria manager at St. Joseph, explained special Christmas plans at her kitchen, which prepares meals for nearly 400 students and adults.

"We have permission to ask the elderly or shut-ins to join our students for lunch Wednesday. We're going to serve fried chicken, cranberry sauce, Christmas cookies and whipped potatoes as a sort of 'Merry Christmas' wish for our students."

The menu at Little Flower for Thursday's Christmas special includes roast turkey with dressing, mashed potatoes, ice cream and Christmas cookies.

Mrs. Viola Kersbergen, cafeteria manager at the school, said she and her helper prepare lunches for nearly 100 students and serve a daily breakfast to about 30 students. The kitchen and cafeteria for the school are located in the wood-paneled carpeted basement of St. Therese Catholic Church, a short walk across Little Flower's parking lot.

Mrs. Florence Daniels, cafeteria manager at O'Gorman High School, explained the reason for not planning any special Christmas meals.

"If we did have something special we would probably have leftovers," she said. "Since we'll be gone for nearly two weeks for vacation, I wonder how we'd get them used up."

Two of the five regular employes at O'Gorman's kitchen prepare breakfast and dinner for 30 seminary students, and the main operations of the kitchen prepare type A and ala carte lunches for nearly 250 O'Gorman students.

All in all, Sioux Falls elementary and secondary schools offer the largest hot lunch operation in the state, touching nearly 12,000 students with tasty treats served especially at Christmas.

ACCOMPLISHMENTS OF THE FBI

Mr. McCLELLAN. Mr. President, on Saturday there appeared in the Washington Post an article that is deserving of everyone's attention. Its subject was the release of the FBI's annual report detailing the accomplishments of the Bureau for fiscal year 1973. The article and the report itself show the great strides that have been and continue to be made by the Bureau in law enforcement.

I will let the report's figures speak for themselves. In fiscal 1973, convictions resulting from FBI investigations numbered 14,465—the highest in FBI history. This figure increased from about 13,800 in fiscal 1972 and represents a conviction rate of over 96 percent of those brought to trial.

Even more noteworthy than these statistics, however, are those relating to organized crime. During this same time period, convictions in organized crime and gambling cases made by the FBI numbered 1,114, an increase of 301 over the 1972 figure and 795 over the 1969 figure. In addition, nearly 2,900 organized crime figures were awaiting trial in FBI cases at the close of the fiscal year.

Comparable increases in the number of convictions took place in other areas as well.

Mr. President, at a time when so much criticism is leveled at law enforcement agencies and their personnel, it is well that their accomplishments be given proper recognition and due appreciation. This is especially true of the Federal Bureau of Investigation. As the Bureau's new director, Clarence Kelley, noted in his statement accompanying the report, the FBI has been criticized—unjustly, in my opinion—for its handling of the Watergate investigation. The report should eliminate any doubt in the minds of the American people that the Watergate question may have tarnished the integrity or effectiveness of the Bureau.

Mr. President, at the same time that we bestow some well-deserved praise upon the Bureau, I do not think it improper to note the significant role that the Congress, and particularly the Senate, has played in enabling the Bureau to achieve such an improved and outstanding record of accomplishment. It is certainly no mere coincidence that the great rise in convictions in the organized crime and gambling areas began with the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, which granted greater access to wiretapping to law enforcement officials as a method of combating crime, and the Organized Crime Control Act of 1970, which made it a Federal offense to engage in large-scale gambling activity. I am proud of this legislation, which represents a great deal of effort on the part of the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair. Both of these acts were cited by the Bureau as contributing to its increased effectiveness.

Mr. President, I need not remind the Members of the Senate that there were those who opposed this legislation—particularly the wiretapping provisions of the 1968 act. They argued that it was unnecessary legislation that would be subject to abuse. The accomplishments of the FBI in combating organized crime through these tools has refuted that contention. It is precisely through such legislation as this and through continued congressional support of agencies such as the Law Enforcement Assistance Administration, which provides so much assistance to our local law enforcement officials, that the cancer of organized crime will eventually be destroyed.

Mr. President, I ask that there be printed in the RECORD the article from the Washington Post analyzing the recent FBI report. I commend the entire report to the other Members of the Senate as an excellent summary of the accomplishments of the Bureau during the last fiscal year.

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

ORGANIZED CRIME CONVICTIONS IN FBI CASES UP SHARPLY

(By Susanna McBee)

Convictions in criminal cases brought by the FBI, especially those in organized crime and gambling, have sharply increased, according to the bureau's annual report released yesterday.

FBI Director Clarence M. Kelley said the report should refute charges that the bureau's early role in the Watergate investigation had "diminished the FBI's effectiveness, cast doubt on its integrity and devastated employe morale.

"Those who have such doubts," he continued, "underestimate the character of career employees, for these are men and women who truly believe the FBI is the finest investigative agency in the world and daily strive to make it so."

Critics have said the FBI could have been more aggressive in the early stages of the Watergate probe and that it complied with White House demands that it restrict its inquiry.

L. Patrick Gray III, who was acting director after J. Edgar Hoover died in May, 1972, resigned last April 27, after admitting he destroyed some Watergate evidence at the request of a presidential aide.

Kelley's pointed reference to the character of career FBI employees underscored a comment he made at a Washington Post luncheon last month. He said then that Gray "was not considered a true representative of the bureau. He was an outsider."

The annual report covers the fiscal year that ended June 30, nine days before Kelley became director. It says little that is new about the Watergate investigation, except that 56 of its 59 field offices have worked on the various cases and that the bureau has followed leads to foreign countries.

The report shows that convictions resulting from FBI investigations totaled 14,465 in fiscal 1973, up from about 13,000 in 1972 and 13,400 in 1971.

Convictions in fiscal 1973 in organized crime and gambling cases made by the FBI numbered 1,114, a 301 increase over the 1972 figure. By contrast, organized crime convictions in 1969 totaled 319.

The increase results from what one source called "new jurisdiction and increased manpower." The 1968 Omnibus Crime Act broadened the FBI's access to court-authorized wiretaps and the Organized Crime Control Act of 1970 allowed it to investigate certain kinds of local gambling operations that it could not look into before, he explained.

Also, he noted, in 1970 Hoover sought and won congressional authorization to hire 1,000 more agents most of whom went into investigating organized crime. The FBI now has 8,658 agents.

The report also says that despite the current detente with the Soviet Union, there is "no sign of any reduction in the combined intelligence effort being conducted against the United States by Soviet bloc nations." It says that as of last July 1, there were 2,686 Soviet bloc people, including dependents, in the United States. Soviet bloc officials numbered 1,296, an increase of 44 per cent in the last five years, the report says.

A high percentage of them are spies, the report says. "Accordingly, the threat to the United States and the counterintelligence responsibilities of the FBI have been growing in proportion to the Soviet bloc presence in the United States."

The report shows a decrease in the value of goods recovered by the FBI in its cases—from nearly $241 million in 1972 to $192 million in fiscal 1973.

FOOD AND DRUG ADMINISTRATION REGULATIONS CONCERNING VITAMINS, MINERALS, AND FOOD SUPPLEMENTS

Mr. HASKELL. Mr. President, earlier this year the Food and Drug Administration announced new regulations concerning vitamins, minerals, and food supplements. These regulations were the conclusion of a decade of investigation and research, and 2 years of formal hearings on every aspect of the issue. In my reading on this subject I have come across an excellent explanation of these new regulations in the FDA Consumer. Mr. President, I ask unanimous consent that this article, "Vitamins, Minerals, and FDA," be printed in the RECORD for the information of all concerned and interested.

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

VITAMINS, MINERALS, AND FDA

The Food and Drug Administration has spent the past decade investigating consumer needs and the FDA role in regulating vitamins, minerals, and food supplements. This study included two years of formal hearings on every aspect of the various issues. Industry, science, medicine, and consumers participated.

The FDA has published new regulations based on this study. The FDA aim is to protect the consumer against proven hazards from toxic amounts of nutrients and to require accurate labeling, honest promotion, and rational formulation of vitamins and mineral products. The FDA believes that with full and valid information the consumer will be better able to make informed decisions about personal nutrition practices.

The new regulations have been the subject of much misinformation and some misrepresentation. Here, to set the record straight, is what the Agency is trying to do and why.

FDA's regulations begin with a series of basic definitions:

The term *"United States Recommended Daily Allowance"* or *U.S. RDA* describes a new and more effective system for measuring human nutritional needs. Based on continuing study for many years by the National Academy of Sciences, the system represents the best available scientific judgments on the daily intake of vitamins and minerals needed to maintain a positive state of health. It replaces the old and generally lower *Minimum Daily Requirement* or *MDR* which was based on the minimum intake necessary to prevent deficiencies and related illness. With adoption of the U.S. RDA standard, the FDA is recommending generally higher daily intake of essential vitamins and minerals.

Products supplemented with up to 50 percent of the vitamins and minerals needed to maintain health (U.S. RDA) are *general foods.*

Products supplemented with 50 percent to 150 percent of the U.S. RDA are *dietary supplements.* The term "dietary supplement" is limited to the use of vitamins and minerals by well and healthy individuals seeking "insurance" against irregular or poor eating habits. The term does not cover the use or promotion of vitamins or minerals for the treatment of any disease or medical condition.

Products containing more than 150 percent of the U.S. RDA are *drugs.* Any vitamin or mineral used at any dosage for therapeutic purposes is a drug and should be understood by the consumer, regulated by the FDA, and marketed by industry as such. This definition implies no automatic restriction on public availability any more than does the FDA designation of aspirin as a drug.

High-potency nonprescription vitamin-mineral products have been available for many years, and FDA does not intend to require all high-potency vitamin-mineral products to be sold on prescription. This point has been broadly misunderstood and broadly misrepresented to the public.

Another major misunderstanding concerns the broad range (50–150 percent) allowed for the definition of dietary supplement products. Although 100 percent of the U.S. RDA is sufficient to meet the nutritional needs of essentially and healthy individual, FDA has provided for an additional 50 percent of the U.S. RDA in these products in recognition of the possibility that the nutritional needs of some individuals may vary greatly. Thus, the permitted range covers the dietary supplement needs of all individuals except for circumstances where consultation with a physician is appropriate.

The single most important purpose and effect of the new FDA regulations is to require full and honest labeling as well as promotion of vitamin and mineral products, whether marketed as foods, dietary supplements, or as drugs. The regulations redefine and clarify FDA's intentions to act against false labeling or deceptive promotion of such products.

In general, the regulations seek to protect the consumer against promotional claims for dietary supplements so low in potency as to be nutritionally ineffective or so high as to exceed any reasonable definition of a dietary supplement.

Specifically, the regulations seek to protect the consumer against unfair or deceptive promotional claims by requiring that:

1. No food or dietary supplement because of the presence or absence of certain vitamins or minerals may claim or suggest it is sufficient in itself to prevent or cure disease.

2. No food or dietary supplement may imply that a balanced diet of conventional foods cannot supply adequate nutrients or imply that transportation, storage, or cooking of conventional foods may result in an inadequate or deficient diet, thus suggesting that everyone needs a dietary supplement.

3. No food or dietary supplement may claim that inadequate or deficient diet is due to the soil in which a conventional food is grown.

4. All dietary supplements must list the source of their ingredients, but no supplement may claim superiority for either a natural or synthetic source. Rose hips, a part of the rose blossom, for example, cannot be promoted as a better or safer source of vi-

tamin C than ascorbic acid tablets. (Vitamins and minerals are the same in chemical structure regardless of natural or synthetic origin.)

5. No nutritional claims may be made for ingredients such as bioflavonoids, rutin, inositol, and similar ones having no scientifically recognized nutritional value. Such unproven ingredients may continue to be marketed as food items, but they may not be combined with essential nutrients in products labeled for dietary supplementation.

In these five requirements, FDA is *not* saying there is no loss of nutrients from cooking, storage, or transportation of conventional foods.

The Agency is *not* saying that soil composition does not cause variation in the nutritional content of food.

The Agency is *not* seeking to limit personal choice between the natural and chemical forms of supplementary nutrients.

The Agency is saying that in terms of overall diet, today's general food supply can provide adequate amounts of all nutrients necessary to good health.

The Agency is saying that it will prohibit unsupported generalizations about nutrient losses because of soil, transportation, and processing when such generalizations are used to frighten or mislead consumers about their need for dietary supplements.

The FDA responsibility for the vitamin and mineral regulations is assigned by the Congress. The basic Federal Food, Drug, and Cosmetic Act of 1938 requires that FDA act as it has to insure safety, honesty, and full consumer information about such products.

In the 1940's, it was generally thought that vitamins and minerals were such innocuous substances that excessive quantities would merely be excreted. FDA regulations at the time reflected this view and were sufficient to the needs and to the knowledge of the day.

This is no longer true. Even though a number of vitamins and minerals are essential to human nutrition, we know, for example, that excessive and prolonged vitamin A intake can cause serious problems, including pressures within the skull that mimic a brain tumor. This in turn may raise the danger of serious operations for brain tumors that do not exist.

Excessive and prolonged doses of vitamin D can cause calcification in soft tissues and bone deformity in adults as well as children.

Vitamin C in very high doses can cause diarrhea. High doses of this vitamin have been used in Russia to induce early abortion.

Iron toxicity is a well established cause of accidental poisonings in children. Iron as well as all other minerals essential to human nutrition are toxic at some level.

On the basis of increasing knowledge, the thinking of the 1940's is obsolete today. The view that unlimited quantities of vitamins and minerals are innocuous is today not only obsolete but dangerous. The evidence of this is so clear on vitamins A and D, for example, that FDA is recommending that high-potency doses be taken only under physician guidance. Nevertheless, both A and D will continue to be available, either in nonprescription strengths up to the U.S. RDA or in higher potency forms under physician prescription.

Other than vitamins A and D, all vitamin and mineral products in excess of 150 percent of the U.S. RDA and now available without prescription may continue to be sold singly or in combination formulas as nonprescription drugs. They are, nevertheless, drugs and not dietary supplements. These products eventually will be reviewed by experts who will judge their safety and effectiveness as drugs and advise FDA on appropriate labeling. As a general rule, FDA will continue as in the past to presume a drug acceptable for nonprescription use unless it is unsafe to use except under supervision of a physician.

FDA knows of no economic hardship on consumers or manufacturers that could result from handling high-potency vitamin-mineral products as drugs. Indeed, this will clearly work an economic benefit for consumers, who for the first time will begin to receive accurate information on the different uses of different levels of nutrients.

In summary, the FDA will continue to act in behalf of consumer safety and better consumer information. New regulations primarily affect labeling of vitamin and mineral products and will likely require more accurate consumer information on most such products.

FDA will continue to seek out and act against deceptive or false promotions.

The Agency is not banning any vitamin or mineral from the market or forcing any manufacturer willing to provide proper product formulation and labeling out of business.

The Agency is not restricting any vitamin or mineral available without a prescription today to prescription use only. This includes vitamins A and D in doses up to the U.S. RDA.

The FDA will continue to regulate on the basis that vitamins and minerals are essential *foods* when taken according to bodily need. When taken far in excess of this need, they are *drugs* and should be treated by the consumer and by the FDA accordingly.

The term "bodily need" is not set in concrete. FDA and others are constantly monitoring research to more precisely measure the body's nutritional requirements. As a result, changes may be anticipated in the future, in some cases to lower the U.S. RDA's and in other cases to increase them.

Above all, the new regulations will not alter or interfere with the consumer's basic responsibility for deciding his own individual nutritional practices. The rules will insure more and better information to guide the consumer in making such choices.

RHODESIAN CHROME

Mr. McGEE. Mr. President, apparently the debate on the merits of S. 1868 has not subsided in spite of the fact the Senate overwhelmingly voted Tuesday of this week to place us into compliance with U.N. sanctions against southern Rhodesia.

For example, it was with considerable interest that I read the comments made yesterday by the distinguished junior Senator from New York (Mr. BUCKLEY). Therefore, I want to take the opportunity today to respond to his contentions and set the factual record straight. In the distinguished Senator's remarks I could find no documentation of the allegations and claims he raised in expressing his concern with the Senate action earlier this week. However, my response will be based upon documented evidence which was very well researched long before we proceeded with floor consideration of S. 1868.

Basically, the junior Senator's argument focuses on three general areas. First, that the sanctions against Rhodesia gave the Soviet Union a monopoly on the chrome market in the world, a fact which they exploited for commercial profit. Tied into this argument is his assertion that the United States could not be dependent upon a potential enemy for so critically important a strategic material.

I might add that I addressed myself to this argument, and the others he raised, in my statement before the African Affair Subcommittee of the Senate Foreign Relations Committee on September 6, 1973, during hearings on S. 1868. I made a copy of my statement available to every Senator in this body.

In response to the junior Senator's (Mr. BUCKLEY) first assertion, I would point out that according to U.S. Department of Commerce data, the surge in Russian imports came long before sanctions against Rhodesia were implemented. For example, according to the U.S. Department of Commerce, in 1961, we imported only 4.7 percent of our chrome from Soviet Russia while Rhodesia had 47.2 percent of our market. In 1963, just 2 years later, the Soviet Russian imports jumped to 38.3 percent, while imports from Rhodesia decreased to 39.7 percent. By 1968—the year before sanctions were imposed—our imports from the Soviet Union had increased to 58 percent, while imports from Rhodesia had declined to 17.6 percent. It should also be noted that, according to a study compiled earlier this year by an analyst in the Foreign Affairs Division of the Congressional Research Service, Library of Congress, the Soviet Union can command a higher price for its chrome because "the Soviet Union produces the highest grade chrome available." In other words, the United States gets more chrome per ton of ore if we import it from the Soviet Union, than from Rhodesia.

The Library of Congress study also pointed out the price of chrome, including that of Rhodesian chrome, had increased in recent years due as much to an increase in demand for chrome and the general upward shift in the prices of raw materials as to the effects of economic sanctions. The rise in world chrome prices, according to the study, began in 1964, before imposition of the sanctions.

As to the prices we pay for chrome imports, the distinguished junior Senator from New York (Mr. BUCKLEY) has overlooked some very important facts. Once again, according to U.S. Department of Commerce data, in 1965, our chrome importers were paying around $40 a ton for metallurgical grade chromite from Rhodesia, while in 1972 we paid $67 a ton. This represents a 168-percent increase in the price of Rhodesian chrome in just a 5-year period. In addition, for the first quarter of 1973, according to the U.S. Department of Commerce, we paid $48.16 a ton for metallurgical grade chrome from the Soviet Union, while Rhodesia charged us $62.38 per ton.

To give a further example of how misleading the numbers game is, let us take a look at chemical grade chrome—which is a middle grade. Once again, according to the U.S. Department of Commerce, in 1968 Rhodesia sold us chemical grade chrome for $30.51 per ton, while in 1972 they were charging us $83.25 per ton. This represented an increase of nearly 287 percent in just a 4-year period.

And finally, according to U.S. Department of Commerce data, the price of Rhodesian chrome for all grades from

1961 until 1968 was consistently higher per ton than the Soviet chrome.

We have had an abundance of expert testimony as to the strategic necessity of chrome. First, on June 26, 1973, Mr. Peter M. Flanigan, Assistant to the President for International Economic Affairs, belittled the "national security" argument by pointing out:

Access to Rhodesian chrome and other minerals is not an important element in U.S. security or our overall economic policy given: (1) the substantial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

On July 20, 1973, Deputy Secretary of Defense W. P. Clements, Jr., pointed out:

The metallurgical grade chromite needed by industry to support the Defense Department's steel requirement during the first year of a war amounts to 128,300 short tons, or 2.3% of the quantity held in the inventory as of 31 December 1972. Thus, it can be seen that the Defense requirement for metallurgical grade chromite is relatively small, and that the bulk of the stockpile inventory would be used by the non-defense industry in the event of an emergency.

And finally, on October 3, 1973, Secretary of State Henry Kissinger pointed out:

The Byrd provision is not essential to our national security, brings us no real economic advantage, and is detrimental to the conduct of foreign relations.

Imports of Rhodesian chrome and nickel are no longer necessary for strategic reasons and that a request is currently before the Congress to eliminate our stockpile of metallurgical grade chromite. It is also pertinent to note that contrary to the intention of the Byrd provision, the percentage of imports of chrome from the USSR actually increased during the last two years.

On the other hand, the Byrd provision has impaired our ability to obtain the understanding and support of many countries including such important African nations as Nigeria, a significant source of petroleum and a country where we have investments of nearly $1 billion.

Thus the record is clear. The arguments advanced by the junior Senator from New York (Mr. BUCKLEY) are baseless.

As to the second assertion raised by the distinguished Senator that we only have a 1-year supply of chrome ore on hand in our stockpile, I am at a loss as to what his factual basis is for this statement. Is he talking about defense needs? If so, this is not borne out by evidence presented us by the Deputy Secretary of Defense, Mr. Clements, the President's International Economic Advisor, Mr. Flanigan, or Secretary of State Kissinger. In fact, Mr. Clements testimony is based upon information provided him by the Office of Emergency Preparedness.

In conclusion, I will address myself to the distinguished senior Senator's third contention that the United States is making itself vulnerable to Soviet economic warfare by a U.N. resolution, when I also respond, tomorrow, to contentions raised in Tuesday of this week by the distinguished senior Senator from Ohio (Mr. TAFT) and others in this body.

I would just add one thought. The issues relative to S. 1868 had been more than adequately debated when we were forced to go through three cloture votes in order to have a vote on the bill itself. It was clear to me, that contrary to the hopes of some in this body, the House is not going to pigeonhole this bill and let it gather dust. If this were the case, we would not have had to engage in the exercise we were forced to go through the past 2 weeks.

ARAB-ISRAELI CONFERENCE

Mr. KENNEDY. Mr. President, tomorrow in Geneva, a historic conference is due to begin, designed to bring peace to the Middle East. This is the most hopeful moment in more than 25 years of the Arab-Israeli conflict—but also one of the most dangerous. It is hopeful because, for the first time, representatives of both sides will sit down in formal, direct negotiations under a mandate of making peace instead of war. It is dangerous, because expectations are at a fever pitch, and the chances of renewed failure and further warfare are very real.

This conference will be long and difficult. There are no easy solutions to problems that have been developing over half a century, and that have led to four wars in 25 years. Passions run deep; the issues relate to fundamental concerns of national security and human rights; and the search for peace is complicated by deep suspicion.

A just and lasting settlement is possible—and imperative, if the peoples of the Middle East are to be free at long last from the threat of war, and the peoples of the world are to be free from the dangers to all mankind that this conflict has brought.

We must hope that all parties to the conflict will now recognize that the way of war can bring gain to no man; and that an end to conflict can bring benefits to all.

The extremists must be isolated, and terrorism rejected by the peoples of the Middle East. Moderation must prevail on all sides. And patience must be the watchword of all negotiators.

The United States, and especially Secretary of State Kissinger, have played a critical role in the difficult diplomacy leading up to this conference. And we continue to have a role to play in urging serious negotiations and substantive progress toward peace, and in supporting any agreements that are reached by the parties themselves.

But the United States itself cannot bring peace to the Middle East. This can only be achieved by the several parties to the conflict, in a continuing process of discussion and compromise. What a settlement could look like is unclear, and little would be served by American efforts to determine that settlement. But one thing is clear: No settlement is possible that does not provide Israel with real security, that does not deal with the problem of territories, that does not begin to resolve the most difficult human issue of the Palestine refugees, and that does not point in the direction of peaceful relations between Israel and its Arab neighbors. As man's painful history has shown, peace is an elusive goal, that at heart is created in men's minds, and in their hearts.

That day may yet be far off. But the conference beginning tomorrow can be an important step on the way. It deserves our support, and the support of men everywhere.

MEMBERS OF ARMED FORCES MISSING IN ACTION IN SOUTHEAST ASIA

Mr. BARTLETT. Mr. President, yesterday the Senate passed my resolution calling on the people of our Nation, during this Christmas season, to give a special remembrance through our thoughts and prayers for the 1,163 members of the Armed Forces who remain unaccounted for in Indochina and for the families and friends of these men.

This past year has been especially trying for the families of our men who are still officially listed as missing in action. While the Nation celebrated and wept with joy at the return of most of our POW's last spring, the families of 1,163 men celebrated too. But privately they weep that their MIA is not on a returning plane.

The worst part of all this is that it is so unnecessary. North Vietnam can at anytime resolve the mystery of many of the 1,163 men. Yet North Vietnam has displayed utter disregard for basic humanity and justice.

Article 8B of the Paris Peace Treaty signed January 27, 1973 provides:

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 those still considered missing in action.

Yet North Vietnam contemptuously turned her back on these provisions and have allowed the families of 1,163 men to suffer the torment of wondering whether a husband, son, brother, or friend is languishing in a prison, suffering in a hospital, or dead in a grave.

Mr. President, I would urge that the administration continue to use every diplomatic avenue possible to assist in obtaining information about these men. The families must know that we will not be satisfied until every man is accounted for.

Mr. President, the 1,163 men and their families have suffered through many lonely, sad Christmases. But they have been very brave.

At this time, I call on the U.S. Senate and all Americans to keep these men and their families in our thoughts and prayers throughout this Christmas season.

Let us also pray that another year will not pass without a full accounting of each of these men who have suffered for each of us.

INTERAGENCY VIETNAM ADOPTION COMMITTEE

Mr. KENNEDY. Mr. President, a group of 16 voluntary agencies have met over the past several weeks, under the auspices of the Agency for International Development, to form a committee to better coordinate efforts to meet the special needs of Vietnamese orphans fathered by Black Americans.

Called the Interagency Vietnam Adoption Committee—IVAC—this consortium of agencies have had several useful conferences in Washington and New York to review the particular problems confronting black-fathered Vietnamese orphans, and to open important contacts with black adoption and community agencies in the United States. Their goal is to help provide placement opportunities for black-fathered Vietnamese orphans in black homes—wherever adoption is considered the best plan for the child.

The overall goal of IVAC is an important one, Mr. President, and one which I fully support. By creating a clearinghouse of information, and by establishing a basis of priority for the placement of black-fathered Vietnamese orphans in black homes, IVAC will attempt to give the black community an equal basis in helping to meet the needs of these orphans.

To look into the needs of children in Vietnam—especially those fathered by black Americans—and to review governmental and voluntary agency activities on their behalf, IVAC is sending a delegation to the field next month, with the support of AID. All of us who have been concerned over the progress being made to help the children of Vietnam, must surely welcome this specific effort by AID.

The IVAC delegation will be headed by its cochairman, Mr. Alfred Herbert of the Black Child Development Institute, Washington, D.C., and will be composed of Mr. Louie Beasley, National Association of Black Social Workers, Nashville, Tenn.; Mr. Benjamin Finley, executive director of the Afro-American Family and Community Services, Chicago, Ill.; Mr. John Adams, Holt Adoption Agency, Oregon; Mrs. Clara J. Swan, Child Welfare League of America, Inc., New York, N.Y.; and Mr. Gardner Munro, consultant to IVAC.

Mr. President, I welcome this effort to involve the black community and black adoption agencies in America's effort to help meet its responsibilities to these children disadvantaged by a war which we helped to sponsor for so long. I hope IVAC will become a useful clearinghouse of information, and a source of coordination of voluntary agency activities as they relate to the special needs of black-fathered children in Vietnam.

To achieve this goal, IVAC will need and must have the active cooperation of the voluntary agencies charged with facilitating the adoption process. And I would hope that AID would stress the need for this cooperation when it grants contracts to agencies which process intercountry adoptions.

Mr. President, as I stated on the Senate floor last week, the disadvantaged children of Vietnam measure their lives in minutes and days. They deserve better than America has given, and we must expedite programs in their behalf. I hope the forthcoming field visit by IVAC will help, even as we recognize that only the granting of funds, and the implementation of programs so long ago proposed, will truly begin to bring relief and help to these children in need.

In order to share with my colleagues the work of IVAC, I ask unanimous consent, Mr. President, that the minutes of their first meeting in Washington and an accompanying letter from AID, be printed in the RECORD.

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

DEPARTMENT OF STATE,
AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 30, 1973.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: In view of your interest in child welfare programs in Vietnam, enclosed for your information is a copy of a report on a meeting sponsored by the Agency for International Development (A.I.D.), on the subject of intercountry adoptions of Vietnamese children.

The meeting was convened by A.I.D. on July 25–26, to discuss the desirability of an expanded network of services in the U.S. to facilities and expedite suitable adoption placements in American homes for Vietnamese children for whom adoption has been determined in Vietnam to be the best plan for the individual child.

The participants were representatives of the voluntary agencies that have intercountry adoption services in Vietnam, U.S. voluntary agencies that have programs relating to child placement agencies, and child welfare experts, consultants and U.S. Government officials.

The meeting included a full discussion of the nature of problems and needs of these particular groups of children, the legal and procedural problems involved in the processing of adoptions, the attitudes of Vietnamese people toward the release of children for adoption, the availability or lack of resources of American voluntary agencies handling adoptions in Vietnam, and the nature and adequacy of suitable adoption placements in the United States.

A major concern relating to the matter was the policies of agencies now engaged in placements in the U.S. of American-Vietnamese children fathered by Black Americans and the interest of the participating Black agencies to cooperate with the present adoption agencies involved in intercountry adoptions to insure that children fathered by Black Americans are placed in the most suitable homes which normally would be expected to be homes of Black families.

A major outcome of the meeting was a decision by the participants to establish a steering committee to formulate plans for the organization that would provide a mechanism for marshaling the essential resources in the U.S. and in Vietnam to facilitate and expedite the arrangement for intercountry adoption of non-white and particularly Black American-Vietnamese and handicapped children for whom Vietnamese agencies and officials have determined it is in their best interest.

The steering committee met in New York City on September 10–12, and drafted a recommendation to establish an organization, Interagency Vietnam Adoption Committee (IVAC), whose membership would be composed of designated representatives of the agencies who participate in the concerted action required, as well as other agencies concerned with effecting adoption expeditiously and who meet the criteria to be established by IVAC. The recommendation was unanimously approved by the representatives of 14 organizations who met on October 3 and IVAC came into being.

The objectives and function of IVAC are as follows:

1. Locate and provide Black adoptive homes for the estimated 500 abandoned Black-fathered Vietnamese orphans.
2. Determine the nature and extent of problems of these children.
3. Enter into purchase of service agreements with the adoption agencies recognized by the Government of Vietnam's Ministry of Social Welfare to expedite the required adoption services.
4. Enter into purchase of service agreements with licensed adoption agencies in the U.S. to locate adoptive homes in the Black Community and provide other pre- and post-adoptive supportive services.
5. Monitor and evaluate accomplishment of the goals and objectives of the project.

An Executive Committee was elected by the full membership, and is presently drawing up by-laws and budgets, as well as drafting proposals for funding for consideration by A.I.D., other appropriate government agencies, and private foundations and corporations. The Committee also is recruiting a full-time Secretary-General and two professional staff members. It is expected that the full membership of IVAC will meet again prior to December 1 to act upon the work of the Executive Committee.

Sincerely yours,

MATTHEW J. HARVEY,
Assistant Administrator for Legislative Affairs.

MEETING ON PLACEMENT AND ADOPTION OF VIETNAMESE CHILDREN IN AMERICAN HOMES

I. SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

The meeting opened on the morning of July 25th with a charge from AID to come up with specific recommendations to guide the U.S. Government in its efforts on behalf of Vietnamese children, particularly intercountry adoption for hard-to-place children, and it was announced that a future meeting with broader participation was planned to address the larger question of family and child welfare.

The overall child welfare picture in Vietnam was summarized for the conference by expert participants and it was pointed out that an estimated 500 American-fathered, Black children now in residential institutions in Vietnam present a specific target within an overall population of some 880,000 full or half-orphans, with only 25,000 children living in group care. Among this number of children are some 1,000 racially-mixed, out of a total American-fathered estimate of 10–25,000. A best estimate is that half of these children (or 500) are fathered by Black Americans or other non-White Americans. Because of Vietnamese preference for light skin coloring, as well as the absence of any Black community in Vietnam, the plight of these five hundred children is seen as particularly serious.

It was cautioned, however, that any crash program would need to be viewed within the context of services for all disadvantaged children and meshed with the policies, plans and programs of the Ministry of Social Welfare (MSW) and the Ministry of Health (MOH). The adoption agencies in Vietnam also reported that they did not consider a "consortium" of agencies was required and reported on the successful discussions of a working group in Vietnam on common problems in adoptions. Their report recommended that the U.S. based agencies agree on common policies and procedures and stated that the particular need in Vietnam was not for "another adoption agency" but for medical personnel, supplies, and other assistance to improve the health and nutrition of small children in institutions and improve medical facilities for those in process of inter-country adoption.

As the representatives from the adoption agencies in Vietnam described their pro-

grams, however, it became clear that the most active adoption agency, Friends of Children of Vietnam (FCVN) concentrated primarily on rescuing the "dying infant" who might be racially-mixed but in most cases is an ethnic Vietnamese, abandoned child. The Holt Adoption Program (HAP) is just getting started in Vietnam and International Social Service (ISS) is primarily occupied with problems of family reunion and migration counselling, with less attention to inter-country adoption to date. Now that the MSW has advised orphanage directors that adoptions must be processed through GVN registered adoption agencies, there is a large backlog of "private" adoptions that have recently been referred to the operating agencies and must be cleared up. The home offices of the Vietnam agencies are swamped with a flood of applications from White families who have indicated their desire to adopt any child—ethnic Vietnamese, Montagnard, racially-mixed (White or Black). As a result, the present agencies are confident that they can find homes for all children from Vietnam who might become available for adoption.

The representatives from the agencies serving the Black community at the conference asked for clarification of the emphasis on inter-country adoption and questioned the selection of Caucasian homes in the United States for non-White children. Concern was expressed that "we not impose our less than successful U.S. concepts of child care" on Vietnam. They stressed that the recruitment of Black homes for 500 children was not a problem but at the same time made clear that the Black community would not be prepared to service the agencies operating in Vietnam unless a major voice in policy at all levels was assured. Their position is that non-White children should be placed in non-White homes in the United States as they are labelled as "Black" as soon as they land in the United States. Only a Black family can teach such children how to cope with the complexities involved in Black-White relationships in the United States. Black consciousness and pride essential to survival and a feeling of group identity so essential today in the United States.

The position of the Child Welfare League of America supports the position that in the adoption placement of Black children or other ethnic minorities, priority should be given to placement of these children in homes, the families of which reflect the ethnic identification of the child.

There was a full discussion of ways of combining the resources of the adoption agencies in Vietnam with the resources of other agencies in the United States which have special expertise in helping Black children. The request from the agencies in Vietnam for assistance with medical care and nutrition was discussed by the group and it was decided that the official proceedings would reflect this concern with a recommendation to AID for prompt and expeditious action. The specific proposal submitted was not acted upon by the group. The representatives from the Black agencies in the United States on the second day of the meeting submitted a position paper in support of a concerted program of effort for the placement of abandoned Black Vietnamese children from orphanages to homes in the United States. In the course of the discussion, the following statement of purpose for such an effort was developed:

"The thrust of the consortium would be to assist American-fathered, non-White, especially Black, orphans in Vietnam by:

1. Expediting and facilitating the adoption of these children including direct services by the consortium and in conjunction with the agencies presently operating in Vietnam.

2. Providing consultation and technical assistance to agencies serving the Black community and those agencies recognized by the Government of Vietnam.

3. Cooperating with AID in relation to programs bearing upon the needs and problems of these children."

The concept of a consortium of appropriately designated American based adoption agencies to focus on these racially-mixed children in Vietnam (for adoption by families in the United States) was carefully examined. During the deliberations, several advantages were noted: the value of the focusing of pooled resources on the immediate needs of a special child population group; the introduction of additional resources (resources of the Black community); and the possibility of existing adoption agencies (serving Vietnam) continuing to pursue their present program priorities, while at the same time actively participating in program developments designed to meet the needs of American-fathered children abandoned to child welfare institutions.

On the other hand, objections raised included the addition of another agency in Vietnam; availability of existing agencies to deal with this group of children as they are currently doing; the difficulty of relating the unique and non-traditional structure of an agency such as Friends of Children of Vietnam (FCVN) to a consortium; and the placing of a priority on a small, selected group of children when other considerations, such as those referred to above by the existing agencies in Vietnam, if dealt with, would facilitate all intercountry adoptions. With the exception of two representatives of the agencies currently operating in Vietnam, it was agreed to accept the principle of a consortium approach to provide adoption services to American-fathered children, particularly those who are non-White. Such an effort would include an advisory or governing Board of Directors and Staff drawn from the participating agencies.

By consensus, the meeting then decided to appoint a sub-committee to draft the frames of reference for the program, including the proposed articles of incorporation and a plan of activities for the concerted effort, for distribution to all participating agencies. After the participants have reacted to the draft of the proposed organization, and its suggested activities, another meeting would be convened by AID to consider the plan submitted for approval. International Social Service (ISS) agreed to serve as the convenor of the sub-committee and to serve as the conduit for the possible A.I.D. grant or funds from other sources to finance the planning stages of the effort. Church World Service (CWS) agreed to loan $1,000.00 to ISS pending receipt of funds from A.I.D.

Four members and one alternate were selected for the sub-committee by separate caucusing of agencies operating in Vietnam and the Black agencies respectively—two from each group. Dr. Dumpson and Mr. Munro were requested and agreed to serve as consultants to the effort.

In addition to advising that AID take expeditious action to provide medical facilities for the use of adoption agencies in Vietnam, it was formally recommended that AID convene a follow-up conference with broader participation to discuss the total area of family and child welfare in Vietnam. There was some discussion that this conference might be held in Saigon preceded by preliminary meetings in both the United States and Vietnam to facilitate extensive participation by both Vietnamese and American individuals and agencies with specal interest and competence in family and child welfare.

At the conclusion of the conference, several participants noted the gratifying spirit of cooperation and understanding among all of the members which had made it possible to accomplish so much in a period of only two days.

II. PROCEEDINGS

A. Opening remarks

Mr. Garnett Zimmerly, Deputy Administrator, Bureau of Supporting Assistance, Agency for International Development, officially welcomed the participants to the two-day conference to discuss the desirability of an expanded network of services in the United States to facilitate and expedite suitable adoption placements in American homes for Vietnamese children for whom this alternative has been determined in Vietnam to be the best plan for the individual child.

AID appreciates the participants willingness to share their ideas and guidance on inter-country adoption which is recognized as only one aspect of the larger problem of the welfare of disadvantaged children in Vietnam. There will need to be varied approaches to helping these children, and adoption is seen as affecting only a limited number of children.

Mr. Zimmerly stressed the importance of working closely with the Government of Vietnam and the Vietnamese voluntary agencies, with care to coordinate each agency's contribution, and that of the United States Government, to assure fullest benefit from the available resources. He pointed to the admirable record in Vietnam of a spirit of close coordination on the part of the voluntary agencies and stressed AID gratification for their spirit of cooperation, as well. He pointed out, however, that the general public was both misinformed and uninformed of the situation in Vietnam and the work of the United States Government and the voluntary agencies. The inquiries received by AID, stemming from the June 19th, NBC Telecast, *"The Sins of Fathers"* testifies to this ignorance.

Almost all of the resources of the Bureau of Supporting Assistance for Vietnam are now being allocated for child welfare and refugee assistance with an ultimate goal of helping the Vietnamese deal with these problems themselves. The level of resources for next year include $2.5 million specifically for child welfare, along with 50% of the $77 million programmed for refugees, and 50% of $11 million for health. In addition, Food for Peace commodities are made available to the GVN and voluntary agencies for distribution to schools, orphanages and day care centers. AID has also begun an extensive nutrition survey and the findings will help determine future allocations of funds on behalf of children, to make best use of available resources.

One ingredient that AID cannot provide and must look to the voluntary agency for is "TLC", or tender loving care. TLC, patience and hard work are the special characteristics of voluntary agency operations around the world.

The level of contributions of other National donors during the post cease fire period are still not clear. Stability and security remain a major concern in both North and South Vietnam. Announcements of other donor contributions are anticipated soon, however, and no scarcity of resources is anticipated. The issue will be the wise and proper use of resources. On this note, Mr. Zimmerly charged the participants to this meeting to find ways for each to contribute to the solution of the problem under discussion and the conference was asked to arrive at a solution and make specific recommendations to AID for consideration.

In conclusion, Mr. Zimmerly announced that AID plans to convene a larger group in the near future to discuss the wider issue of family and child welfare in Vietnam.

B. Introductions

After introducing the participants around the table, Dr. Martha Branscombe underscored that in the deliberations on the needs of the hard-to-place children in Vietnamese residential institutions, particularly those fathered by American Blacks, we should not

lose sight of the larger frame of reference of the needs of all disadvantaged children in Vietnam. The Chairperson also pointed out that there recently had been a series of meetings of the adoption agencies in Vietnam, with the U.S. Mission and the Ministry of Social Welfare, and that they had found informal discussions of mutual problems of processing children, etc., to be quite useful and the group in Vietnam has suggested that the stateside adoption agencies, serving Vietnamese children, might also profit from mutual discussions.

The task of this meeting is to see whether there is a need for a wider network to facilitate placement of children in the United States. While there is apparently no lack of families wishing to adopt Vietnamese children, Dr. Branscombe said that it is important to consider whether the most adequate and suitable homes are being used for these children coming from orphanages in Vietnam.

Other aspects to be discussed are the numbers of children available for adoption, procedures in Vietnam and the United States, adequacies of facilities, and the need for more cooperation among the agencies. The hope was expressed that the participants would engage fully and freely in their discussions and arrive at specific conclusions and recommendations.

C. Needs and problems of Vietnamese children: implications for inter-country adoption

Dr. James R. Dumpson, dean, Fordham University School of Social Work

Dr. Dumpson acknowledged with satisfaction and encouragement the leadership demonstrated by AID in convening the meeting to consider the best way to pool and allocate resources on behalf of children in Vietnam. He identified his task as summarizing the documents before the conference and sharing his insights into the situation based on his participation in an AID Social Welfare Task Force Report in 1967; a 1971 visit to evaluate a community development project in Saigon; and most recently, a 1973 three-week visit for the U.S. Senate Sub-Committee on Refugees and Migration.

(1) The Child Welfare Setting:

The significant statistical dimensions (found also in the conference documents) are that 50% of the country's entire population are children under the age of 16 years of age—all of them war victims in one way or another. There are almost one million (880,000) described as orphans (missing at least one parent). It is significant to note the strength of the Vietnamese family structure and its traditional role, when pointing out that there are only some 25,000 children living in residential institutions, with the great majority of the orphans living with their mothers or other relatives. Similarly, the estimates of the number of racially-mixed children run from 10,000 to 25,000, with firmer statistics that only some 1,000 have been abandoned to institutions. One-half of the racially-mixed children in institutions (500) are estimated to be fathered by non-White, Black Americans. It is also significant to note that the number of racially-mixed children in institutions, although relatively small, has doubled since 1971.

Dr. Dumpson cautioned that in focusing on statistics that reflect neglect by the Government of Vietnam (GVN) or the United States of America (USA), we should not lose sight of the GVN's increased social awareness of children's needs and the programs it has initiated not only in child welfare, narrowly defined, but in education, health and nutrition as well. Whatever action the conference decides to undertake, it should be done in the context of the activities of the Ministry of Social Welfare of the GVN.

The GVN, by policy, has assigned highest priority to the development, care and protection for disadvantaged children. Not unlike the experience in the United States, however, the gap between policy and performance, as demonstrated by the allocation of resources to meet child need, is great. It is most important to note, however, that policy has been enunciated and there is evolving some structure within the GVN, and in its formal relationship with voluntary agencies, to move from policy to program planning to program operation and service delivery.

The GVN sees all children born in Vietnam as Vietnamese, irrespective of the condition of their birth or the accidents of parentage. This fact is basic to any effort on the part of foreign agencies to assist in the care and protection of children in Vietnam, regardless of mixed parentage, color, or any other factor. The MSW staff, including a social worker trained in the United States and previously employed by International Social Service/Vietnam, shared with Dr. Dumpson a program position paper that clearly outlines the MSW's child welfare program goals and reflects a high quality of policy and program development skills.

Dr. Dumpson stated that as the participants relate to the data presented, to the emerging policies and efforts to implement policies through programs, and as the effort is made to relate our concerns, resources, and efforts to child need in Vietnam . . . whatever our motivations . . . it is important to remember that in all developing countries, and in developing areas of developed countries, there is a lag between the breakdown of traditional patterns of social organization and the institutionalization at the national level of new patterns of welfare services and that Vietnam is no exception. The refugee problems have been highly visible and have political and humanitarian considerations. If any population group has commanded the priority of government resources it has been the refugees, and the needs of children must compete with refugees as a group for a share of the resources of Vietnam.

(2) American Fathered Children:

These children (especially the non-White) have very special needs. The Vietnamese have shown their lack of acceptance for the dark-skinned Montagnards and in more recent years have suffered heavily from the intervention of outsiders. In establishing a special program for American-fathered children, especially those fathered by Black Americans, the following questions and issues must be confronted:

(a) Whose primary responsibility is it for assuring quality care and protection for this group? How should this be exercised without doing violence or disservice to the right of all Vietnamese children to quality care and protection? The GVN? USA? Voluntary effort? Or a combination of all of these?

(b) How best may this responsibility be carried out to assure maximum protection throughout their minority? What legal protections are necessary and how are they assured? What must be done to provide legal protection of the natural parents or parents of the child? What are the alternatives to adoption? It is important to note that parents in Vietnam may abandon the child out of concern for his welfare, and this action should not be viewed in American terms.

(c) What is the role of American adoption agencies in providing services to American-fathered children? What are the implications of color and mixed-race parentage on the American scene? What are the implications of allocations to this group in the face of unmet child welfare needs of Black, Puerto Rican and other ethnic minority children in major cities of the United States?

(d) Given the American responsibility, with the GVN, for seeking to meet squarely the special needs of these children, how do we utilize existing structures and resources and how do we increase the resource potential?

(e) What alternatives to adoption should be available to these children? Should special efforts be made to make available American citizenship for racially-mixed children born in Vietnam when they reach their majority, along the lines adopted by the French Government when French-Senegalese Soldiers who fathered children during the French intervention in Vietnam?

(f) What structure, advisory or otherwise, is needed to move toward implementation of our thinking and recommendations that emerge from the deliberations of this meeting?

Gardner Munro, social work consultant and former chief social welfare adviser to the U.S. mission and the Government of Vietnam

In discussing the implications of inter-country adoption on the Vietnam scene, Mr. Munro noted that there are two major considerations. First of all, the strengthening of social welfare instiutions and services should be a first priority task for the post-cease-fire period. The GVN must meet the vital challenge of modifying old and creating new social institutions to deal with the overwhelming problems stemming from more than two decades of war and rapid social change. This urgent task must be undertaken to meet the needs of refugees, widows, orphans and the disabled, and to mend the social fabric of the country. A second consideration that must be faced squarely in that the GVN relies on the private sector to carry out child welfare programs. The Ministry of Social Welfare (MSW) will not have the resources in trained personnel to operate substantial direct service programs and, therefore, will depend for the foreseeable future on its expanding partnership with foreign and Vietnamese voluntary agencies.

AID has helped the MSW and the Ministry of Health (MOH) establish minimum standards of care for orphanages and day care centers, and has given impetus to the GVN's increasing interest in the welfare of children in these institutions. In the spring of 1973, the MSW sponsored a three-day conference for all orphanage directors where the new policy of referring children for adoption to licensed agencies was introduced.

The major focus of the meeting was on the maintenance of adequate standards and since that time the MSW has joined forces with the MOH to carry out regular supervisory visits and to implement corrective action through provincial government channels. The GVN had not felt before this year that it could insist upon standards, but has now made great strides in that direction since AID helped them to expand governmental allowances to the child welfare institutions, including funds for renovation and development of self-help activities as well as monthly allowances on the basis of the number of children cared for. The goal for 1973 is to continue the dramatic expansion of day care services—more children are cared for this way than in orphanages—and to develop a network of social service centers on a model already initiated in Danang, to serve women and children, and the disabled, by setting up counseling and vocational training services in already established, and privately operated community or social service centers. A major concern of the MSW is to find ways to prevent child abandonment. They have been impressed, for example, by the successful operation of a pilot counseling service in Saigon in a maternity hospital where a monthly abandonment rate four years ago of some 60 children each month has now been reduced to only a handful, through the activities of two voluntary agency social workers who have learned to spot the expectant mother in acute social

distress and get her the help which she needs to plan for her new child.

The relatively small number of children who can be helped by intercountry adoption indicates the special obligation that adoption agencies have to employ professionally trained social workers who can fulfill the requirements to strengthen child welfare services in Vietnam, as well as process children for adoption by American families. Adoption agencies usually have the most highly trained child welfare staff among foreign agencies operating abroad. It should also be noted that a preoccupation with inter-country adoption might well increase the flow of racially-mixed children, living with relatives, to orphanages to qualify for intercountry adoption and this should be guarded against, however possible. Adoption agencies should take the lead in strengthening services for all disadvantaged children in Vietnam.

In conclusion, Mr. Munro stressed that the climate was excellent for an expanded child welfare effort in Vietnam. The United States Government has shown great interest, as exemplified by this conference, and by the greater priority in Vietnam for child welfare. The eagerness of the U.S. Embassy as well as USAID to facilitate the work of the adoption agencies has been obvious. The Ministry of Social Welfare will also welcome increased voluntary agency activity in the area of inter-country adoption as long as it is clear that new initiatives are within the framework of strengthening services for all disadvantaged children. Over the past two years, the MSW has accepted its responsibility for promoting the welfare of disadvantaged children and has increased its professional staff substantially. The stage is now set for an expanding and deepening partnership between the MSW and foreign and Vietnamese voluntary agencies and the climate is especially promising for highly professional, child welfare agencies that can work within the framework of the GVN policies and programs.

D. Discussion

Following the presentations on the first morning, the conference discussed extensively the activities of the adoption agencies in Vietnam, how their programs relate to the American-fathered Black child, and the contribution to be made by adoption agencies serving the Black community in the United States. By the second day, a consensus was reached that a concerted effort was required to meet the challenge of placing 500 Black orphans in acceptable homes in the United States.

The documents at Appendix E and F were distributed at the beginning of the discussion. The first contains information on an estimated 6,400 U.S. visas issued American-fathered children who were either granted citizenship at birth (3,970) or have gone to the United States as immigrants (estimated 2,640) since July 21, 1969. The second document, a letter signed by the five American agencies now carrying out or planning to operate adoption programs in Vietnam, reports on their recent meetings in Saigon and recommends several actions for consideration by the meeting. These include: 1) Duty free importation of vaccines and medical supplies; 2) The services of a medical team to treat children in process of adoption to insure "completely satisfactory" medical information for visa and adoption use; and 3) Assurance that diapers, baby bottles, and high protein baby foods and milk can be delivered promptly now that APO privileges have been curtailed. It was further reported through AID channels that these agencies saw no need for a consortium in Vietnam and doubted whether the MSW would favorably consider an additional adoption agency.

The major adoption agency in Vietnam in terms of volume is the *Friends of Children of Vietnam* (FCVN), which processed more than 400 children worldwide for adoption in 1972. A staff of 100 in Saigon includes eight foreign volunteers and 92 Vietnamese to operate three half-way houses dedicated to saving small babies from expiring in orphanages. Adoption is described as secondary to saving the lives of small infants, no matter what their color. Rosemary Taylor, the Saigon Director, handles all adoption formalities in Vietnam with the assistance of one other Vietnamese staff. Neither she nor the other foreign volunteers are paid salaries, nor are the volunteer staff operating the home office in Boulder, Colorado. FCVN began as a volunteer effort to supply commodities to an orphanage in the Delta.

International Social Service (*ISS*), engaged in inter-country adoptions on a worldwide basis since 1952, operates an extensive family reunion and migration counseling program, and secondarily processes children for adoption. Under the direction of its headquarters in Geneva, Switzerland, ISS has given special attention to helping relatives of foreign citizens with migration problems. It was mentioned, however, that ISS American Branch, at a recent board meeting, made the decision to expand its adoption work in Vietnam.

The Holt Adoption Program (*HAP*), began its program in Vietnam in March, 1973, and expects to be fully operational in the next few months. Their major program has been in South Korea, where an office was opened 17 years ago. They estimate that Holt has helped some 11,000 children find adoptive homes overseas. Holt also carries out an extensive program to develop local child welfare services in South Korea and has already initiated a maternity care clinic and nursery at the Tu Do Hospital in Saigon. The anticipation is that priority will be given to helping the abandoned and/or dying infant in residential institutions, regardless of color. The volume of Korean adoptions exceeded 2,000 last year and is expected to increase again this year as more infants are relinquished in that country for adoption.

World Vision, one of the signatories to the letter at Appendix F, until recently has operated a half-way house in Saigon in a building provided by the MSW. The program was aimed at the provision of temporary care for malnourished children from institutions and the care of children in the process of adoption either under the auspices of World Vision or other agencies utilizing the facilities.

Catholic Relief Services (*CRS*), the fifth signatory to the letter, had operated an intercountry adoption program in the late 1960's in Vietnam, discontinued the activity, and is now considering resuming.

Selection of Children

The discussion emphasized that priority was now being given to the dying infant by both orphanage directors and the adoption agencies, particularly FCVN. This has implications for the extensive medical care that is required to save these children and get them in shape to pass visa requirements. In addition, prospective adoptive parents (PAPS) can expect extensive medical bills during the post-placement period as children frequently suffer from a number of illnesses not fully diagnosed or treated prior to placement in the United States. One agency reported using a warning about the poor state of health of these arriving children as a means of screening out lukewarm applicants.

An additional factor in the selection is that the current policy of the MSW requires that all adoptions be processed by one of the registered adoption agencies. This has increased the number of applications to agencies from couples who have already located their prospective children through private channels and are turning to agencies for help. The processing of these cases is very difficult and the optimal situation is for agencies to locate needy and legally available children and match them to families, with completed home studies, on an approved waiting list. FCVN estimates that 60% of its current caseload is a backlog of private adoptions requiring regularization.

Under these circumstances, it was reported that the agencies did not feel priority could be given within the present resources to the Black orphans, and that there would still be a problem of obtaining the releases of those children from orphanages unless they were literally at death's door.

Some of the participants at the meeting asked for further clarification of the choice of children for inter-country adoption and raised the question of the need for technical assistance to help develop child welfare services in Vietnam. The question was posed, "Are we helping the Vietnamese deal with their own child welfare problems, or are we imposing our own concepts to child care which have been less than successful in the United States?"

There was astonishment expressed that only 1,000 racially-mixed children were in residential institutions and it was noted that more information was needed on how Black children are surviving outside of institutions.

The Role of the Ministry of Social Welfare

During the winter and spring of 1973, the MSW has taken a very active role in intercountry adoption, first in forcing the registration of Miss Rosemary Taylor's activities under the auspices of FCVN, and then advising orphanage directors and hospital personnel that it expects all adoptions to be processed by the agencies it has registered for that purpose. The MSW has also set up an adoption unit to handle those cases not referred to the foreign agencies. There was some discussion of the newly proposed adoption law, which has been prepared for the MSW by a study group from the Association for the Social Sciences, headed by Mrs. Pham Thi Tu, Directress of the National School for Social Work.

The voluntary agencies have had an opportunity to provide comments on an initial draft which has now been sent back to the study group by the MSW for redrafting. Dr. Dumpson pointed out that the major change that the MSW wished to make was to have the new law "child centered" rather than primarily concerned with legal rights of adopting parents. The sensitivities of the MSW to an overemphasis on inter-country adoption was stressed. A suggestion was made that new agencies wishing to help with child health might apply to the Ministry of Health rather than the MSW for registration, as the MSW was understaffed and overburdened with its expanded duties. Dr. Dumpson cited the favorable reaction of the Minister of Social Welfare, Dr. Tran Nguon Phieu to the idea of a "consortium" approach to the Black orphan, as well as the support of the Assistant Minister for Social Welfare, Dr. Vuu Ngoc Oanh during his recent trip to the United States.

Processing in Vietnam

On the second morning of the conference, the participants had an opportunity to review U.S. adoption procedures with two representatives from the U.S. Immigration and Naturalization Service (INS).

In the summer of 1972, the American Embassy was successful in persuading the GVN to streamline adoption procedures so that children could be sent to the United States before completing the time consuming Vietnam legal adoption which used to take more than one year. With the change, it is now possible for an orphan child with a birth certificate to be issued a visa by the GVN within four weeks or less. The Immigration and Naturalization Service (INS)

I-600 petition normally takes from six weeks to three months depending on the regional office in the United States. In answer to questions from the AID representative, it was clarified that since April 1972, consular officials in South Vietnam have been delegated the authority to process the approval of the child's papers or the I-604 report. This has removed the period of waiting for the INS official from Hong Kong to visit Saigon. The adoption agencies had high praise for the dedication and hard work of the U.S. consular officials on behalf of Vietnamese orphans.

When the backlog of private adoptions is completed, it should be possible to achieve the ideal of "only parents wait, not children". Another agency representative commented that it was not desirable to shorten the INS waiting period, as at least three months was usually required to meet a child's health problems.

A major problem faced is obtaining birth certificates. This is particularly true for older orphans and adoption agencies must deal with the fact that children are often given the names of fictitious mothers by orphanages when they apply for documentation. The MSW is also very aware of the fact that over half of the children in residential institutions are not certifiable orphans (having one or more living parents) and have considered tightening funding procedures so that orphanage allowances are calculated on the number of true orphans rather than the total number of children under care. Children lacking birth certificates are not able to enroll in school and it is anticipated that racially-mixed children will have a special problem in this area, as they did in South Korea, as their mothers are reluctant to apply for the correct documents.

Until there is a change in the adoption law, the processing of documents in Vietnam is handled by the Ministries of the Interior and Foreign Affairs. The MSW is excluded except for its authority to register voluntary agencies and responsibility to monitor the operations of child welfare institutions. This has meant that private adoptions are still being processed in spite of the MSW's order that all adoptions be handled by registered agencies.

Selection of prospective adoptive parents

The home offices of the overseas adoption agencies are swamped with requests for children. With the reduction of the number of abandoned babies in the United States, there has been an overwhelming demand for adoptable children from overseas. When "Dear Abby" ran a column on inter-country adoption, for example, one agency received 7,000 inquiries in one month. The recent NBC telecast, *"The Sins of the Fathers"* on the plight of American fathered children in Vietnam has added to the severe pressure on the agencies. Most of the applications from prospective adoptive parents (PAPS) have been from White couples. The Vietnam adoption agencies routinely place Black orphans with White couples as a result. In fact, many of the White couples have specified their preference for racially-mixed, Black children. The agencies place Black children in Black homes if the homes are available, however, and one agency has initiated a series of internal incentives to encourage Black couples to adopt, such as reduced fees, travel costs, etc. Overall, few Black couples are applying for children from Vietnam—maybe 1% of the total number of requests.

The observation was made that there seemed to be a tendency to try to meet the needs of PAPS rather than children. On the other hand, as the Vietnamese agencies pointed out, their major focus was on saving dying children. The agencies also supported local Vietnamese institutions caring for children who will not be going for adoption.

The danger of over-encouraging PAPS without being able to satisfy their requests for children was discussed, and the comment also made that it was not an accurate assumption that an agency can place a child with a family and then not provide follow-up, post-placement services. Adoptive families and children need a great deal of help, especially children from overseas.

The Black agencies pointed out recent successful efforts to find Black homes for Black children in the United States and predicted that a goal of 500 homes could easily be met. However, Black adoptive couples will not apply to traditional agencies. One Black agency recruited some 250 families and referred them to a private, statewide adoption agency, only to have most of them rejected because of restrictive agency practices. The agencies with programs in Vietnam stressed that there are adoption agencies all over the United States pleading for children, without reference to color.

The Vietnam agencies were praised for their sacrifice and hard work on behalf of children, regardless of color, but it was pointed out that when a child arrives in the United States he is automatically labelled "Black" and his adoptive parents must help him deal with this. One of the participants mentioned that Black children in White families could be viewed as ambassadors of brotherhood and integration, with the corresponding comment made that children should not be used for social experiments and that such a placement adds an additional burden to the child's adjustment. The demand of the Black agency representatives that Black children be placed with Black families is supported by the official policy of the Child Welfare League of America, according to its representative at the meeting, which states that Black homes for Black children should be used wherever possible.

The statewide agencies said that while finding 500 Black adoptive homes was not a problem, agencies serving the Black community would not wish to recruit homes for dying children, for example, unless they were represented at the highest levels of policy making in the total program. They would also wish to insure that an effort was being made to strengthen child welfare services for Black children left behind in Vietnam as well as insure satisfactory service to children and adoptive parents in the United States.

The need for subsidies for Black families to help with the high costs of adoption was mentioned as this would greatly facilitate the finding of good homes. The cost of an adoption was described as high as $3,000 per child, in some instances, taking into consideration costs of temporary care in Vietnam, processing costs, travel, agency home study fees, and other legal expenses. As discussed earlier, available children may have extensive medical problems requiring expensive post-placement medical care.

The need for a *Concerted Effort* to meet the needs of 500 Black children in Vietnamese residential institutions was the major question and theme underlying the two-day conference. FCVN handles about 50 adoptions each month worldwide, Holt hopes to process at least one hundred children over the next few months in Vietnam and both agencies estimate that a significant number of the children placed will be Black, although adopted by White couples from the United States and Europe. They could not say that their efforts would be focused on the needs of Black orphans, per se, but felt that improved medical care and nutrition would most effectively improve conditions affecting Black children in institutional care and relieve existing pressures on the operating agencies, thereby making it possible for them to give more attention to Black children, as well as all the other needy orphans available for adoption.

There was some initial concern whether the proper target was the relatively few Black children in child care institutions, or the greater number living with relatives. Dr. Dumpson responded that a crisis approach should be used for the 500, while the larger group in the community would require a variety of supporting services, and in his opinion these two categories needed to be separated. There is an immediacy to the plight of the 500 whose capacity to adjust to family life is affected by each remaining day in an orphanage. It was also argued that the needs of these children were very special because there is no prospect for a solid Black community in Vietnam for the children to relate to as they grow older.

Recent cooperative efforts in the United States to find Black homes for Black children were pointed to as evidence that a concerted effort was a practical goal to work toward.

Foster care was mentioned as an alternative to adoption but it was also stressed that this was not a viable resource in Vietnam where no Black community exists, and that foster care as a long term panacea to meet the needs of children has been discredited in the United States. This is not to say that temporary foster care for children in the process of adoption is not a vital service, and the successful Holt program in Korea, which provides temporary foster care for some 800 children at any one time, was mentioned as an example of the best way to prepare children physically for overseas adoption.

Dr. Dumpson elaborated on his recommendation for a "consortium" of agencies which would provide a thrust toward the Black child, for a limited period of time, without interfering with the operations of the present agencies working in Vietnam. The Vietnam agencies were not convinced that a consortium made sense as there were plentiful homes for all available children. The Black social workers pointed out, however, that if it is accepted that they should have a part in policy decisions, a consortium is the logical vehicle for Black involvement, that is, an association of resources, designed to do a time-limited job, after which participating agencies would go their own way. The objective would be to "marry experience with new resources" to help a discrete group of American-fathered, Black children through medical care, supportive services, temporary foster care in Vietnam, and finding Black homes for them in the United States.

The group discussed the formulation of an advisory board, composed of representatives from participating agencies with an executive and professional staff drawn, if possible, from the member agencies. This conceptualization raised many additional issues including licensing, need for subsidies, advisory board to advise whom, availability of staff to be released, direct services in Vietnam as well as the United States, and many others.

The Adopt-A-Child program in New York City which was successfully carried out some years ago was mentioned as a possible prototype. That agency helped place Black babies from hospitals into Black adoptive homes by providing services which helped participating agencies identify and describe Black children and interpret their needs to the Black community. Participating agencies contributed to the staff salaries and administrative expenses.

The issue was raised whether a new agency might be required to serve the Black children in Vietnam but the general feeling of the conference was that it would be more profitable to build on the present system, borrowing its expertise and, in return, helping the Vietnam agencies to be more responsive to the concerns of the Black community.

At the conclusion of the two-day meeting, a consensus was reached and the future

plan of action and the formal recommendations described in Part I of this report were adopted. While it was agreed to have a subcommittee flesh out a proposal for future consideration, two of the Vietnam agencies continued to express reservations . . . one about the need for and desirability of a consortium, and the other about its ability to participate in a pooled effort, because of the volunteer nature of its operation.

The following members of the subcommittee, chosen by caucus of the Vietnam agencies and those serving the Black community, made plans to meet at the earliest possible date to draw-up the frames of reference for the proposed effort:

Mr. William M. Taylor, Travelers Aid/International Social Service.

Mr. Edmund E. Cummings, U.S. Catholic Conference.

Mr. John Schauer, Church World Service, Alternate for Mr. Cummings.

Mr. Benjamin Finley, Afro-American Family and Community Services.

Mrs. Louise Bailey, National Association of Black Social Workers.

CONSULTANTS

Dr. James R. Dumpson, Fordham University School for Social Services.

Mr. Gardner W. Munro, Social Work Consultant, Boston, Mass.

III. APPENDIX

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Mrs. Beverly Walker Worrell, Executive Director, NAACP/Adoptive Parents Recruitment and Education Project, Suite 815, 66 Luckie Street, N.W., Atlanta, Georgia 30303, Telephone: (404) 522–4373.

Agenda

July 25

Morning session: 10:00—12:00

I. Opening Remarks: Mr. Garnett A. Zimmerly, Acting Assistant Administrator, A.I.D./Bureau for Supporting Assistance.

II. Introduction: Dr. Martha Branscombe, Chairman.

III. Needs and Problems of Vietnamese Children: Implications for Intercountry Adoption: Dr. James Dumpson, Mr. Gardner Munro.

Discussion.

Afternoon session: 1:30—4:30

IV. Issues and Problems involved in intercountry adoptions for Vietnamese children fathered by Black Americans and "hard-to-place" children.

A. In Vietnam.

B. In the United States.

(To be identified and discussed by Participants.)

V. What practical steps might be taken to expand the network of supporting services in the U.S. to facilitate placement in American homes, particularly of Vietnamese children fathered by Black Americans and those hard to place for other reasons.

July 26

Morning session: 9:30—12:00

VI. U.S. Legal Requirements (30 minutes).

Mr. Robert Lindsay, Immigration Naturalization Service.

Mr. Raymond Seefeldt, Security and Consular Affairs.

VII. Conclusions and Recommendations.

Afternoon session: 1:30—4:30

Finalize Discussions under Agenda Item VII.

Adjournment.

NOMINATION OF SENATOR SAXBE TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD the transcript of questions I asked of Senator SAXBE and Special Prosecutor Leon Jaworski, and their responses, including correspondence related thereto, during the Senate Judiciary Committee hearings on the nomination of Mr. SAXBE to be Attorney General of the United States.

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

NOMINATION OF WILLIAM B. SAXBE TO BE THE ATTORNEY GENERAL OF THE UNITED STATES

(Wednesday, December 12, 1973)

* * * * *

The CHAIRMAN. Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman.

Mr. Saxbe, I wish first to congratulate you on the choice of the President in nominating you for this important office. Secondly, I want to say for the record that I, too, see no problem insofar as your professional qualifications are concerned. I see no problem insofar as you, personally, are concerned with respect to your integrity and character and moral fitness, so far as I know.

I have had some concern, however, with regard to the constitutional inhibition involved in paragraph 2, clause 6, Article I, of the Constitution. My efforts with respect to opposing the so-called Attorney General Pay Bill on the Floor were not meant to have any personal thrust whatsoever. The Congress has now spoken in regard to that bill. In my own mind, nevertheless, I am not at all sure that the Congress has the power to remove that constitutional disqualification. But, that will have to be decided by the court eventually, I assume.

I suppose I could vote for your confirmation, even though I strenuously opposed the Pay Bill on constitutional grounds. At this point, I want to at least feel that I am still reviewing that aspect. I still feel as strongly as ever that there is a constitutional inhibition and that it cannot be removed by legislation. But, the amendment which I offered on the Floor, paves the way for an expedited hearing if anyone should seek a court decision.

I am desirous of asking questions in one area today, that being the area involving the Special Prosecutor.

I have asked the Chairman to request that Mr. Jaworski come to the hearing room. I think it is imperative that the Committee get your assurance of a strong commitment to Mr. Jaworski, and I think it is important to Mr. Jaworski that he not only be able to read that commitment in the record, but that he also be present when that commitment is made.

I doubt that I can adequately explain to you how uncomfortable I am in asking questions of you. I like you, personally, and I respect you as my peer, and I certainly do not relish the prospect of interrogating a colleague. But, I also feel that I have a duty as a Member of this Committee, and as a Member of the Senate, to satisfy in my own mind, and certainly to establish for the record, if I possibly can, precisely what your position will be insofar as your support of the Special Prosecutor, is concerned, what your commitment is, whether or not you will seek to protect him from pressures emanating in the White House, and how far you will

go in supporting his actions as they are envisioned in the Charter.

With that prefatory statement, Mr. Chairman, I am ready now to begin my questioning.

The CHAIRMAN. Mr. Jaworski is in the room.

Senator SAXBE. Could I interject at this time, that I certainly understand the Senator's attitude and, in fact, I welcome it because I, too, am interested in getting exactly straight and I think with Senator Kennedy's questions, we helped to work out some of it. And it is my intention to vigorously support, not only Mr. Jaworski, but everybody else connected with the Attorney General's office, in regard to not only crimes and misdemeanors in the White House, but in every other part of this country without any reservation, and it is a covenant that I have made with myself on this thing, that the chips were going to have to fall where they may, regardless of who is involved, whether they are friends, acquaintances or recommended by somebody. I am sure there will be and I was the Attorney General in a state of 11 million people for a long time and you get everybody coming in with their hat in their hand, and I am determined to meet this squarely, not on just the White House thing but on all matters. And I am very anxious and willing that it be spelled out in any way you think best.

Now, to the disability which the Senate removed, I understand the Senator's position. I know that he is a student of the law, but I also point out that there is a difference of opinion on this. This week, yesterday or the day before, I received a letter completely volunteered from Arthur J. Goldberg, exchanging pleasantries and he says in the second paragraph: "I have delayed somewhat in sending this letter because I was awaiting your confirmation by the Senate. I have no doubt it will be forthcoming. But, I regret it has been delayed because of what I regard to be a most inconsequential constitutional question."

And so there is a difference of opinion by men learned in the law.

Now, I have had the attitude all the way through this that if I was destined to be Attorney General that things would work out, and if I am not, it is just as well.

Senator BYRD. Well, I think you are destined to become Attorney General, Mr. Saxbe. But so far as I am concerned, I am not in the slightest persuaded by Mr. Goldberg, although I respect his knowledge of constitutional law. But, with the statement that you have made, I think that you have prepared yourself to answer the questions which I shall ask, and I trust that you will indulge my questions and show your usual candor and patience. And if you can come through with firm answers to my questions, I believe you will have satisfied a good many members of the Senate in this area.

Now, Mr. Chairman, would I be asking too much——

The CHAIRMAN. Let us have order, please?

Senator BYRD. Would I be asking too much to request that Mr. Jaworski come forward and take a seat at the table?

The CHAIRMAN. Mr. Jaworski, sit at the table, please, sir?

Senator BYRD. Mr. Chairman, I am embarrassed, really, to ask whether or not both witnesses should be sworn? Would there be any objection?

Mr. JAWORSKI. None whatsoever on my part, Senator.

The CHAIRMAN. Stand up, please.

Do you both swear that you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Senator SAXBE. I do.

Mr. JAWORSKI. I do.

TESTIMONY OF THE HONORABLE WILLIAM B. SAXBE, A UNITED STATES SENATOR FROM THE STATE OF OHIO AND MR. LEON JAWORSKI, SPECIAL PROSECUTOR

Senator BYRD. Mr. Jaworski, permit me to say to you, by way of explanation, I asked the Chairman to inquire, only within the hour, if you could present yourself here today. May I say, incidentally, that I looked upon your appointment six weeks ago with great suspicion. I felt that if the Executive could employ you, it could fire you—which it can—and I felt that your employment by the Executive Branch meant the Executive Branch would again be investigating itself. Yet, I have been pleasantly surprised during the six weeks that have passed, and I have watched with admiration the courage and independence that you have displayed. I have been reassured also by the fact that the Special Prosecutor's force has remained intact under your guidance, and I have also heard, with satisfaction, some of the things that reportedly have been said by the Prosecutor's force regarding your supportiveness in their continuing efforts. I especially want to congratulate the young lady who interrogated Rose Mary Woods the other day in court. And I am encouraged greatly by your public statements that you will seek to secure, through the judicial process, any evidence that you feel is necessary for the effective and fair and objective prosecution of any crimes that may have been committed by anyone.

Having said that, I think it only remains for me to say that I want you to continue to pursue your duties as you have set out thus far upon your course. You have a reputation that is as important to you as our own reputation is to any of us who are sitting in the Legislative Branch. It is also very important in my estimation that you have the complete support of the Attorney General and that you positively know you have the support of the Attorney General in your effort, which will require continuing courage. It is for these reasons that I have asked the Chairman—and appreciate very much his acquiescence to my request—that you appear before the Committee at this time. I was not here when you were before the Committee previously, on previous occasions, and I apologize to you for the request which came to you today without warning.

Mr. JAWORSKI. Not at all, Senator. I am glad you asked me to come.

Senator BYRD. I would like first to read Justice Brandeis' dissent in the Olmstead case on the use of wiretap evidence in a prosecution under the Prohibition Act: "Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizens. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the patent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in administration of the criminal law the need justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine, this court should resolutely set its faith."

I think, Mr. Saxbe, and Mr. Jaworski, that this attitude must be the cornerstone of the investigation of the Watergate case and all of the related aspects. And to this end, the facts and all of the facts ought to be brought to light and must be brought to light to ensure the American people that their government is a government of law and not a government of men. And that those who operate outside the law, no matter how high a station in life or in government they may possess, must be answerable to the law.

Senator Kennedy has referred to the Charter which was hammered out by Mr. Richardson in his appearance before this Committee, with the advice and assistance of the Committee. I think it is important that that Charter be read paragraph by paragraph at this time, because we are about to confirm an Attorney General of the United States at a most critical time in our country's history. I wish that he were not a Senator.

My task would be much easier. But, I have faith in Bill Saxbe, that he recognizes the problem that I have, and the problems that other Members of this Commmittee and in the Senate have, in approaching this matter. I most surely think we will be held to account if we were to deal with Mr. Saxbe more tenderly than we would deal with any other nominee, any other person who might have appeared before this Committee as a Nominee for the office of Attorney General.

Mr. Robert H. Bork, Acting Attorney General, reinstituted the Office of Special Prosecutor and reinstated in the Federal Register in November, the Charter which had been outlined in the course of the hearings on the Nomination of Mr. Richardson, but with certain amendments to that Charter. I shall begin with Sub-part G–1–Office of Watergate Special Prosecutor Force.

General Functions:

"The Office of Watergate Special Prosecution Force shall be under the direction of a Director who shall be the Special Prosecutor appointed by the Attorney General. The duties and responsibilities of the Special Prosecutor are set forth in the attached appendix which is incorporated and made a part hereof."

Specific Functions:

"The Special Prosecutor is assigned and delegated the following specific functions with respect to matters specified in this Sub-part:

"(a) Pursuant to 28 U.S.C. 515(a), to conduct any kind of legal proceedings, which United States Attorneys are authorized by law to conduct and to designate attorneys to conduct such legal proceedings."

Do you list these as among your functions, Mr. Jaworski?

Mr. JAWORSKI. Indeed I do, Senator.

Senator BYRD. Do you have any questions, Mr. Saxbe, with respect to that paragraph and its imposition on Mr. Jaworski of his responsibilities as Special Prosecutor?

Senator SAXBE. No.

Senator BYRD. Do you agree that he has the authority to conduct any kind of legal proceedings, civil or criminal, including Grand Jury proceedings which United States Attorneys, are authorized by law to conduct and to designate attorneys to conduct such legal proceedings?

Senator SAXBE. I think that is very pointed.

Senator BYRD. And you agree with that?

Senator SAXBE. Yes.

Senator BYRD. "Subpart (b), to approve or disapprove the production or disclosure of information or files relating to matters within his cognizance in response to a subpoena, order or other demand of a court or other authority."

Mr. Jaworski, do you see that as your duty and responsibility?

Mr. JAWORSKI. I do, Senator Byrd.

Senator BYRD. And you will pursue to the best of your ability the requirement of that paragraph?

Mr. JAWORSKI. I have undertaken to do so, sir, and I will continue to.

Senator BYRD. Now, Mr. Saxbe, will you

support Mr. Jaworski in his sworn duty to carry out the provisions of that paragraph?

Senator SAXBE. I will.

Senator BYRD. "Subpart (c), to apply for and to exercise the authority vested in the Attorney General under 18 U.S.C. 6005, relating to the immunity of witnesses in Congressional proceedings."

How about that paragraph, Mr. Jaworski?

Mr. JAWORSKI. Yes, sir. I certainly intend to continue to follow its mandate as I have done so up to the present time, and will certainly do so in the future.

Senator BYRD. Now, do you share Mr. Jaworski's position, Mr. Saxbe?

Senator SAXBE. I do.

Senator BYRD. "The listing of these specific functions is for the purpose of illustrating the authority entrusted to the Special Prosecutor and is not intended to limit in any manner his authority to carry out his functions and responsibilities, dated November 2, 1973, signed Robert H. Bork, Acting Attorney General."

Now, I shall quote the guidelines that were developed in May of this year, to which allusion has already been made.

Appendix, Duties and responsibilities of the Special Prosecutor.

"The Special Prosecutor—there is appointed by the Attorney General within the Department of Justice, a Special Prosecutor to whom the Attorney General shall delegate the authorities and provide the staff and other resources described below.

"The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate, all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility, allegations involving the President, Members of the White House Staff or Presidential appointees, and any other matter which he consents to have assigned to him by the Attorney General."

Mr. Saxbe, do you have any reservations whatsoever in stating before this Committee today your full support of the letter and the full intent of that paragraph, insofar as the duties imposed upon Mr. Jaworski are concerned by that paragraph?

Senator SAXBE. I do not.

Senator BYRD. The paragraph states that: "The Special Prosecutor shall have full authority for investigating and prosecuting offenses against the United States arising out of the unauthorized entry into Democratic National Committee Headquarters at the Watergate."

Do you have any reservations with regard to the words "full authority" Mr. Saxbe?

Senator SAXBE. I do not.

Senator BYRD. Do you understand, Mr. Jaworski, that you do have full authority?

Mr. JAWORSKI. I do, Senator Byrd, and we have undertaken to exercise it.

Senator BYRD. Now, to go to the second clause and tying it in with the lead sentence of the paragraph, the "Special Prosecutor shall have full authority for investigating and prosecuting . . . all offenses arising out of the 1972 Presidential Election for which the Special Prosecutor deems it necessary and appropriate to assume responsibility."

Do you have any reservations in regard to that clause, Mr. Saxbe?

Senator SAXBE. I do not.

Senator BYRD. You have no question but that Mr. Jaworski will have full authority to investigate and prosecute all offenses arising out of the 1972 Presidential Election, for which the Special Prosecutor deems it necessary and appropriate to assume responsibility? You have no reservations, no problem with that?

Senator SAXBE. No problem.

Senator BYRD. How about you, Mr. Jaworski, will you continue to pursue your duties as imposed upon you by that phraseology with the full knowledge that Mr. Saxbe has assured you of his full support?

Mr. JAWORSKI. I will continue to do so, Senator Byrd.

Senator BYRD. Now, Mr. Saxbe, I proceed with the third question, again linking up the phraseology in the later clause with the lead-off words:

"The Special Prosecutor shall have full authority for investigating and prosecuting . . . allegations involving the President."

Do you have any compunctions here, Mr. Saxbe, about giving Mr. Jaworski your absolute full, complete and total support if in his judgment there are allegations involving the President and his duty requires that he investigate and prosecute those allegations?

Senator SAXBE. I do not.

Senator BYRD. Mr. Jaworski, is it your intent to fulfill your duty as set forth in that paragraph?

Mr. JAWORSKI. It is, sir.

Senator BYRD. To the best of your ability?

Mr. JAWORSKI. It is, sir.

Senator BYRD. In other words, you will follow the evidence wherever it goes and if it goes to the Oval Office and to the President, himself, you will pursue it with all of your vigor?

Mr. JAWORSKI. That is my obligation and I intend to fulfill it; yes, sir.

Senator BYRD. Quoting again: "The Special Prosecutor shall have full authority for investigating and prosecuting . . . allegations involving . . . Members of the White House Staff or Presidential appointees."

Will you pursue that with full vigor, Mr. Jaworski, and without fear or favor?

Mr. JAWORSKI. Senator Byrd, we have been pursuing that without any exception and we intend to continue to do so.

Senator BYRD. Mr. Saxbe, is your intent to fully support Mr. Jaworski in his fulfilling of his duties under this clause?

Senator SAXBE. It is.

Senator BYRD. And you will not attempt in any way to interfere with his efforts in regard to the investigation and prosecution along any of these lines?

Senator SAXBE. No. It has been my intention at all times that Mr. Jaworski shall operate completely independent and the only time that I will see him is when he wants something from me.

Senator BYRD. "The Special Prosecutor shall have full authority for investigating and prosecuting," all of the foregoing that I have referred to, "and any other matter which he consents to have assigned to him by the Attorney General."

Does this give you any problem, Mr. Saxbe? Will you support Mr. Jaworski in this?

Senator SAXBE. It gives me no problem.

Senator BYRD. In carrying out his responsibilities under this clause?

Mr. JAWORSKI. May I say, Senator Byrd, that we have accepted some matters that were assigned to us, it might be said by the Acting Attorney General, at least a request was made that we undertake them and it was an area of the IT&T investigation that left some question as to whether it was really within our jurisdiction or not. It was discussed between Mr. Bork and me, and we have assumed full authority for it.

Senator BYRD. Do you understand the word "consent" to mean that you have flexibility to consent or not to consent to the assigning to you by the Attorney General of "any other matters"?

Mr. JAWORSKI. I think it does imply that, of course. But, I will say to you, Senator Byrd, that in any instance where we feel that the subject matter falls within the gambit of what our responsibilities are, we are not going to hesitate to accept jurisdiction as was true in the IT&T matter, for instance.

Senator BYRD. Very well.

Now, "in particular, the Special Prosecutor shall have full authority with respect to the above matters for:

"1. Conducting proceedings before Grand Juries and any other investigations he deems necessary."

Do you recognize, Mr. Saxbe, that the Special Prosecutor has full authority in this regard?

Senator SAXBE. Yes. I consider it as a great advantage to going into the office over there, that this does fall this way because it would give me the opportunity to pull together the necessary things for the management of the Justice Department without requiring a tremendous amount of time that would be spent in this area.

Senator BYRD. You have no question, though, that with respect to the above matters that were included in the lead-off paragraph that the Special Prosecutor has full authority to conduct such proceedings?

Senator SAXBE. No, and I welcome it.

Senator BYRD. Do you recognize your full authority, also, Mr. Jaworski?

Mr. JAWORSKI. I do. Yes, sir.

Senator BYRD. And you intend to carry it out?

Mr. JAWORSKI. Yes, sir. It is coincidental, but this morning I asked Judge Sirica for the impanelling of another Grand Jury. There are so many matters that we have presented, that we feel the need of it and I am sure that he will appoint a Grand Jury this morning.

Senator BYRD. Okay. Proceeding to the next clause in the Bill of Particulars. "In particular, the Special Prosecutor shall have full authority with respect to "reviewing all documentary evidence available from any source as to which he shall have full access."

Do you recognize that you have that full authority, Mr. Jaworski?

Mr. JAWORSKI. Yes, sir, Senator Byrd. I think I can say, in fact, there is no reason why it should not be stated publicly, certainly to this Committee, I have a representative from my office who is in the White House right now going through files that I have asked to do this, and this is all done under very careful scrutiny. But, there are a number of files that need examination, and a number of documents we are interested in and those files are being made available to us, and we intend to search for each document which we believe is in existence and which we feel we should have.

Senator BYRD. Mr. Saxbe, you have no intention to attempt to interfere with the full authority of the Special Prosecutor in this regard?

Senator SAXBE. I do not.

Senator BYRD. Continuing: "In particular, the Special Prosecutor shall have full authority for determining whether or not to contest the assertion of 'Executive Privilege' or any other testimonial privilege."

Do you recognize your full authority, Mr. Jaworski, and do you assure this Committee, based upon your honor and your good name, that you will fulfill to the very best of your ability, the thrust of that paragraph?

Mr. JAWORSKI. I do, sir.

Senator BYRD. Mr. Saxbe, would you have any intention now or in the future to attempt in any way to interpose yourself, your office or your command, or to intervene in any way between the carrying out by Mr. Jaworski, or any Special Prosecutor, of his obligations under that paragraph, and I will read it again:

"The Special Prosecutor shall have full authority for determing whether or not to contest the assertion of 'Executive Privilege' or any other testimonial privilege."

Senator SAXBE. No. I have no reservation on that.

Senator BYRD. And you would not attempt to interfere with the responsibility of the Special Prosecutor as stated clearly in that paragraph?

Senator SAXBE. That is correct.

Senator BYRD. "In particular, the Special Prosecutor shall have full authority for determining whether or not application should be made to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements or for warrants, subpoenas, or other court orders."

Do you have any compunctions, Mr. Jaworski, in carrying out your responsibility under that paragraph?

Mr. JAWORSKI. I have none, Senator.

Senator BYRD. Senator Saxbe?

Senator SAXBE. No, sir.

Senator BYRD. You have no compunctions and you will support Mr. Jaworski in his efforts?

Senator SAXBE. I will.

Senator BYRD. "In particular, the Special Prosecutor shall have full authority for deciding whether or not to prosecute any individual, firm, corporation or group of individuals."

Mr. Jaworski, do you have any compunction or any inhibitions against doing this to the full letter and intent of the paragraph and to the extent of your full vigor and ability?

Mr. JAROWSKI. I intend to do so, yes, sir.

Senator BYRD. Senator Saxbe, do you assure this Committee that you will in no way attempt to interfere with Mr. Jaworski in the carrying out of that requirement that I have just read?

Senator SAXBE. I have no reservation.

Senator BYRD. In particular, the Special Prosecutor shall have full authority for initiating and conducting prosecutions, framing indictments, filing informations and handling all aspects of any cases within its jurisdiction (whether initiated before or after his assumption of duties), including all appeals."

Are there any questions, Mr. Jarowski, with respect to that paragraph? Do you intend to pursue that paragraph and the requirements of it to the best of your ability, to your complete ability and without reservation?

Mr. JAWORSKI. I intend to, yes, sir.

Senator BYRD. Mr. Saxbe, will you support Mr. Jarowski in his carrying out of his responsibility under that paragraph without reservations?

Senator SAXBE. I will.

Senator BYRD. "In particular, the Special Prosecutor shall have full authority for coordinating and directing the activities of all Department of Justice personnel including United States Attorneys."

Mr. Jaworski, what is your interpretation of that paragraph?

Mr. JAWORSKI. Well, it has not been frequently exercised but, in fact, if we want it, if our office——

Senator BYRD. Mr. Chairman, may we have better order in the hearing room?

Senator HART (presiding). Those who are guests please attempt to avoid the spittoons and otherwise. And I think it would help, Senator Byrd, if our witnesses would speak into those microphones.

Senator BYRD. Thank you, Mr. Chairman.

Mr. JAWORSKI. Thank you, Senator. We do have the jurisdiction to ask United States Attorneys to withhold action and for the jurisdiction over that particular matter to be placed and left in our hands. And in instances where the United States Attorney proceeds with the prosecution, as is true, for instance, in the New York Vesco case, the United States Attorney really is acting subject to our direction, if we choose to exercise it. And in that particular case that I just mentioned, the Vesco case, we are keeping up with developments very closely and should it become necessary for us to take a particular or participate in some respects, take particular action, and perhaps even give some specific direction, we would do so. We would have the authority, Senator Byrd, under that provision.

Senator BYRD. Well, I will repeat it again: "And, in particular, the Special Prosecutor shall have full authority with respect to the above matters" referring to the leadoff paragraph, the all-encompassing generalized phraseology, "full authority with respect to the above matters for coordinating and directing the activities of all Department of Justice personnel, including the United States attorneys."

Does this give you any problem, Mr. Saxbe, this paragraph?

Senator SAXBE. There is none.

Senator BYRD. You do not question the authority of Mr. Jaworski in this area?

Senator SAXBE. No. It is my understanding in the whole approach to this section of law that these rules, that every effort will be made by the Justice Department to cooperate with the Special Prosecutor and that would mean the several thousand attorneys over there that might be able to contribute something could, if necessary, be called upon.

Senator BYRD. In particular, and this is the last of the Bill of Particulars: "In particular, the Special Prosecutor shall have full authority with respect to the above matters for dealing with and appearing before Congressional Committees having jurisdiction over any aspect of the above matters and determining what documents, information and assistance shall be provided to such committees."

Do you understand, Mr. Jaworski, in agreeing to this area of guidelines, that it is intended for you to have full authority to deal with and appear before Congressional Committees having jurisdiction over any aspect of this whole matter?

Mr. JAWORSKI. Yes, sir.

Senator BYRD. You have no——

Mr. JAWORSKI. I have no qualms about it.

Senator BYRD. No qualms about coming before the appropriate commitee or asking to come before the appropriate committees in order to fulfill the requirements of this paragraph?

Mr. JAWORSKI. None at all and I would do so.

Senator BYRD. Mr. Saxbe, would you intend in any way to inhibit Mr. Jaworksi from doing so?

Senator SAXBE. I would not.

Senator BYRD. "In exercising this authority" meaning all of the foregoing authority "the Special Prosecutor will have the greatest degree of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice."

Mr. Saxbe, how do you interprete the word "consistent" as it is used in this context? And may I read it again. I know you are fully conversant with this paragraph, but for the convenience of the record, let me read it again:

"In exercising this authority" all of the foregoing the Bill of Particulars, "the Special Prosecutor will have the greatest degree" not great degree but greatest degree, "of independence that is consistent with the Attorney General's statutory accountability for all matters falling within the jurisdiction of the Department of Justice."

Senator SAXBE. I think this means exactly what it says, that "consistent" is a word of art and means that if something is not in violation of the statutory provisions of the Attorney General's Office, that it is vested with the Special Prosecutor. These go on, as you know, to several volumes of the U.S. Code, the duties and obligations of the Department of Justice, and it is used only for a purpose of pulling them together so that they do not have to all be related.

Senator BYRD. What do you see as your statutory accountability as Attorney General, Mr. Saxbe? What do you see as your "statutory accountability" with which the Special Prosecutor's independence would have to be consistent?

Senator SAXBE. The statute, and as I say there are several volumes, sets out that the Attorney General shall do this, the Office of Attorney General shall prosecute, the Office of the Attorney General shall bring this action, shall bring that action. Those are directions and limitations on the Attorney General and the Special Prosecutor could do nothing that exceeded these limits or authorization.

Senator BYRD. In response to the same question—in essence, the same questions from me—Mr. Richardson said this:

"Let me just say for myself, Senator Byrd, that I know very well what this language means. The language reflects the understanding I have with Mr. Cox. I would not demand information under any foreseeable circumstances because I would be aware that I had already made clear that this was not the reserved right that I intended to maintain. The phrase 'statutory accountability' is designed to fulfill a narrower function, primarily to avoid the necessity for an amendment of the law and make it possible through the exercise of the statutory role of the Attorney General to make the delegations of authority that are set forth here.

"I might summarize the elements of statutory accountability, and I see them under five headings."

Now, these are the five headings as were enumerated by Mr. Richardson:

"The first is the appointment of the Special Prosecutor himself. The second is the delegation to him of the full authority set forth in these guidelines. The third is the provision to him of any backup of his authority that the Attorney General in the exercise of his own statutory functions can provide. The fourth is the provision of administrative and staff support. And the fifth and last is the reserve power of removal which is expressed here as subject only to extraordinary impropriety on the part of the Special Prosecutor."

This is the interpretation that was made by Mr. Richardson of the phrase "statutory accountability". Would you subscribe to Mr. Richardson's definition of that phrase?

Senator SAXBE. Yes, but I take a much broader view. I think the statutory authority extends to a great many things that existed long before the Special Prosecutor was established. And the Special Prosecutor is bound by those just as the Attorney General is bound. But, I see nothing inconsistent with what he said.

Senator BYRD. Well, taking your broader definition, Mr. Saxbe, do you see anything in the statute that would be inconsistent with the requirements that are placed on Mr. Jaworski by the guidelines?

Senator SAXBE. No, I do not see anything inconsistent. I think there are certain limitations, for instance, on wire taps. I do not think that Mr. Jaworski could authorize wire taps.

Senator BYRD. But the guidelines do not give him the authority to authorize wire taps.

Senator SAXBE. No. That is what I am talking about and such an authority would be inconsistent.

Senator BYRD. Well, but no such authority is in the guidelines. Do you see any inconsistency between the authority and the responsibility placed upon Mr. Jaworski by the guidelines——

Senator SAXBE. No.

Senator BYRD. And the statutes for which you have statutory accountability?

Senator SAXBE. No, I do not. As I say, there are volumes on this but I do not see, and I am sure that Mr. Jaworski is just as aware of this as I am, and has and will con-

tinue to operate within that statutory authority and limitations.

Senator BYRD. "The Attorney General will not countermand or interfere with the Special Prosecutor's decisions or actions."

Do you subscribe to that?

Senator SAXBE. I do.

Senator BYRD. That is a mandate by the guidelines. Do you subscribe to that—that you will not countermand or interfere with the Special Prosecutor's decisions or actions?

Senator SAXBE. That is correct.

Senator BYRD. Do you subscribe to that?

Senator SAXBE. My understanding is he will operate completely independent, and the only time that he will have contact with me is when he wants something that I can provide him.

Senator BYRD. And you will not countermand or interfere with the Special Prosecutor's decisions or actions?

Senator SAXBE. That is correct.

Senator BYRD. You say, "That is correct." That means you will not?

Senator SAXBE. I will not.

Senator BYRD. "The Special Prosecutor will determine whether and to what extent he will inform or consult with the Attorney General about the conduct of his duties and responsibilities."

Do you understand what your responsibility is and what your authority is under that guideline, Mr. Jaworski?

Mr. JAWORSKI. I do, sir.

Senator BYRD. And do you intend to live up to the guideline and see that it is applied in this regard?

Mr. JAWORSKI. I do.

Senator BYRD. Mr. Saxbe, you are satisfied, are you, that this is the requirement?

Senator SAXBE. I am not only satisfied, I am well pleased.

Senator BYRD. And you have no intention whatsoever, in any manner, shape or form, of attemping to require the Special Prosecutor to inform or consult with you about the conduct of his duties and responsibilities except when he determines that he should consult you?

Senator SAXBE. That is correct. The last thing I want is to become involved in this investigation. Frankly, there is much to be done in the Justice Department and it cannot be done if the Attorney General is involved in this deep investigation.

Senator BYRD. The guidelines, as amended in November by Mr. Bork, proceed as follows:

"In accordance with assurances given by the President to the Attorney General that the President will not exercise his Constitutional Powers to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given, the Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part and without the President's first consulting the majority and the minority leaders and Chairman and Ranking Minority Members of the Judiciary Committees of the Senate and House of Representatives and ascertaining that their consensus is in accord with his proposed action."

Mr. Jaworski, this area of the guidelines is new. It was not in the guidelines that were agreed upon between this Committee and Mr. Richardson. And to this extent, I think the amendment is a limitation on those guidelines. This paragraph was later further amended. On November 28, it was further amended by adding the additional words and punctuation "and (No. 2) the jurisdiction of the Special Prosecutor will not be limited without the President first consulting with such Members of Congress, and ascertaining that their consensus is in accord with his proposed action."

Now, I am concerned about this phraseology. It definitely is a limiting factor, in my judgment. It was not in the original charter that was agreed to among Mr. Richardson, Mr. Cox, and this Committee. It was not even in the first amended version that appeared in the Federal Register on November 7, 1973, and it can only have the effect of eroding and limiting the jurisdiction of the Special Prosecutor. It is an erosion of your earlier authority, pure and simple, in my opinion.

What do you understand, Mr. Jaworski, to have been the "assurances" given by the President to the Attorney General that the President will not exercise his Constitutional Power to effect the discharge of the Special Prosecutor or to limit the independence that he is hereby given?

Mr. JAWORSKI. When I say, Senator Byrd, when the language you last read was called to my attention, I talked with Mr. Bork, the Acting Attorney General about it and told him that I wondered what was meant by that language, that there was a feeling on the part of some that it might well, as you have expressed it, Senator Byrd, be construed as limiting jurisdiction. And he told me that the use of the word "jurisdictional" was very unfortunate, that he really did not intend to use it in the sense in which it appears in that language, and what he really meant was independence instead of jurisdiction. He promptly wrote me a letter to that effect and the letter, I think, was publicized, it is my recollection, and I know that he, in this letter, said that he wanted to reassure me that it was not intended at all to constitute any sort of limitation on the exercise of my authority as heretofore stated.

Senator BYRD. So Mr. Bork was saying to you he had intended the word "independence" rather than the word "jurisdiction?"

Mr. JAWORSKI. Yes, sir.

Senator BYRD. Do they both not mean the same thing, depending on who wishes to interpret them? If I wanted to limit your jurisdiction, I would just as soon limit your independence. As a matter of fact, if I were to limit your independence, I would probably be placing a greater limitation on you than I would by limiting your jurisdiction.

Mr. JAWORSKI. What he meant to say and I am reporting to you what he did say over the telephone, when I received the letter—unfortunately, I do not have a copy of it with me, but I understand that it was reproduced in the Federal Register—when I received the letter it made it very clear that there was no intent of any kind to either interfere with independence or jurisdiction.

Senator BYRD. That letter did not appear in the Federal Register.

Mr. JAWORSKI. It did not? I am sorry, then. I thought that it would.

Senator BYRD. Then you think it should so appear?

Mr. JAWORSKI. I think it would be well to, yes, sir. It is a letter that I certainly attached some significance to.

Senator BYRD. Do you see any reason why that letter could not be inserted in the Federal Register?

Mr. JAWORSKI. I do not, although I am not an authority on that. But, I do not see any reason why it should not be. Certainly, when it makes reference——

Senator BYRD. Would you submit the letter to this Committee for its inclusion in the hearing?

Mr. JAWORSKI. Indeed so.

Senator BYRD. What do you think is meant by "assurances, given by the President"?

Mr. JAWORSKI. Senator Byrd, what happened as I undertook in detail in this Committee, and I am pleased to have the opportunity to tell you about it, because you were not present at the time. But what occurred is at the time, I was seeking all of the independence that I could think of. I had the assurance given me by General Haig, and I will tell you in a moment——

Senator BYRD. Would you speak a little louder, Mr. Jaworski?

Mr. JAWORSKI. Yes. And I will state in a moment the course of events as they occurred. But, when General Haig and I came to an understanding, as far as I was concerned, an understanding that he was to present to the President and the President was to approve it or reject it, it included, as agreed upon, my unrestrained right to resort to judicial process.

Senator BYRD. Is this in writing?

Mr. JAWORSKI. No, sir. It has been, I think, publicly stated by the President since then in one of his conferences or public statements.

Senator BYRD. What has he stated?

Mr. JAWORSKI. That I would have the right to file suit.

Senator BYRD. The President has said that?

Mr. JAWORSKI. Yes. It is my understanding that it was said. In fact, I think I may have heard it. I did not hear that entire conference, but it was stated in that. And, in addition, there was set up, as you know, this——

Senator BYRD. Well, this phraseology, however, refers to assurances given by the President to the Attorney General.

Mr. JAWORSKI. That is correct.

Senator BYRD. Now what——

Mr. JAWORSKI. And I am trying to detail or have undertaken to detail the assurances that were given to me before I accepted the assignment, Senator.

Senator BYRD. The assurances given to you by whom?

Mr. JAWORSKI. Given to me by General Haig after reviewing them with the President and coming back and saying the President had agreed to them. Now, after that, the matter was again reviewed in the presence of Senator Saxbe and Mr. Bork, not only what I had detailed with respect to the right to resort to judicial process, but also the right to come to the Congressional Committee that you are aware of, in the event that an impasse should occur between the President and me and Mr. Saxbe. Senator Saxbe at that time assured me that should he become Attorney General, he would abide by that, and Mr. Bork agreed to it, too.

Senator BYRD. Would you supply for the record the assurances which you were given by Mr. Bork, Mr. Haig and by Mr. Saxbe?

Mr. JAWORSKI. I will do so, yes, sir.

Senator BYRD. Did you have the understanding that, in receiving these assurances from General Haig and Mr. Bork, they were assurances that had been given by the President?

Mr. JAWORSKI. My understanding was that this followed, the course of events was my talk with Senator Saxbe after he had talked with the President. That was my understanding. And now how Mr. Bork received that information, I am not aware of, but I recall that Senator Saxbe mentioned that he had talked with the President. And, as I mentioned, Senator Saxbe agreed to this. But I will, as you have asked, I will supply in writting these assurances for the Committee so that they can be made a part of the record.

Senator BYRD. Very well.

(Subsequently, Mr. Jaworski supplied the following material for the record:)

OFFICE OF THE SOLICITOR GENERAL,
Washington, D.C., November 21, 1973.

LEON JAWORSKI, Esq.,
Special Prosecutor, Watergate Special Prosecution Force, Washington, D.C.

DEAR MR. JAWORSKI: You have informed me that the amendment to your charter of November 19, 1973 has been questioned by some members of the press. This letter is to confirm what I told you in our telephone conversation. The amendment of November 19, 1973 was intended to be, and is, a safeguard of your independence.

The President has given his assurance that he would not exercise his constitutional powers either to discharge the Special Prosecutor or to limit the independence of the Special Prosecutor without first consulting the Majority and Minority leaders and chair-

men and ranking members of the Judiciary Committees of the Senate and the House, and ascertaining that their consensus is in accord with his proposed action.

When that assurance was worked into the charter, the draftsman inadvertently used a form of words that might have been construed as applying the President's assurance only to the subject of discharge. This was subsequently pointed out to me by an assistant and I had the amendment of November 19 drafted in order to put beyond question that the assurance given applied to your independence under the charter and not merely to the subject of discharge.

There is in my judgment, no possibility whatever that the topics of discharge or limitation of independence will ever be of more than hypothetical interest. I write this letter only to repeat what you already know: the recent amendment to your charter was to correct an ambiguous phrasing and thus to make clear that the assurances concerning congressional consultation and consensus apply to all aspects of your independence.

Sincerely,

ROBERT H. BORK,
Acting Attorney General.

WATERGATE SPECIAL
PROSECUTION FORCE,
Washington, D.C., December 19, 1973.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In the course of my testimony before the Senate Judiciary Committee, Senator Byrd requested me to furnish the Committee a written summary of my understanding of the arrangement made with the President through General Haig (and confirmed by Acting Attorney General Robert H. Bork and Attorney General-nominee, William B. Saxbe) regarding the independence I was to have in serving as Watergate Special Prosecutor. I agreed to do so and the statement below is made in compliance with my promise.

It was expressly confirmed that I was to proceed in the discharge of my responsibilities with complete independence, including the right to sue the President, if necessary, and that if an impasse occurred between us, the President would not discharge me or take any action that interfered with my independence without first consulting the Majority and Minority leaders and chairmen and ranking members of the Judiciary Committees of the Senate and the House, and obtaining a consensus view that accorded with his proposed action.

Sincerely yours,

LEON JAWORSKI,
Special Prosecutor.

Senator BYRD. Mr. Chairman, it is my understanding that there is a desire to recess the Committee now over until 2:30.

Senator HART. As Chairman Eastland left, it was his suggestion, and I think given the time that we have held these witnesses to this moment, it would make sense to recess now until 2:30.

Senator BYRD. I agree, Mr. Chairman.

Senator COOK. Mr. Chairman?

Senator HART. Mr. Cook?

Senator COOK. Mr. Chairman, I wonder if I might be able to make a short statement——

Senator HART. But we can excuse the witnesses.

Senator COOK. If I might make a statement right at 2:30? I do have a Conference Committee this afternoon and I wonder if I might do so, so that I can leave?

Senator BYRD. And I understand that following Senator Cook, I shall continue with my questions?

Senator HART. Yes.

(Whereupon, at 12:35 p.m., the hearing was recessed to reconvene at 2:30 p..m. this same day.)

AFTERNOON SESSION

The CHAIRMAN. Let's have order, please.

Senator COOK. Mr. Chairman, I would like to thank the Senator from West Virginia for giving me the opportunity to make a very short number of remarks into the record because I am due at a conference committee in the Capitol, and I will proceed.

Mr. Chairman, I find it very difficult to be formal with Bill Saxbe, I have to confess. Bill and Dolly Saxbe are the finest and closest friends that Nancy Cook and I have gained since we came to Washington in 1969. We have as families been together on many, many occasions.

Other than Bill's ability to be a used car salesman and his unfortunate attitude towards the Ohio River and the Commonwealth of Kentucky, I find him one of the most honest and one of the most refreshing men in the United States today. He is blunt. He is completely frank. He has a mind that is quick to analyze and is sometimes instantaneous to reply.

I feel he has assumed this job and the responsibility of it, if it is the desire of the Senate to confirm him, because of his deep commitment to the law and to his profession. I know that he feels that the profession has been deeply hurt by past disclosure of activities. I feel that it is his commitment to restore integrity to a profession that he has an uncompromising love for, and a dedication to, that he finds himself in this position today, Mr. Chairman. He spoke and made his decision to leave the United States Senate and go back to Ohio and practice law. The President asked him to assume the responsibility, and he has accepted that challenge as any man would.

Mr. Chairman, this individual shall miss him and the Senate shall miss him in his present role. However, the country will find him a welcome and honest and forthright Attorney General.

Mr. Chairman, they will find him a man who under no circumstances will ever cut and run.

I want to congratulate him for this appointment and I look forward to working with him in the position that he shall assume.

Senator SAXBE. Thank you very much.

Senator COOK. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

Mr. Jaworski, earlier, prior to the recess, we discussed the phrase that I read into the record that was extracted from Mr. Richardson's statement, the phrase "statutory accountability."

Are you satisfied with Senator Saxbe's responses to my questions as to his interpretation of that phrase?

Mr. JAWORSKI. Yes, sir.

I feel as he does that there are certain things that our office would not have the right to do. There are certain guidelines that we must observe, just as the members of the Attorney General's Department and the Justice Department must observe. Obviously I would want to observe those.

He cited an example which I think is probably a good one. I can think of one or two others. Certainly we would undertake and abide by those. I do not think that impinges any on what I spoke of.

Senator BYRD. You see no inconsistency with what Senator Saxbe said as against the mandate and guidelines?

Mr. JAWORSKI. I do not, sir.

Senator BYRD. You also indicated that you would supply for the record a letter addressed to you from Robert H. Bork, Acting Attorney General, with respect to the amendment of the guidelines.

You have supplied me with that letter. I will read it into the record.

"November 21, 1973, Leon Jaworski, Esq., Special Prosecutor, Watergate Special Prosecution Force, 1425 K Street, N.W., Washington, D.C. 20005.

"Dear Mr. Jaworski: You have informed me that the amendment to your charter of November 19, 1973 has been questioned by some members of the press. This letter is to confirm what I told you in our telephone conversation. The amendment of November 19, 1973 was intended to be, and is, a safeguard of your independence.

"The President has given his assurance that he would not exercise his constitutional powers either to discharge the Special Prosecutor or to limit the independence of the Special Prosecutor without first consulting the Majority and Minority leaders and chairman and ranking members of the Judiciary Committees of the Senate and the House, and ascertaining that their consensus is in accord with his proposed action.

"When that assurance was worked into the charter, the draftsman inadvertently used a form of words that might have been construed as applying the President's assurance only to the subject of discharge. This was subsequently pointed out to me by an assistant and I had the amendment of November 19 drafted in order to put beyond question that the assurance given applied to your independence under the charter and not merely to the subject of discharge.

"There is, in my judgment, no possibility whatever that the topics of discharge or limitation of independence will ever be of more than hypothetical interest. I write this letter only to repeat what you already know: the recent amendment to your charter was to correct an ambiguous phrasing and thus to make clear that the assurances concerning congressional consultation and consensus apply to all aspects of your independence."

Does this letter fully satisfy you as to your independence and as to the assurances "that the President has given," that he will not exercise his constitutional powers either to discharge you or limit your independence without first consulting the Majority and Minority leaders, et al.?

Mr. JAWORSKI. Senator Byrd, this is in line with what I sought. I will be entirely candid and say to you that I sought the maximum of what I could think of at the time, and if I could have thought of some other safeguards, I would have asked for them. I think the matters that you have covered today have been clarifying, and certainly it nails down some matters that someone might have had some doubt about or might have questioned.

I personally have proceeded—I hope I have not been naive—I personally proceeded on the theory that I had complete independence. I will say that I have certainly exercised it in several respects, and no one has undertaken to call my hand.

If it should come to pass that someone should and I thought that I was right, I would come to consult the Committee that has been set up for such purposes.

Senator BYRD. Say that again.

Mr. JAWORSKI. If anyone should disagree with me as to what I am doing, particularly the President, if he should disagree and I felt that I was within my responsibility, carrying out the functions of my office, I would not hesitate to come to the Committee that has been set up and report to them for the purpose of their knowing exactly what the situation was so that the impasse could be resolved, if possible.

Senator BYRD. Would you also not hesitate, as Professor Cox did not hesitate, to call a press conference and make known to the people of this Nation the fact that you were being asked—if you were being asked—to do what, in your conscience, you could not do?

Mr. JAWORSKI. I would make it known. This does not relate to my right to go to court. I would do that without even calling a press conference or going anywhere. I think if I conclude that it is necessary for me to re-

sort to the judicial process, I have been assured that I will have that avenue open to me. I intend to exercise that regardless of what disagreement may arise.

Senator BYRD. If later, if the word is conveyed to you through the Attorney General or otherwise that you no longer have that assurance, will you still pursue the judicial process of securing evidence from the White House with regard to any individual or group or individuals?

Mr. JAWORSKI. I would not hesitate at all. I would indeed, sir.

Senator HART. Would the Senator from West Virginia permit me one question?

Senator BYRD. Yes.

Senator HART. Do I understand, Mr. Jaworski, that if disagreement developed between you and anyone, including the President, with respect to, for example, your jurisdiction to pursue an inquiry or otherwise, while you might come and consult the Congressional leadership committee provided for in the regulations, even if that Congressional leadership committee by a consensus disagreed with you, you would not feel that would bar you from pursuing the question in court?

Mr. JAWORSKI. If it related to a question in court, Senator Hart, I would proceed without coming to the Committee. I would feel that I had that right to resort to the judicial process. If it related to some matter, some area that does not relate to my going to court, then I would come to the Committee if an effort were made either to hamper me or if I received instructions, directions not to proceed in that course.

Senator HART. Thank you, Senator.

Senator BYRD. Thank you.

If you feel, Mr. Jaworski, that your jurisdiction is being limited or that you are being asked to limit your jurisdiction as set forth under the guidelines, would you feel free to come before that ad hoc committee which is mentioned in the guidelines, as well as before this Committee to make your case? You would have no inhibitions about going public, with such a problem if it should arise?

Mr. JAWORSKI. None whatever.

Senator BYRD. Do you, in view of the clarifying letter of November 21, 1973, written by Bork, feel any uneasiness or any insecurity whatsoever regarding the authority that has been outlined in the guidelines and wherein your duty lies?

Mr. JAWORSKI. No, sir, I do not.

Senator BYRD. Then the amendment of the guideline which was first published in the Federal Register on November 7th and the subsequent amendment of the amendment, which was published on November 28th, cause you no problem? It gives you no concern? It leaves you no area of uncertainty, with the letter from Mr. Bork as a clarification thereof?

Mr. JAWORSKI. Yes, sir, they do not. I feel that way about it. I should perhaps add that when I talked to Mr. Bork about the matter, he responded immediately that he did not intend for the wording to be as it was. He said that he would write a clarifying letter immediately. In other words, I did not have to argue the matter. He offered to do it.

Senator BYRD. Paragraph I under Staff and Resource Support, Selection of Staff. "The Special Prosecutor shall have full authority to organize, select and hire his own staff of attorneys and investigators, and supporting personnel on a full or part time basis, in such numbers and with such qualifications as he may reasonably require. He may request the Assistant Attorneys General and other officers of the Department of Justice to assign such personnel and to provide such other assistance as he may reasonably require. All personnel in the Department of Justice, including the United States Attorneys, shall cooperate to the fullest extent possible with the Special Prosecutor."

Thus far, have all personnel under the Department of Justice, including the U.S. Attorneys, cooperated to the fullest extent possible with you, Mr. Jaworski?

Mr. JAWORSKI. I have had no difficulty whatsoever.

Senator BYRD. Do you understand that you have full authority, and has it been made clear to you that you do have full authority, and has that full authority been questioned at any time with respect to the organization, selection and hiring of your staff of attorneys, investigators and supporting personnel on a full or part time basis and in such numbers and with such qualifications as you so reasonably require?

Mr. JAWORSKI. It has not been questioned, Senator Byrd. I have exercised my free thinking and prerogatives with respect to it.

Senator BYRD. Mr. Saxbe, will the Special Prosecutor have the full authority granted in that paragraph?

Senator SAXBE. He will.

Senator BYRD. Budget. "The Special Prosecutor will be provided with such funds and facilities to carry out his responsibilities as he may reasonably require. He shall have the right to submit the budget requests for funds, positions and other assistance and such requests shall receive the highest priority."

Mr. Jaworski, would you have any hesitation about submitting budget requests for funds, positions and other assistance which you deem to be necessary in the carrying out of your responsibilities under the guidelines?

Mr. JAWORSKI. I would have no reticence about requesting it. I have not had to do it so far because this was attended to before I arrived, Senator Byrd. I will certainly do so in the future as the need arises.

Senator BYRD. Senator Saxbe, as far as you are concerned, would any requests from Mr. Jaworski have the highest priority?

Senator SAXBE. Yes.

Senator BYRD. Designations and Responsibilities. "Personnel acting as staff and assistants of the Special Prosecutor will be known as the Watergate Special Prosecuting Force and shall be responsible only to the Special Prosecutor."

Does that meet with your concurrence, Mr. Saxbe, that the personnel acting as the staff and assistants to the Special Prosecutor shall be responsible only to the Special Prosecutor?

Senator SAXBE. I agree.

Senator BYRD. Responsibilities of the Assistant Attorney General, Criminal Division: "Except for the specific investigative and prosecutorial duties assigned to the Special Prosecutor, the Assistant Attorney General in charge of the Criminal Division will continue to exercise all the duties currently assigned to him."

Does that paragraph give you any problem, Mr. Jaworski?

Mr. JAWORSKI. No problem, sir.

Senator BYRD. Public reports. "The Special Prosecutor may, from time to time, make public such statements or reports as he deems appropriate and shall upon the completion of his assignments submit a final report to the appropriate persons or entities of the Congress."

Mr. JAWORSKI. Do you feel uninhibited, as a matter of fact, do you feel it is a duty of yours, from time to time, to make public such statements or reports as you deem appropriate?

Mr. JAWORSKI. I do.

I might say, Chairman Eastland asked for a report which I was in the process of drafting. Then there were some occurrences that changed what I would have reported because of some additional developments. I think the letter is going out, but I will report from time to time, and of course, answer any inquiries that this Committee or any other appropriate Congressional Committee may have.

Senator BYRD. Would you have any reluctance from time to time to make public such statements or reports as you yourself deem appropriate?

Mr. JAWORSKI. I certainly will not. You would be the first to recognize that there are many things about which I cannot talk, and have been refraining from.

Senator BYRD. But would you, in terms of the phraseology of this paragraph, from time to time make public such statements or reports as you deem appropriate?

Mr. JAWORSKI. I would, sir.

Senator BYRD. Would you be inclined to interfere in any way, Mr. Saxbe, with the Special Prosecutor in this regard?

Senator SAXBE. I would not.

Senator BYRD. Duration of assignment. "The Special Prosecutor will carry out these responsibilities to the fullest support of the Department of Justice until such time as he feels he has completed them or a time mutually agreed upon by the Attorney General and himself."

Mr. Jaworski, is it your intention to carry out these responsibilities with the fullest support of the Department of Justice until such time as in your judgment you have completed them?

Mr. JAWORSKI. It is, sir.

Senator BYRD. Mr. Saxbe, will the Department of Justice under your leadership supply Mr. Jaworski with the fullest support mentioned in this paragraph?

Senator SAXBE. Yes.

Senator BYRD. Mr. Chairman, I ask unanimous consent to insert in the record—I have already read it into the record—or keep in the Committee files the letter to Mr. Jaworski from Mr. Bork, dated November 21, 1973.

The CHAIRMAN. Is it already in the record?

Senator BYRD. To my knowledge it is not.

The CHAIRMAN. It will be admitted into the record.

Senator BYRD. Civil Action 1964–73, United States District Court for the District of Columbia, Ralph Nader, Senator Frank E. Moss, Representative Bella Abzug and Representative Jerome R. Waldie, Defendant and Plaintiffs versus Robert J. Bork, the Acting Attorney General of the United States. Judge Cassell rendered a decision declaring on the power of the court that Archibald Cox, appointed Watergate Special Prosecutor pursuant to 28 CFR 0.37, 1973, was illegally discharged from that office.

How do you view that decision, Mr. Saxbe?

Senator SAXBE. I think that the decision of the court was in error.

Senator BYRD. You think it was in error?

Senator SAXBE. Yes.

Senator BYRD. On what basis?

Senator SAXBE. The powers and the authorities of the original charter did not have any provision which prevented the Attorney General from discharging the Special Counsel. I understand there were various agreements that such would not happen, but I think that the existence of the amended charter is evidence that there was wanting such protection in the original charter, and this case will be appealed and we will have to await the outcome of it.

Senator BYRD. The court said, I quote, "the firing of Archibald Cox in the absence of a finding of extraordinary impropriety was in clear violation of existing Justice Department regulation having the force of a law and was therefore illegal."

Do you feel that there was a finding of extraordinary impropriety on the part of Mr. Cox's actions which would justify the firing?

Senator SAXBE. Obviously there was, whether it is in the record or not I do not know.

Senator BYRD. You have no facts to back that statement up, that there was extraordinary impropriety?

Senator SAXBE. No, sir.

Senator BYRD. You have no facts.

Is it merely an opinion of yours that Mr. Cox was guilty of some extraordinary impropriety?

Senator SAXBE. I think you can only go on

the strength of the fact that the Attorney General or Acting Attorney General had the authority on his own determination to fire Mr. Cox. I think he acted on his own determination.

Senator BYRD. Was he not precluded, however, from firing Mr. Cox except for an "extraordinary impropriety?"

Senator SAXBE. I think that was in the charter. He had to find an impropriety, and I think he did. But——

Senator BYRD. The Attorney General did not find that impropriety. The Attorney General resigned. His assistant resigned. Mr. Bork did not find the extraordinary impropriety. He only carried out the order of the President.

How do you arrive at the conclusion that the Attorney General found an extraordinary impropriety?

Senator SAXBE. You have to base it on the fact that he did proceed to fire him, and that he had the power to do it.

Senator BYRD. But only at the order of the President.

Senator SAXBE. We are talking about what is at issue in the case and what is going to be argued in the Court of Appeals and probably the Supreme Court.

Senator BYRD. The general impression is—I think I can give the public perception pretty accurately—that Mr. Cox was fired because he refused to agree that he would not continue to pursue, through the judicial process, the securing of evidence that was under the control of the White House.

Before this Committee, both Mr. Cox and Attorney General Richardson had stated under oath that such evidence would be pursued through the judicial process. Mr. Cox was carrying out his responsibility as he had sworn to carry it out.

Would you consider this to be an extraordinary impropriety?

Senator SAXBE. Whether I consider it that or not is not the issue. It is whether Mr. Bork considered it. That is the whole issue of the case.

Senator BYRD. But there is no indication that Mr. Bork considered it such, or that the firing was done according to his wishes. The indication was, in the public press, that he did not want to do this and that he had considered not doing it. He only carried out the will of the President, as expressed in the President's order to fire.

Senator SAXBE. I have not read the brief in the case. I can only reassert that from the action of Mr. Bork, he based it on the powers which he believed he had.

Senator BYRD. Let us come to this question.

Suppose the President orders you to fire Mr. Jaworski because Mr. Jaworski pursues, through the judicial process, the securing of evidence which is in the control of the White House?

Do you intend to carry out such an order from the President?

Senator SAXBE. I would not attempt to fire Mr. Jaworski nor would I resign.

Senator BYRD. Suppose you were told to either fire Mr. Jaworski or you were going to get fired, what would your answer be?

Senator SAXBE. The President has the right to fire me any time he wants to for any reason. That is based in the Stanton case.

Senator BYRD. You are stating before this Committee, under oath, that you would not fire Mr. Jaworski on the orders of the President, such orders being based solely on the actions by Mr. Jaworski to pursue through the judicial process the securing of evidence from the White House?

Senator SAXBE. Not only that, but I am bound by the consensus agreement in addition to that.

Senator BYRD. Suppose the consensus of the various parties mentioned in the guidelines was to the effect that the Special Prosecutor should be removed from his duties, but in your own judgment he was not guilty of any extraordinary improprieties, and that he was doing only what he said before this Committee that he would do, and he was trying, through the judicial process, to get evidence—that evidence, in the hypothetical case, being in the possession of someone at the White House.

Would you fire him?

Senator SAXBE. You are going on the assumption that six of the eight would volunteer their advice to me. It says that you have to seek it. Obviously, if I do not think he should be fired I would not seek it. If they volunteer that he should be fired I would not pay any attention to them.

Senator BYRD. There is a coordinating conjunction here, the word "and". He will not be removed from his duties "except for extraordinary improprieties on his part *and* without the President first consulting the majority and the minority leaders and the Chairman and ranking minority members of the Judiciary Committees of the House and Senate *and* has obtained that their consensus is in accord with this action."

Suppose the President consults the majority and minority leaders and chairmen and ranking minority members of the Judiciary Committees of the Senate and the House of Representatives, and ascertains that their consensus is in accord with his proposed action, but it has not been shown convincingly to you that the Special Prosecutor is guilty of extraordinary improprieties on his part?

It seems to me you cannot do it with one. You have to do it with both of the requirements set forth.

Senator SAXBE. As a practicing attorney, I always ask my witnesses not to answer hypothetical questions.

Senator BYRD. But your witness was not nominated to be Attorney General.

Senator SAXBE. Yes. But you have to make an assumption that the President came to me and said, I want to fire this man. You take it to the eight delegated people. Now, if I felt at that time that he should not be fired I would so express it, and I would probably have been fired before he ever got to Congress.

Senator BYRD. The guideline does not say that the President will ask you to go to these people.

Senator SAXBE. I understand that.

Senator BYRD. The guidelines state, "without the President first consulting the minority and majority."

Why should he not be required to consult them?

These are the guidelines that have been written.

Senator SAXBE. Because this was the way it was written.

Senator BYRD. They were not written at your behest. They have been written with the support and acquiescence of the Administration. They establish a responsibility on the part of the President to consult these people himself.

Senator SAXBE. Yes.

Senator BYRD. Why would you not say, Mr. President, according to the guidelines, it is up to you to consult the committee?

Senator SAXBE. Well, as I say, I doubt if I would even be there at that time if I felt strongly that he was getting a bad deal.

Senator BYRD. Why would you not be there?

Senator SAXBE. He would fire me, which he has the authority to do for no reason at all. I do not have any of the protections that Mr. Jaworski has.

Senator BYRD. Supposing he did not fire you.

Senator SAXBE. Sir?

Senator BYRD. Suppose he did not fire you?

Senator SAXBE. I would express my attitude that he should not be fired.

Senator BYRD. The President did not fire Richardson. Richardson resigned.

Senator SAXBE. I have no intention of resigning.

Senator BYRD. That may be the very thing the White House would like most, for you to stay on the job, but to see that you carry out the President's orders to fire Jaworski.

Senator SAXBE. That is your supposition.

Senator BYRD. That is not a supposition.

Senator SAXBE. I have no answer to that.

Senator BYRD. Would you resign rather than carry out an order that you did not believe was ethical or just or fair?

Senator SAXBE. Was not ethical, just or fair?

Senator BYRD. Yes.

Senator SAXBE. No, I do not think that I should take this job with the idea that I am going to flounce out of there the first time that things do not go the way I think they should go, or somebody wants me to leave. The President has the authority to fire me at any time.

Senator BYRD. There is no question about that.

Senator SAXBE. Therefore, if things go badly I would expect that he would do just that. But——

Senator BYRD. You have not answered my question.

Senator SAXBE. All right.

Senator BYRD. Would you resign rather than carry out an order that, in your judgment, was not fair, was not ethical, and was not just?

Senator SAXBE. No, but I would not carry out the order, either.

Senator BYRD. You would make the President fire you?

Senator SAXBE. Absolutely.

Senator BYRD. Despite all the protections given to the Special Prosecutor by the guidelines in the "Federal Register", is it not true that all of these could be swept away by a revocation of the order in the "Register", or by amendments to the order defeating the purpose of the original guidelines, Mr. Jaworski?

Mr. JAWORSKI. I had not thought of it in those terms. I assume if somebody wanted to do so he could. He would have to go further. He would also have to violate an understanding and an agreement that I had. But I assume it could be done.

Senator BYRD. How do you feel about that, Mr. Saxbe?

Senator SAXBE. If they removed everything in there, I would stand by my word of what I have said here today.

Senator BYRD. Who would have to revoke or amend the order?

Would the Attorney General have to do that, or could someone else revoke or amend these guidelines?

Senator SAXBE. I do not believe that anyone but the Attorney General could do it.

Senator BYRD. In your judgment, could anybody else do it, Mr. Jaworski?

Mr. JAWORSKI. No, sir.

Senator BYRD. If the President or one of his top aides asked you to revoke the guidelines, what would you do, Mr. Saxbe?

Senator SAXBE. I would say I was bound by my word not to.

Senator BYRD. If the President or one of his top aides asked you to amend the guidelines, what would you do?

Senator SAXBE. The only way I would amend the guidelines is by agreement with Mr. Jaworski and by consultation with the Committee that put them together.

Senator BYRD. Mr. Jaworski, have you ever been asked to promise to resign if you feel that the executive branch is attempting to manipulate the Special Prosecutor for the protection of individuals in the executive branch?

Would you resign if you thought that the executive branch was attempting to manipulate you or to circumvent or restrict or limit your jurisdiction for the protection of individuals in the executive branch?

Mr. JAWORSKI. Senator Byrd, if that came

to pass I would first come to the Congressional Committee and state my views to them. If I felt that I was acting within my authority and that it was really my responsibility to go forward, and I felt strongly about it and the Congressional Committee would not back me up, I would resign.

Senator BYRD. What Congressional Committee?

Mr. JAWORSKI. I had in mind the Committee that was set up for the purpose of taking my grievances in the event an impasse is reached between the President and me.

Senator BYRD. Would you also include the Judiciary Committees of both houses?

If not, why not?

Mr. JAWORSKI. I think that is a good question, Senator.

Senator BYRD. Would that not give you some additional comfort, reassurance, and backing?

Mr. JAWORSKI. It would give me a lot of comfort. It certainly would, if I came before this Committee and told them what the problem was and the Committee felt I was right. Of course, it would answer the problem. I would just stand by without resigning.

Senator BYRD. Does this Committee have your assurance that you will do that in the event such a contingency arises?

Mr. JAWORSKI. I am prepared to assure you that I will. Very frankly, I have not gone into this before, except perhaps by inference, but I would have no hesitation to come and lay the matter before this Committee as well.

Senator BYRD. Earlier today, Mr. Saxbe, you stated "I do not contemplate having much contact with Mr. Jaworski."

Mr. Richardson started out in a similar manner in the case of Mr. Cox. Mr. Richardson found later that he was by necessity being put into a position of either refusing to carry messages to Mr. Cox or, on the other hand, to carry those messages to Mr. Cox, or to field them himself and insulate Mr. Cox from those pressures.

I think one may assume that you also may be confronted with a similar situation, so that it would be very difficult for you to not have much contact with Mr. Jaworski. I am sure that is your full and clear intention today, just as it was with Mr. Richardson.

If you serve merely as a conduit to Mr. Jaworski, and each time someone at the White House calls and says, this fellow is going too far, he does not have the authority to do this, or he is exceeding his jurisdiction. Why do you not talk to him? What can you do about it, et cetera? The first thing you know, you may find yourself being a constant conduit to Mr. Jaworski, and he in turn will find himself being subjected to the water treatment drop by drop, drop by drop, until the constant pressure becomes unbearable.

If that develops, how do you see your position?

Are you going to be a mere conduit, so the pressures will not build up on you, but will instead be transferred through you to Mr. Jaworski?

Or are you going to attempt to protect him and insulate him from undue pressures from the White House, thus creating pressures on yourself?

Senator SAXBE. I would resist any inclination to do this, and I am a pretty good resistor.

Senator BYRD. That is not clear enough. You say you would resist any inclination to do this.

What do you mean?

Senator SAXBE. By being a conduit.

Senator BYRD. You would attempt to insulate Mr. Jaworski as best you could from undue pressures from the White House?

Senator SAXBE. That is what I consider to be part of my obligation with the charter.

Senator BYRD. What would you do about such de facto pressure on Mr. Jaworski, Mr. Saxbe, other than resist it?

What do you mean by resisting?

Would you tell those people down there to go to Sheol? Or would you say, "I do not think he is exceeding his authority, and unless you prove to me that he is exceeding his authority, I am not going to interfere?"

Senator SAXBE. The President in his discussion with me and the others that I talked to down there made no reservation as to his authority and his power to proceed, and I am going in with that understanding. Therefore, I would not hesitate for a minute to say, this is something that I am not going to talk to him about. This is within his area.

Frankly, I do not think that it is going to occur.

Senator BYRD. Mr. Saxbe, I have served under five presidents. I find it to be exceedingly excruciating to say "No" to a president, whether he is of one's own party or not. It is extremely difficult to say "No," especially to a president of your own party. I have had to do it, and I have done it. I think that you have the intestinal fortitude to do it, likewise.

Can you assure this Committee that you would not hesitate to say "No" to the President if he attempts to change the rules and signals and guidelines from what they were when you took the job?

Senator SAXBE. I certainly have no reservation in making that statement. Again, I do not think that it is going to arise. I do not think that the President would have nominated me to be Attorney General if he thought that I was going to be a conduit, or he thought that I was going to be a person to be a go-between between the Special Prosecutor.

Senator BYRD. I would assume that he had the same confidence in Elliot Richardson. He nominated Mr. Richardson. I am sure that Mr. Richardson did not contemplate that that would arise which did arise. We do have to contemplate that it may arise again, certainly in the light of past experience that should be a lamp unto our feet. We have to ask questions today because we have to anticipate that they may again occur. It is the duty of this Committee, as best it can, to get your responses to what we hope will remain hypothetical questions, and will never become actualities.

Mr. Jaworski, are you satisfied?

I realize that this is uncomfortable for you. It is uncomfortable for Mr. Saxbe. It is uncomfortable for me. It is difficult, I know, for you to indicate that you are not completely satisfied with the answers that Mr. Saxbe has given. You will have no better forum, however, in which to do that, and you may never again have such a forum.

Are you satisfied with the responses of Mr. Saxbe to my questions with regard to the authorities that you will have in carrying out your responsibilities as manifested in the guidelines?

Mr. JAWORSKI. Yes, I think they have been given clearly in spelling out situations that could arise. I wish I were prepared to tell you about some of the authority I have exercised in recent weeks. That I cannot talk about. I can say to you that if I felt that I were in any danger, any jeopardy with regard to exercising independence, I think perhaps I might have faced that situation of jeopardy in some of the things that I have done recently.

Senator BYRD. So far, Mr. Jaworski, you have acted as a man who wears no man's collar but his own—you apparently are not a yes man for any President. I think that it has been extremely important—in view of the fact that it has been the judgment of the leadership of the Senate to hold in abeyance at least for the time being, to defer any action on legislation to invest the authority for the appointment of the Special Prosecutor in the court—that these questions be asked.

I think it is more than ever incumbent upon this Committee to get as ironclad a commitment as we possibly can from Mr. Saxbe to back you up, and to get from you also, as the Special Prosecutor, an ironclad commitment to continue to pursue your responsibility without fear or favor, to go to the courts if necessary to resolve any question of executive privilege, and to secure through the courts if necessary any evidence that is under the jurisdiction and control of the White House, or anyone in the White House, or elsewhere for that matter.

Does the Committee have that commitment from you?

Mr. JAWORSKI. It does.

Senator BYRD. Does the Committee have that commitment from you, Mr. Saxbe?

Senator SAXBE. Yes. I have no reservation. I think Mr. Jaworski is not only a competent and a thoroughly decent man. I will fight for his right to proceed as he sees fit.

Senator BYRD. Mr. Ziegler in the press has recently denounced the Special Prosecutor's force.

Is it your intention, Mr. Saxbe, not to be swayed by denouncements of the Special Prosecutor's force, if they should occur in the future, through announcements from the White House in the person of Mr. Ziegler or Warren or anybody else?

Senator SAXBE. Mr. Ziegler has a right to complain about any personnel in the government, and I cannot deny him that right. Certainly we will keep our own counsel.

Senator BYRD. Mr. Jaworski, is it your intention to retain the Special Prosecutor's force intact as you inherited it unless an individual on that force gives clear cause for dismissal, and that such clear cause would not include the conscientious pursuit of his duty?

Mr. JAWORSKI. I certainly intend to follow that course.

I might say that I defended one of the men who has been serving, and I think serving capably, against an attack that you make reference to. I did it in no uncertain terms.

If misconduct at any time should be subject to criticism, I would be the first to accept it. I do not believe that criticism is justifiable at this time, and I went on record as saying so.

Senator BYRD. There are some people who feel that, after the first of the year, the ardor for enactment of legislation to provide a Special Prosecutor by the court would cool amid the lowering temperatures of January, and that we may begin to see members of the Special Prosecutor's force making reservations to leave town on whatever airlines may then remain available.

Can you assure those of us who want to see the Special Prosecutor's force stay on the job as long as it is dedicated to its duties, and as long as it is doing a good job, that you will stand behind these men as long as you think they are doing their duty, even if it costs you your own job?

Mr. JAWORSKI. I certainly would. I will go a step further. I do not think I would be worthy of the time that you have sacrificed today in going into this subject as you have if I should stoop to the practice of staying with somebody for a certain period of time, then dropping them just because I might think there is some heat. That has not been my life, sir.

Senator BYRD. Mr. Saxbe, in summary, as I think I have interpreted your responses and your statements before this Committee, you have pledged to this Committee and to the American people—who are the final arbiters, the final judge, and the ultimate court—that you will have no part in exerting indirect or direct pressure on the Special Prosecutor, that you will not allow a narrowing of his jurisdiction or authority, that you will protect his independence and insulation from pressures from the executive branch and from the legislative branch, and that you, to the very best of your ability, will make public such attempts, rather than see his investigation impaired?

Senator SAXBE. I will do anything within

my power not to see the investigation impaired. I reserve the right to complain if I do not think it is moving fast enough, which I do not anticipate.

Senator BYRD. I think that completes my questions. I apologize to the Committee and to you, Mr. Saxbe, and to you, Mr. Jaworski, and to those in the hearing room for what may have appeared to be a monotonous and boring repetition of a long litany of particulars set forth in the guidelines. I think, however, that the Committee would have been remiss if it had not done this. I think it would have been remiss not to have called you up here, Mr. Jaworski, in the presence of Mr. Saxbe. I think this ought to give you extra insurance and some additional satisfaction, comfort, security and assurance, and a feeling that there are people on the Hill that want to see you do the right thing, and that these people are in both parties, and are members of both parties. Thus far, you have conducted yourself commendably, beyond what many of us ever expected, but not beyond what ought to be expected. And it is the confidence and the desire of this Committee that you will continue to do your duty without fear or favor. I felt that this would help to strengthen your hand, and, at the same time, I thought it would help to strengthen Mr. Saxbe's hand, because he has a record here to stand by and stand upon and to live up to. He has his own commitment here in writing and under oath, and if I were in his stead, I think I would feel that this was a strengthening factor. It was not done with any intention of putting my colleague on the spot—not that I could put him on the spot. It has not been done with the intention of embarrassing or demeaning him in any way. It is only with the intention that, in the final analysis, it will strengthen the hands of both of you, and that there will now be a clearer understanding on the part of both as to what this Committee expects, and that a public understanding will have been established on the record for all to read.

Mr. Saxbe, as a member of this Committee, unless there is something that yet develops that I do not foresee at this moment, I will vote to report your nomination favorably to the Senate. I do not think that it is incumbent upon this Committee to determine a constitutional question. It is, however, incumbent upon this Committee to determine your personal and professional qualifications, and where you stand, as far as I am concerned, on the issues that I have attempted to pinpoint as clearly as I possibly could. Your answers to my questions have been 98 percent reassuring. That is about as good as most people can make. It does not leave much room for improvement, and I will say that you made an A plus. But when it comes to voting on the floor I have stated a constitutional principle that I think I have to stand by. I will not vote against you on the floor. I do not think I could state that constitutional principle as I did on the floor and then reverse myself and vote for you. But I will vote for you in Committee, and I will do everything I can—barring some unforeseen developments subsequent to this moment—to expedite action on your nomination in the Senate, where, on the confirmation, I will vote "present."

Senator SAXBE. I thank you.

Mr. JAWORSKI. I thank you too, sir.

Senator BYRD. Thank you, Mr. Chairman.

(Subsequently, Senator Byrd submitted the following letter for the Record:)

DECEMBER 13, 1973.

Hon. WILLIAM B. SAXBE,
U.S. Senate,
Washington, D.C.

DEAR BILL: I have reflected much upon my statement yesterday during the hearing that I would vote "Present" on your confirmation to be Attorney General, and I think I would be remiss in my duty not to vote either "for" or "against". For me simply to vote "present" would be the easy way out, and, after reviewing my position last evening and again this morning, I feel that I must vote against your confirmation, and I shall do so *solely* on what I consider to be valid constitutional grounds. Having strongly opposed the pay bill a few days ago on such grounds, and not being of the opinion that Congress has the power to remove the impediment (Art. 1, Sec. 6, Clause 2), I do not see how I can conscientiously take any other course.

Having said this, I want to say again that I do not believe the Judiciary Committee shares the burden of being guided by the Constitutional disqualification to the degree that is carried by the full Senate which, under the Constitution, must advise and consent. This may appear to be specious reasoning on my part, or reasoning for the sake of convenience, but I believe it is sound. The Judiciary Committee meets its responsibility, I think, when it finds you to be professionally qualified by training and experience, and personally qualified from the standpoint of integrity, character, and moral fitness. I, therefore, shall, as a member of the Committee vote to favorably report your nomination to the Senate, and, as part of the leadership, I shall do everything I can to expedite final Senate action on your confirmation. Although I shall vote "no" on the confirmation.

I shall not speak against confirmation, and, just as I did not ask any Senator to vote with me against the pay bill, I shall not seek to influence—not that I could do so—any Senator to vote as I will on the confirmation.

The vote on your confirmation will not only be overwhelming; it will also be gratifying to you. As for my own vote, I am truly sorry. Yet, it should be a source of well-deserved satisfaction to you, Bill, to know that my vote (and the handful of others, if there are any) will be on the basis only of a Constitutional viewpoint, nothing more—and, even on this ground, there are many eminent Constitutional authorities who would say that the impediment has effectively been removed.

I say again that your answers to my questions at the hearing were as satisfactory as I could expect, and *that* is saying more than a little. My questions were meant to be pointed, and necessarily so, and I think your responses to my questions were without equivocation. For this I congratulate you.

In closing, may I say that I respect and like you personally, and I have tremendous admiration for your wife "Dolly". I hope that both you and she will be happy in your new assignment.

With warmest personal regards, I remain,

Respectfully yours,

ROBERT C. BYRD,
U.S. Senator.

COMPARISON OF NATO AND WARSAW PACT

Mr. PROXMIRE. Mr. President, with the Mutual Force Reduction—MFR—talks underway as well as the deliberations of the Committee on Security and Cooperation in Europe—CSCE—it is appropriate to discuss the relative strengths of the two opposing blocs of nations—NATO and the Warsaw Pact.

Any comparison of these two forces must be along a variety of lines not only military but political. For example, military considerations must be measured in part by the economic potential of each bloc. Therefore it is interesting to note that in terms of population and gross national product, two important indicators, Western European alone surpasses the Soviet Union and they nearly match each other in numbers of men under arms.

When comparing the total NATO commitment, including the United States, to the total Warsaw Pact, including the U.S.S.R., the figures are even more startling. The NATO countries have a combined population of 542 million to 352 million for the pact. NATO GNP is $2,207 billion compared to the Warsaw Pact total of $753 billion. The NATO countries have 5.6 million men in their armed forces while the pact has 4.4 million.

Defense spending is much more difficult to assess due to the hidden defense budgets of the U.S.S.R. and allies but even here it is reasonably clear that NATO holds a clear dominance.

Once the case of the superiority of Soviet tank forces posed a serious problem for defense planners. It still remains significant but the more pessimistic conclusions now must be tempered by the results of the most recent Middle East war which showed that the antitank weapon can be very effective. And the NATO allies excel in this department.

Mr. President, in view of the many variables involved in discussing the relationships between NATO and the Warsaw Pact, any systematic comparison sheds new light. The Center for Defense Information has just concluded an excellent study of this type and I ask unanimous consent that it be printed in the RECORD.

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

U.S. FORCES FOR EUROPE: NEED FOR PHASED REDUCTION OF U.S. SPENDING FOR THE DEFENSE OF EUROPE

DEFENSE MONITOR IN BRIEF

Spending for the possibility of war in Europe is the largest item in the United States military budget. European defense costs U.S. taxpayers about $30 billion each year.

The United States should begin to plan now for a gradual, but significant reduction of U.S. military forces for Europe, regardless of the course of the current talks on mutual force reductions (MFR) in Vienna. The MFR talks are unlikely to lead to any but small, unsatisfactory cuts.

The phasing down of U.S. forces could be scheduled over 10 years, negotiated with our allies, with a 20% cut spread over the first three years. Then the situation could be reassessed.

As of 1973, Western Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a lower level of U.S. support and presence in Europe.

The goal of a phased withdrawal is not an abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The original intent was not to send American troops to Europe permanently. The idea was to allow the Europeans time to build up their own military forces. Once that was accomplished, U.S. forces in Europe were to be phased out.

The annual cost to the United States of peacetime preparations for conflict in Europe is higher than the cost of the Vietnam war at its peak when 600,000 U.S. servicemen were fighting in Southeast Asia. The yearly price tag on U.S. armed forces for war in Europe is about $30 billion. The annual incremental cost of the war in Southeast Asia at its high point was $21.5 billion in fiscal year 1969.[1] In view of lessening East-West

Footnotes at end of article.

tensions and hitherto unparalleled European prosperity, is it not time for the United States to cease carrying such a heavy burden for the protection of Western Europe?

Providing forces for the defense of Europe against possible invasion by the Soviet Union is the most expensive item in the Pentagon budget, exceeding outlays on strategic forces. The total defense budget can be roughly divided between 75% for conventional forces and 25% for strategic forces. Public attention is usually directed to controversial strategic missiles, submarines, and aircraft, but it is the $65 billion spent each year on maintaining a capability to fight conventional wars that eats up the bulk of the defense budget.

"The size of our general purpose forces is determined largely by our NATO commitment," said Roger Kelly, former Assistant Secretary of Defense for Manpower and Reserve Affairs, in 1972.[2] The Defense Department has acknowledged that the level and composition of U.S. conventional forces are not driven by the need to defend the territory of the United States. Because of its advantageous geographic position and powerful strategic forces, the U.S. requires only small conventional forces to defend itself against foreign threats. Most U.S. conventional forces are purchased to defend our allies. The size, composition, and cost of U.S. conventional forces are established primarily to support plans for war in Europe. The U.S. Army is structured and equipped for fighting in Europe, and U.S. Navy ships and aircraft are also being developed principally for a lengthy conventional war in Europe.

COMPOSITION OF CONVENTIONAL FORCES FOR EUROPEAN DEFENSE

U.S. conventional forces consist of land, sea, and air components. There are 13 active Army combat divisions, 3 Marine Corps divisions, 14 attack aircraft carriers around which the Navy is structured, and 72 Air Force fighter and attack squadrons and other tactical air units. To augment this active force, there are 1 million trained Ready Reserve and National Guard troops immediately available for callup.

The numbers of the U.S. military forces for the defense of Europe are inventoried in Figure 1. Included are equipment and personnel stationed both in Europe and the United States. There are 319,000 military personnel in Europe and related areas, 4⅓ divisions and 4 brigades, and prepositioned equipment for an additional 2⅔ divisions located in the U.S. but designated for rapid airlift to Europe in case of conflict. The troops in Europe are accompanied by 235,000 dependents and 14,000 U.S. civilian employees. There are 139 principal U.S. military bases in Europe and related areas.

The U.S. has more than 7,000 tactical nuclear weapons in Europe and more than 2,000 associated delivery systems. The U.S. maintains 780 combat aircraft (including carrier aircraft) in Europe. The Sixth Fleet, permanently stationed in the Mediterranean, normally has 45 ships and submarines, built around two attack aircraft carriers. Conventional forces in the continental United States, primarily for conflict in Europe, include almost the entire Atlantic Fleet with four attack carriers, one Marine Division, at least half of the Army Strategic Reserve (4⅔ divisions), Air Force tactical air and transport units, and most Reserve and Guard units with modern combat equipment. Total U.S. forces in Europe or earmarked for Europe include 16 divisions, 8 brigades, 2,900 combat aircraft, and 294 ships.

FULL COSTS OF U.S. NATO FORCES DIFFICULT TO CALCULATE

The Defense Department produces a complicated array of figures for the cost of U.S. NATO forces, ranging from $4 billion to $17 billion. It has never, however, revealed publicly the full extent of NATO-designated forces. Any financial estimates must of necessity be inexact because of the complexities involved in detailing the direct and indirect costs in DOD accounting. The $4 billion figure covers only the direct annual operating costs (primarily wages) of the approximately 300,000 troops actually based in Europe. The $17 billion figure is said to include the yearly expenses of U.S. forces located in Europe and those forces in the U.S. committed for quick deployment to Europe in the event of war. These U.S. rapid-reinforcement forces are only part of the total U.S. forces that would be used for European defense. The Defense Department calculates that it spends and additional $9.5 billion each year[3] on conventional forces that could be used in a NATO conflict if necessary but which are also available for fighting in Third World countries.

Annual U.S. Spending for European Defense, $30 billion plus.

$17 billion—direct cost.

$9.5 billion—auxiliary.

$3.5 billion—other (e.g., R&D).

DOD's calculations of the financial cost to the U.S. to defend Europe are less than the actual costs, which are around $30 billion annually and probably more. A number of additional NATO-related military expenditures need to be taken into account. For example, the Europeans enjoy the benefits of the nuclear umbrella provided by the United States without contributing to the costs of U.S. strategic forces. The U.S. would probably retain most of its strategic forces in the absence of a commitment to the defense of Europe. Much of the impetus toward the development of new and better strategic weapons, however, that could be used in limited or "flexible response" nuclear warfare stems from the desire to allay Western European doubts about the credibility of the U.S. strategic guarantee. Some perhaps unquantifiable amount of U.S. spending on strategic forces can be attributed to the costs of the U.S. defense of Europe and the need to continually reassure the Europeans that we would actually use nuclear weapons against the Soviet Union in case of invasion of Western Europe.

R&D COSTS NOT ACCOUNTED FOR IN NATO-RELATED EXPENDITURES

Additionally, new and expensive conventional weapons systems are being developed primarily for war in Europe. A major portion of the $8 billion spent each year on research and development by the Defense Department must be added to the costs of defending Europe. Our NATO allies contribute little toward paying for new U.S. weapons that will be used primarily for their defense. (The joint U.S.-West German project to build a new main battle tank was abandoned in 1971.) For example, the $8 billion F–15 aircraft program is being developed to defend U.S. and other NATO ground troops against Soviet air attack in Europe. The proposed $4.5 billion SAM–D surface-to-air missile system is intended principally for deployment in Europe. Small tactical nuclear weapons ("mini-nukes") are being contemplated for use in Europe at the cost of billions. The new Navy F–14 aircraft program will cost more than $5 billion and the F–14 will be stationed on carriers primarily in European waters where it would be used against Soviet forces. The F–14, at a cost of over $20 million per plane, is too costly and sophisticated to be developed and procured for use against lesser opponents in other areas of the world. The F–14 is being built, as many other new weapons, for a conventional war in Europe.

The Defense Department includes a share of the cost of newly procured weapons and equipment in its calculations of the cost of U.S. NATO forces. But DOD does not reveal what the amount is, and it is doubtful that DOD takes fully into account the degree to which weapons are procured for NATO purposes. The Senate Armed Services Committee studied this matter and concluded:

That defense of NATO is uppermost in defense planning is clearly illustrated by review of justifications presented to support procurement of weapons systems. A review of selected general purpose weapons systems estimated to cost $30 billion shows that $21–$25 billion of that cost can be identified with the requirement to support NATO defense.[4]

Finally, DOD's $17 billion figure does not include the retirement pay for U.S. NATO forces, nor the overhead administrative costs of these forces. In addition, the cost of maintaining the 229,000 U.S. troops in Germany has increased in 1973 after dollar devaluation and revaluation of the German mark.

FOR THE FUTURE—MORE EMPHASIS ON ARMS FOR EUROPEAN DEFENSE

For more than 20 years, the United States has borne the major burden for organizing and supporting the military defense of Western Europe against possible attack by the Soviet Union. Even so, Pentagon planners foresee even greater emphasis and spending on conventional arms and European defense in the future. Lt. Gen. George Seignious, Director of the Joint Chiefs of Staff, states that ". . . the evolution of the U.S. forces, as you will see in the coming years, will be more and more identifiable with our mission in NATO." Former Secretary of Defense Elliot Richardson expressed the view of the Nixon Administraton: "The development of approximate parity between the U.S. and the U.S.S.R. in strategic weapons has created a situation which, in our view, makes it more important than ever that the NATO forces should have substantial conventional capability."[5] From the Pentagon point of view conventional war is thought to be more likely than 15 years ago when relations with the Soviet Union were far more strained.

NONMILITARY TIES—THE U.S. ECONOMIC STAKE IN WESTERN EUROPE

The ties that bind Europe and America are many and varied, but they have been defined chiefly in military terms. Nonmilitary ties, such as the substantial U.S. economic stake in Western Europe, are at least as important as the military connection between the U.S. and its allies. The activities of multinational corporations on both sides of the Atlantic imply an important mutual commitment to the preservation of a friendly, prosperous, and stable Europe. U.S. assets and investments in Western Europe total approximately $40 billion, of which $28 billion are private investments which earn American investors nearly $3 billion a year.

THE ECONOMIC GROWTH OF WESTERN EUROPE

Since World War II, Western Europe has become rich. In 1951, the combined GNP of all the European members of NATO was $47 billion. By 1972 it jumped to $949 billion, almost 100% higher than that of the Soviet Union. By almost any measure, the combined industrial might of NATO Europe surpasses that of the Soviet Union. The greater economic and manpower resources of NATO Europe provide a basis for a strong military potential as well (see Table 2).

TABLE 2.—COMPARISON OF NATO EUROPE AND U.S.S.R., 1972
(DOES NOT INCLUDE UNITED STATES)

	Population (millions)	GNP (billions)	Defense spending (billions)	Armed Forces (millions)
NATO Europe (including France)	311	$949	$34	3.1
U.S.S.R.	248	549	50–60	3.4

The U.S. spends 6.7% of its GNP on the military and the Soviets an estimated 8%–10%, but NATO Europe spends only 3.6% on military forces. Our European allies allocate on the average about 20% of their government spending to defense, while the U.S. spends twice that percentage.

Footnotes at end of article.

THE CHANGED POLITICAL SITUATION

Apparently our allies take a less worried view of the Soviet threat than the U.S. From their point of view, a Soviet conventional attack on Europe is increasingly implausible. It has become more difficult to see what Soviet interests would be served by attack on Western Europe. The Soviet Union would gain little and lose much by a military attack on Germany, France, and other NATO allies. The Defense Department apparently agrees that the threat to Western Europe is remote because it allows 235,000 dependents to stay there.

The political situation in Europe has changed from when the North Atlantic Treaty was signed in 1949. U.S. General Andrew Goodpaster, the Supreme Allied Commander in Europe, graphically described in 1971 the prevailing perception of the Soviet threat at the time that NATO was founded:

In those days the question was not, "Will there be war?" but rather, "In what month will war start?" An exhausted Western Europe, weakened and weary of war, faced a new threat—and it seemed only a matter of time until the threat would be carried out. That was the climate—the harsh, numbing, almost paralyzing climate—into which NATO was born.

The division of the world between a U.S.-led bloc and a Soviet-led bloc has been eroded. Increasingly, the conflict between the Soviet Union and the West has been channeled into nonmilitary spheres, on which basis a wealthy and confident Western Europe already competes as an equal. Most of the European Cold War tensions of the 1950's and 1960's can be traced to problems arising around the Berlin situation and the German problem. As of 1973, these difficulties have been eased, particularly because of the Berlin accords signed in 1972, and West Germany has normalized its relations with most East European countries.

IMPLICATIONS OF THE CHINESE THREAT TO THE SOVIET UNION

For the Soviet Union, the breakdown of the simple bipolar conflict has meant that it is now confronted with possible threats from more than just the United States.

The U.S.S.R. faces the Chinese who are armed with nuclear weapons and a regular armed force of 2,900,000. Dr. John Foster, former director of Defense Research and Engineering, has observed the multithreats to the Soviets:

They face, in a way, more threats than does the United States, and so what they see as equitable seems a little off balance to us . . . Of course, they have China on a large fraction of their borders. China, as you know, is rapidly obtaining a nuclear capability in submarines, in bombers, and in surface-to-surface missiles. They also have, of course, NATO bordering on their country and the Soviet bloc nations. So they have to reckon with Chinese missiles. Chinese armament, U.S. armament, the French and United Kingdom nuclear armament.[8]

The Soviet Union is unlikely to engage in provocative behavior or launch an attack on West Germany, France, and other NATO countries as long as it perceives a threatening Chinese presence on its eastern border.

NEED TO TRANSFORM NATO

With the growth of European economic strength and with the waning of the Cold War, it has become increasingly difficult to accept a relationship between the United States and Western Europe involving such a heavy U.S. military responsibility for the region's defense. Western Europe is well able to raise and support the military forces required for its own defense. The North Atlantic Alliance should therefore be transformed to lessen the dominant role of the United States in the NATO command structure and to increase Western Europe's role in its own defense. For example, it may be time to reassess the tradition of having a U.S. general officer as Supreme Commander of NATO forces in Europe.

A growing number of Americans have become conscious of the unreality of the United States devoting so much of its military efforts to the remote possibility of a major war in Europe. The maintenance of more than 229,000 U.S. troops in Germany in particular has diminishing plausibility. In early October 1973, a Gallup poll indicated that a majority of the American public favored cutting U.S. forces in Europe.[9] In the Congress there has been growing pressure for substantial cuts. These demands have been fed by increases in the number of U.S. troops in Europe while U.S. deployments in Asia have been reduced in recent years.

THE NIXON DOCTRINE AND SELF-HELP

The Nixon Doctrine, conceived for Asia and by implication extended to Western Europe, declares that the nation directly threatened will assume primary responsibility for providing the manpower for its own defense. Admiral Thomas Moorer, chairman of the Joint Chiefs of Staff, noted this year that political, fiscal, and manpower constraints "prescribe smaller, but more efficient, U S. general purpose forces, and require a much greater degree of self-reliance and burden sharing by our allies."[10] Defense Secretary Schlesinger agreed:

The underlying premise of the Nixon doctrine is that we should be encouraging greater self-help on the part of allied friendly countries to build up their forces so that they can defend themselves in the absence of U.S. ground forces, in particular, and hopefully in the absence of U.S. air and naval forces.[11]

This principle of self-help and an end to U.S. military paternalism is even more applicable to the wealthy nations of Western Europe than to Asia. In Senator Mansfield's phrase, it is time "to replace a policy of land-based omnipresence with a policy of discerning internationalism." The contrast, however, between the Nixon Doctrine and the continuation of 25-year old military arrangements for European defense is sharp.

FLUCTUATIONS IN NATO TROOP STRENGTH

There have been great fluctuations in the level of NATO forces, but with no apparent impact on the European security situation. Many of our allies have cut their forces and France withdrew from formal participation in many NATO activities. The Dutch, Belgians, Canadians, and British have all cut their forces stationed in West Germany. U.S. forces in Europe declined from 463,000 in 1962 to 296,000 in 1969. Military force planning is an uncertain process wherein the only consistent pattern is that there is never enough and that what exists should not be reduced. The relationship between foreign commitments and military force structure is loose. Despite the history of fluctuations in NATO forces, military leaders argue today that the present level of U.S. forces, and NATO forces in general, are the absolute minimum required for defense of Europe and cannot be cut.

Planning for conventional forces is more complicated than for strategic forces. Admiral Moorer has admitted that "there are a great many uncertainties involved in drawing up a balance between NATO and the Warsaw Pact."[12] He states that NATO planning is "not a precise science at all,"[13] and that many of the variables and scenarios used in developing force levels and strategy are "just a speculation,"[14] and "you can get almost any answer depending upon how you vary the inputs."[15]

RECENT STUDIES DISCLOSE NATO STRENGTHS

Current Defense Department studies of Western European defense requirements, considered by DOD to be the most comprehensive to date, indicate that NATO has more than enough forces to defend itself against the likely Soviet threats, and that Warsaw Pact strength has been exaggered in the past.[16] NATO can handle the probable Soviet threat with less ground forces in Europe. Former Defense Secretary Richardson commented that, "the general thrust of this study is that the conventional capabilities of the allies in NATO have tended to be underestimated and that they could withstand for a very substantial period a conventional Warsaw Pact attack."[17] Defense Secretary Schlesinger agreed that, "it is clear that NATO is in better shape conventionally than had been anticipated."[18] He also suggested that the United States is not at a severe disadvantage in reinforcement capability when compared to the Soviet Union: "With our airlift capabilities, we are able to redeploy combat troops very quickly, in fact more quickly in a number of respects than the Soviets can in a location closer to hand. . . . The difficulties of redeployment may be less for us then they are for our possible opponents."[19]

POLITICAL ARGUMENTS AND INSTITUTIONAL INTERESTS BEHIND LARGE U.S. FORCE LEVELS

Despite the revised military estimates, Administration pressure to retain U.S. troops in Europe continues to be strong, and emphasis shifts from military to political grounds. For example, Administration spokesmen say that U.S. cuts would lead to a Western European loss of confidence and the erosion of European independence from the Soviet Union. The diminution of U.S. military power in Western Europe could lead, it is alleged, to Western Europe ultimately being dominated by the Soviet Union. This spectre has been dubbed "Finlandization." Finland has a total armed force of 39,500, a GNP of $13 billion, and a defense budget of $230 million. Comparing the situation of Finland to that of Western Europe stretches logic. The countries of Western Europe can handle the U.S.S.R. (which also has 800 million Chinese to contend with), as long as they make some effort to cooperate with each other and to maintain alliance with the United States. It is unrealistic to expect that they will fold up like some empty husk if the U.S. military presence is reduced. Addressing himself to changes that have occurred in concepts of power, Secretary of State Henry Kissinger said:

The most striking feature of the contemporary period—the feature that gives complexity as well as hope—is the radical transformation in the nature of power. Throughout history power has generally been homogeneous. Military, economic, and political potential were closely related. To be powerful a nation had to be strong in all categories. Today the vocabulary of strength is more complex. Military muscle does not guarantee political influence. Economic giants can be militarily weak, and military strength may not be able to obscure economic weakness. Countries can exert political influence even when they have neither military nor economic strength.[20]

Other political arguments suggest that "substantial and precipitous reductions" would indicate to U.S. NATO allies and to the Soviet Union that the United States was preparing to lessen its commitment to the defense of Western Europe. Europeans, especially the West Germans, would lean toward this view. The United States would have to give assurances that any troop cuts would be replaced if necessary. To the West Germans, so long accustomed to a large U.S. military presence, such assurances would be particularly important to allay feelings of abandonment by the United States that could lead to the scuttling of European-oriented policies and to a reversion to strictly national policies. Nor could the Chinese be expected to look with favor on any U.S. troop cuts

Footnotes at end of article.

that could result in reciprocal Soviet reductions that could ultimately strengthen the already large Soviet force on the Sino-Soviet border.

Another factor that works against the reduction of U.S. forces is the institutional interest of the NATO command structure. NATO exists only for the purpose of protecting its members against Soviet military aggression. The sole task of the very large NATO staffs has been to plan and carry out exercises against the contingency of Soviet aggression. These staffs, including the 123 U.S. general officers assigned to NATO headquarters, have become keepers-of-the-faith in an era of détente whose task is not to determine whether a threat exists, but where the threat exists and when it will come. With single-minded purpose they warn against soft options and political backsliding. The U.S.-dominated NATO command structure tends to perpetuate overly pessimistic views of the Soviet threat, thus resulting in high levels of U.S. forces in Europe.

NEGOTIATIONS ON MUTUAL REDUCTIONS OF FORCES AND ARMAMENTS

In response to the domestic pressures for change in U.S. policy, the U.S. Government since 1966 has been pushing the concept of mutual and balanced force reductions (MFR) in Central Europe as a substitute for independent U.S. cuts. The Nixon Administration is tying any reduction of U.S. forces in Western Europe to corresponding, and apparently larger, reductions in Soviet forces in Eastern Europe. President Nixon has stated the policy:

Given the existing strategic balance and similar efforts by our allies, it is the policy of this Government to maintain and improve our forces in Europe and not reduce them except through reciprocal reductions negotiated with the Warsaw Pact.[21]

As a result, expenditures on U.S. military forces oriented for European defense are growing (direct costs up from $14 billion in 1971 to $17 billion in 1973), troops in Europe increasing, and investment in new conventional weapons for use in Europe expanding.

The long-awaited "Negotiations on Mutual Reductions of Forces and Armaments and Associated Measures in Central Europe" began in Vienna on October 30, 1973. These talks between the members of NATO and the Warsaw Pact are among the most complicated international negotiations in history. Certainly they are much more complex than the SALT talks concerning strategic weapons, if only because 19 rather than two countries are participating. (Eleven states are full participants and eight are observers.) Talks on force reductions in Europe were first formally proposed by NATO countries in 1968, but it was not until January 1973 that exploratory meetings began. These preliminary discussions of agenda and participation were planned to last five weeks but actually went on for five months.

It is frequently said that there should be a reduction of U.S. troops in Western Europe, but that results should await the outcome of the MFR talks. Proposals to reduce U.S. forces to more reasonable levels are dismissed with the slogan that we must not undermine our negotiating position. It is the same "bargaining chip" argument that has been used to support the expansion of strategic arms while SALT talks are attempting to reach arms limitations. It sounds good to arm to parlay, but there are difficulties.

SIGNIFICANT NEGOTIATED U.S. REDUCTIONS UNLIKELY

Prospects for significant reduction in U.S. forces in Europe resulting from the MFR talks in Vienna are very unlikely. For supporters of the continuation of the present level of U.S. forces there is no right time to cut. There is also little interest in reducing troops except in return for Soviet cuts that would have to be so large that the Soviet Union probably will not find them acceptable. In fact, the Soviet Union has been quite skeptical about force reductions in Europe, and has only reluctantly and under pressure for progress in other aspects of East-West relations been willing to begin negotiations.

The role of the MFR talks is in great part to forestall pressures in the U.S. Congress to cut U.S. troops. Only small, symbolic reductions are probable, to prevent larger reductions enforced by Congress. Senator James Pearson, Republican of Kansas and a member of the Senate Foreign Relations Committee, has observed the place of the MFR talks in efforts to preserve substantial U.S. forces in Europe:

There are really three groups of people. There are those that don't want any withdrawal and then there are those who want to do it by mutual reduction. Then there are those who want to do it unilaterily. I think those who don't want any withdrawals are the same group that want to do it by mutual negotiations.[22]

It will be extremely difficult to achieve balanced reductions of forces, because so many different kinds of units and complex weapons are involved. The differing force postures, mobilization capabilities, and geographic situations of NATO and the Warsaw Pact make the technical difficulties of negotiating balanced reductions almost insurmountable. Numbers of troops and amounts of weapons cannot with precision be translated into levels of security. Varying national perspectives also produce conflicting conceptions of what constitutes a fair balance. These talks are likely to drag on for years. In the end, all that may be achieved is a mutual 10% cut by NATO and the Warsaw Pact countries, and perhaps the accumulation of "bargaining chips" on both sides that will negate any reductions achieved at the negotiating table. This could mean that 90% of the present American troop strength in Europe would be frozen in position, perhaps indefinitely, perhaps "only" for another quarter of a century. Handcuffing present and future U.S. policy to the success of the mutual force reduction talks is really no policy for change.

THE NEED FOR NEW APPROACHES

If there are to be cuts in forward deployed forces in Europe, and savings in U.S. defense spending, other approaches that permit greater flexibility and independence should be explored and carried out. We should avoid engaging in force reductions only in lockstep with the Soviet Union. Better a carefully thought out, well-planned, well-phased cut, than an unsatisfactory and frustrating 10% reduction that would likely be rejected by U.S. public opinion and followed by an angry backlash and a precipitate, wholesale withdrawal of our forces that could be damaging. In consultation with its NATO allies, the U.S. could begin to make plans now for a gradual but significant reduction of U.S. military forces in Europe, regardless of the course of the MFR talks. The phasing down of U.S. forces could be done on a ten-year plan, negotiated with our allies, with a 20% cut spread over the first three years, and then a reassessment of the situation to see how the Soviet Union and our allies are reacting. This initial cut would be less than the 50% cut advocated by Senator Mansfield.

Buildups occur as a result of unilateral or independent action. Surely reductions can be made in the same way. The Soviet Union might respond to a diplomacy of "mutual example" because of its need to shift forces from Eastern Europe to areas nearer to China, or because it also faces domestic pressures on defense spending. Soviet troops in Eastern Europe, however, are there in great part as occupation forces to preserve political stability and Soviet dominance. Former Secretary of Defense Richardson, in March 1973, reported to Congress:

Since 1955, when the Warsaw Pact was established, Soviet troops in Eastern Europe have been actively utilized, in a military sense, not against NATO, but against two of the Pact member states—Hungary in 1956 and Czechoslovakia in 1968. Quite clearly, the courageous and large-scale resistance that met both invasions suggest that Soviet troops have a tenuous welcome at best.[23]

The continued presence of a high level of U.S. troops in Western Europe provides a continued rationale for the Soviet garrison forces in Eastern Europe. If the Soviet Union were able to respond positively to U.S.-initiated cuts, well and good. If not, then the situation could be reassessed.

A PHASED WITHDRAWAL: RETURNING TO THE ORIGINAL NATO CONCEPT

The goal of a phased withdrawal of American forces from Europe is not abandonment of NATO by the U.S., but a return to the concept of NATO as it was originally conceived. The intent was certainly not to send American troops to Europe on a permanent basis. The idea was to afford the Europeans time to build up adequate military forces of their own. Once that was accomplished, U.S. forces in Europe were to be phased out. As General Alfred M. Gruenther, SHAPE chief of staff, told the Congress in 1951, "once this European rearmament build-up has been accomplished, it should be possible to begin the phasing out of United States ground forces.[24]

As of 1973, Europe is capable of military self-sufficiency vis-a-vis the Soviet Union with a level of U.S. support and presence in Europe less than at present. In particular, West Germany, where most U.S. troops have been stationed, has greatly expanded its military forces over the past 17 years (see Figure 2). From 1956 to the present, West German armed forces have increased from 66,000 to 475,000. There has, however, been no phase-down of U.S. troops to take account of this buildup. It should also not be overlooked, and certainly is not by the Soviet Union, that both Britain and France possess strategic nuclear forces that may seem small in comparison to U.S. and Soviet levels of overkill, but are still quite substantial deterrent forces for the defense of Western Europe. The SALT I agreements have enhanced the effectiveness of British and French strategic weapons by limiting Soviet ABM defenses to very small levels.

The NATO treaty does not specify a level of U.S. forces for the defense of Europe (Article 3). All it says is that the parties will maintain and develop their individual and collective capacity to resist armed attack. They agree that an armed attack against one is an attack against all, but even then, each party is left free to decide what action to take, according to its own constitutional procedures and requirements; the treaty merely says that such action can "include use of armed force" (Article 5).

NATO MILITARY SPENDING EXCEEDS THAT OF WARSAW PACT

The U.S. is pledged to help defend Western Europe because the existence of a friendly and independent Western Europe is in Americas interest. It is hard to envisage an attack by the Soviet Union on Western Europe that would not involve the U.S. As Admiral Thomas Moorer has remarked, "It should be clear to everyone that a major NATO-Warsaw Pact conflict would involve the nations concerned in global warfare, not just in the European theater.[25] An assessment of the total assets available to NATO and the Warsaw Pact indicates clear NATO superiority, both in actual and potential military power (see Table 3). According to

Footnotes at end of article.

calculations of the U.S. Arms Control and Disarmament Agency, NATO during the period 1961–71, consistently outpspent the Warsaw Pact by $30 billion each year for military forces.[26]

TABLE 3.—COMPARISON OF NATO AND THE WARSAW PACT, 1972 (INCLUDES UNITED STATES)

	Population (millions)	GNP (billions)	Defense spending (billions)	Armed Forces (millions)
NATO	542	$2,207	$114	5.6
Warsaw Pact	352	753	$60–70	4.4

A U.S. REDUCTION: KEY TO PRESERVATION OF NATO ALLIANCE

It is time, therefore, for the U.S. to begin a phased withdrawal of forces from Europe, down from the present American contribution of a quarter of NATO strength in place on the central front. After an initial period of U.S. reduction, there would be a reassessment of how our European allies react. They could probably get better defense than they now have for their annual $35 billion defense spending, if they eliminated overlapping and duplication, and progressed toward greater European unity. The U.S. would of course, still remain in NATO and a reduction of the American military presence in Europe would still leave NATO strong. The fact of the matter is that an attack on Western Europe is highly unlikely, with or without the presence of substantial American troops. This reality should have some effect on what we do.

The alternative to phased withdrawal is almost certainly not a stubborn continuation of the status quo, but a hasty, massive pullout from Europe in backlash against the whole NATO concept. A phased withdrawal is not a denial of our NATO commitment; rather it is perhaps the only way to preserve the military cooperation of the NATO allies Henry Kissinger has said that "no foreign policy has any chances of success if it is born in the minds of a few and carried in the hearts of none."[27] Nowhere is this more true than with regard to the now outmoded policy of maintaining forces for war in Europe far in excess of those required.

FOOTNOTES

[1] DOD (Comptroller), *The Economics of Defense Spending: A Look at the Realities* (July 1972), p. 149.

[2] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1973, Part 1*, p. 14.

[3] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, p. 270.

[4] Senate Armed Services Committee, *Report on Military Procurement Authorization, Fiscal Year 1972* (September 7, 1971), p. 16.

[5] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe" (July 27, 1973), p. 133 (stenographic record).

[6] House Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 463–464.

[7] *SHAPE and Allied Command Europe: Twenty Years In the Service of Peace and Security 1951–1971* (Fleurus, Belgium), p. 9.

[8] House Armed Services Committee, *Supplementary Hearings on Defense Procurement Authorization Relating to SALT Agreement* (June 13, 1972), p. 12098.72, p. 12098.82.

[9] *Washington Post*, October 8, 1973. *New York Times*. October 9, 1973. The Gallup Poll showed that 57% of those who are aware of the issue of withdrawal of U.S. forces in Europe are in favor of it. Two-thirds of the public are aware of the issue.

[10] *Statement by Chairman of the Joint Chiefs of Staff Admiral Thomas H. Moorer, USN, on United States Military Posture for FY 1974* (March 26, 1973), p. 31.

[11] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[12] *Statement by Chairman of the Joint Chiefs of Staff . . .*, p. 53.

[13] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, p. 388.

[14] *Ibid*, p. 386.

[15] *Ibid.*, p. 259.

[16] See Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal year 1974, Part 8*, pp. 5249, 5279, 5304; *Part 1*, p. 310; Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973; and *Washington Post*, June 7, 1973 (Michael Getler, "Study Insists NATO Can Defend Itself").

[17] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 310–311.

[18] Press conference, June 8, 1973.

[19] Senate Armed Services Committee, *Nomination of James R. Schlesinger to Be Secretary of Defense* (June 18, 1973), p. 71.

[20] Speech at *Pacem In Terris* Conference, Washington, D.C., October 8, 1973.

[21] Report by President Richard Nixon to the Congress, *United States Foreign Policy for the 1970's*, February 9, 1972, p. 44.

[22] Senate Foreign Relations Committee, hearings on "Mutual Reduction of Forces in Europe", July 27, 1973, p. 185 (stenographic record).

[23] Senate Armed Services Committee, *Hearings on Military Procurement Authorization, Fiscal Year 1974, Part 1*, pp. 175–176.

[24] Senate Foreign Relations Committee, *Hearings on the United States Foreign Aid Program in Europe*, 1951, p. 290.

[25] Statement before the House Foreign Affairs Committee, July 11, 1973, hearings on "United States Troop Levels in Europe," p. 8 of original statement.

[26] United States Arms Control and Disarmament Agency, *World Military Expenditures 1971*, p. 9.

[27] Speech before the International Platform Association on August 2, 1973.

SOVIET TANK THREAT AND REINFORCEMENT CAPABILITIES ASSESSED

Ambassador Stanley Resor, head of the United States delegation to the MFR talks in Vienna, presented the opening U.S. statement on mutual force reductions in Central Europe on October 31, 1973. In describing the Soviet threat to NATO and the need for Soviet forces to be reduced by larger amounts than those of the NATO allies, Ambassador Resor stressed the Soviet superiority in numbers of tanks as well as the disparities in geography, particularly as distance might relate to the comparative reinforcement capabilities of the U.S. and the U.S.S.R. The Soviet tank threat, and the presumably vastly superior Soviet reinforcement capability are frequent themes in analyses of the military balance in Europe and are prominent in arguments against any reduction of U.S. forces stationed in Europe. The actual situation, however, is not as starkly black and white as often alleged. NATO has compensating strengths which may more than compensate for any areas of supposed Soviet advantage.

THE SOVIET TANK THREAT

According to DOD figures, NATO has approximately 6,000 tanks in the Central European region compared with 14,000 for the Warsaw Pact. The quality of NATO tanks, however, as measured by long-range firepower, cruising range, human engineering, ammunition basic load, and overall maintainability and reliability, is superior to that of Soviet tanks. More importantly, over the past decade the tank has become increasingly vulnerable to destruction because of the development and prolifertaion of comparatively inexpensive, but sophisticated antitank weapons. NATO has great superiority over the Warsaw Pact in these weapons, both in numbers and in technology.

The Middle East War in October 1973 demonstrated the rapidly advancing obsolescence of the tank. Both the Arabs and the Israelis suffered devastating losses of tanks, totaling nearly 3,000. Clearly, antitank missile technology has overcome any protective countermeasures currently available to tanks. A $500,000 tank can be destroyed by a very inexpensive man-carried antitank weapon such as the $2,000 U.S. TOW missile. A tank is not required to counter another tank. One man can accomplish the mission of destroying a tank.

NATO has formidable antitank defenses. Moreover, the geography of Central Europe is much less suitable for tank warfare than the Sinai in the Middle East and would present grave difficulties for any rapid Soviet armored advance. The marked NATO advantage in modern offensive aircraft and in helicopters carrying antitank missiles also contributes to lessening of the Warsaw Pact's superiority in tanks. Helicopters, able to hug the nap of the earth and take advantage of natural obstacles, would be particularly effective in taking a toll of tanks in Central Europe as contrasted with the flat areas of the Middle East. If not already obsolete, the tank, and its importance and role in modern electronic warfare, is far more restricted than it was as recently as the June 1967 Middle East War. As a factor in measuring the military balance in Europe, comparison of numbers of tanks is a misleading indicator of real military capability.

U.S. AND SOVIET REINFORCEMENT CAPABILITIES AND PROBLEMS

The United States has built up a substantial airlift capability for rapidly moving troops and equipment between the U.S. and Europe. This airlift capacity is largely provided by the 78 C–5 and 279 C–141 aircraft of the Military Airlift Command and the approximately 400 commercial aircraft (747s, 707s, DC–8s) made available through the Civil Reserve Air Fleet (CRAF).

Pentagon planners have essentially ruled out the possibility that the Soviet Union could launch a massive surprise attack on Western Europe. Soviet forces cannot be moved westward in substantial numbers without lengthy and visible mobilization. U.S. intelligence resources, most importantly satellite reconnaissance, would provide advance warning. In Admiral Moorer's words, "the Soviets, of course, mobilize in a different way than we do. . . . All of this generates a tremendous amount of movement, concentrations at shipping depots, and things of that kind. . . . I think it would be impossible for them to surprise us with their total effort." Defense Secretary Schlesinger has also minimized the possibility of surprise attack: "One of the things that we ought to become increasingly aware of in this country, we may have a Pearl Harbor complex and expect something to occur instantaneously, we are very likely to have warning at the tactical warning center so we could make adjustments."

DOD apparently plans on the assumption that there would be at least several weeks of mobilization possible before the escalation of a NATO-Warsaw Pact conflict to a significant level. The existence of warning time permits a very substantial increase in the number of both U.S. and NATO Europe forces available to oppose Soviet attack.

Former Defense Secretary Richardson commented on the "significant political and military constraints to the exercise of conventional military force against NATO" by the Soviet Union, including that "the logistics burden of supporting large-scale, sustained offensive warfare would impose constraints on Pact forces in terms of both time and distance." Defense Secretary Schlesinger has

also described Soviet logistics problems as "severe," and said that "with our airlift capabilities, we are able to redeploy combat troops very quickly, in fact more quickly in a number of respects than the Soviets can in a location closer at hand."

Reinforcing Soviet troops stationed in Eastern Europe, 800 miles from Western Russia, presents difficulties not often realized. Land, unlike open ocean, can be cut in many places by air strikes, partisan actions, and conventional mining. Land is not flat like the ocean, and geographic obstacles can be exploited to make travel difficult overland. To stop shipping in the ocean from reaching its destination, one has to destroy the ship. On land in Europe the easiest way to stop material or troops from reaching their destination is to break the vein of travel, which can be done repeatedly and at different points.

Soviet reinforcements for Eastern Europe include 7 airborne divisions, 17 armored divisions, and 34 motorized rifle divisions. (Soviet divisions are significantly smaller than those of NATO). The airborne divisions would be easiest to deploy. (There are, however, only enough Soviet transport aircraft to lift about 2 divisions and their equipment at a time.)

The 51 other reinforcement divisions contain 476,000 men, about 9,500 tanks and about 67,000 supply trucks as well as thousands of artillery pieces and other equipment. To arrive at the front, they must come by road or rail. If by road, it is likely they would be vulnerable to continuous air attack. NATO's modern offensive combat aircraft are structured for quick destruction and interdiction of Warsaw Pact supply and reinforcement routes and, depending on the intensity of the war, various types of missiles, including SLBMs and ICBMs, might be utilized in this role. If Soviet reinforcements did arrive at the front, it is doubtful what contributions they could make to the fight. The tanks themselves, in view of the high maintenance breakdown of Soviet armor, would be in poor condition. Tanks and other tracked vehicles would have worn down their treads, if they stayed on the main roads. If they left the roads to move cross country, their arrival time would be sharply lengthened. Travel by road would also burn up more stores and fuel than the Soviet Army would like to use for noncombat purposes.

Reinforcing by rail could be an even more arduous task. Rail lines are more susceptible to crippling interruption and destruction than roads. It might be possible to drive around craters on a road, but trains must stop if rails are destroyed. There is also the problem, particularly at the Polish border, of different gauges of track through Western Russia and Eastern Europe. In general, considering the volume of traffic involved, NATO capability for land-interdiction, and the vulnerability of rail lines, Soviet reinforcement by rail would have serious problems. The thin railway net that connects the Soviet industrial centers and supply routes across the territory of unreliable allies could be as vulnerable to disruption as the lengthier reinforcement routes between the United States and Europe.

RECLAMATION PROJECTS IN THE STATE OF COLORADO

Mr. DOMINICK. Mr. President, the history of the authorized reclamation project in Colorado is a legislative and political story that has been years in the making and that has consumed the time and efforts of countless individuals and organizations. These projects which have been previously authorized by the Congress, their estimated cost, the funds expended as of June 30, 1972, and the priorities assigned by the Colorado Water Conservation Board are as follows:

Project	Estimated cost	Federal funds expended June 30, 1972	Priority	Funding schedule 1974
Narrows	$84,870,000	$1,775,000	1	$1,500,000
Dallas Creek	55,000,000	1,069,000	2	25,000
Dolores	90,000,000	1,263,000	3	450,000
Fruitland Mesa	43,214,000	1,549,000	4	200,000
Animas-La Plata	160,000,000	1,314,000	5	400,000
Savery-Pot Hook	47,930,000	1,074,000	6	----------
Closed Basin	22,000,000	310,000	7	----------
San Miguel	102,000,000	1,074,000	8	----------
West Divide	106,580,000	1,012,000	9	----------
Total	711,594,000	10,440,000	----------	3,100,000

Mr. President, for fiscal year 1973, Congress appropriated funds for all of these authorized projects with the exception of Closed Basin. These funds were appropriated to carry on advance planning and in some cases to initiate construction. The President had directed that all of these funds be impounded with the exception of $500,000 to be utilized in determining the salinity effects of the various projects on the Colorado River. In his budget message to the Congress, the President recommended no funds for any of the projects for fiscal year 1974.

Mr. President, realizing that the work of 20 years on behalf of these projects was in jeopardy, State water leaders met on several occasions in an effort to establish an approach to reasonable funding for these projects while recognizing that restraint be imposed in order to achieve some control over ever-increasing Federal expenditures.

The fact that priorities were established is itself a remarkable accomplishment. Many of these projects are located on the western slope of Colorado while others are on the eastern slope. The arguments over Colorado waters between these two areas is a fascinating and continuing part in the development of Colorado.

After adoption of these priorities on March 21, 1973, former Gov. John A. Love and Felix L. Sparks, executive director of the Colorado Water Conservation Board, met with the Colorado congressional delegation on March 27 in an effort to present a united front on this important subject. After conversations with the Office of Management and Budget, it was painfully obvious that the Department of the Interior and OMB had adopted the thesis that there is no point in reclamation projects while other land is being taken out of production. This thesis is wholly inaccurate in view of our agricultural requirements. Reclamation should be receiving more attention than ever before. As a result of our meetings on February 22 and March 27, the following members of the Colorado delegation—Senator HASKELL and myself, Congressmen ARMSTRONG, BROTZMAN, EVANS and JOHNSON—signed a statement dated May 1, 1973, which was presented to the House and Senate Public Works Appropriations Subcommittees. That statement supported the priority schedules adopted by the Colorado Water Conservation Board and requested funding of not less than $3.1 million be added to the Public Works Appropriations bill.

Mr. President, I appeared and testified before both the House and Senate subcommittees. My statements and the statement of the congressional delegation in support thereof were made a part of the CONGRESSIONAL RECORD on June 25, 1973, beginning at page 21114. At that time, I stressed the individual merits of each of the projects and pointed out the unusual significance of the Dolores and Animas-La Plata projects insofar as their relationship to a law suit filed in U.S. District Court for Colorado by the Justice Department on behalf of the U.S. Government and the Ute Mountain and Southern Ute Indian Tribes of southwestern Colorado.

Former Governor Love and many other persons representing the various water projects testified before these subcommittees. The House Appropriations Committee subsequently reported a public works appropriations bill in June and regrettably only included $310,000 for the Dolores project and $375,000 for Animas-La Plata.

Mr. President, on July 9, 1973, I contacted each member of the Senate Public Works Appropriations Subcommittee and asked for their attention to the requested funding of not less than $3.1 million as previously set forth. On July 20, 1973, the Senate Appropriations Committee reported the public works appropriations bill, which in addition to identical House amounts for Dolores and Animas-La Plata, added $1 million for the Narrows. This addition was accepted in conference and the public works appropriations bill was signed by the President on August 16, 1973.

After continued urging on the part of the Colorado delegation and water leaders in my State, I was advised that funds had been released for expenditure during the remainder of fiscal year 1974 in the following amounts:

Narrows	$280,000
Animas-La Plata	598,000
Dolores	460,000

We have now come full circle, and I have expressed my feelings on several occasions to the White House and to OMB about this continued refusal to recognize the importance of the Colorado water projects and the impoundment of appropriated funds.

Mr. President, as we complete our legislative activities for 1973, I am mindful of the need for adequate funding for these projects and the fact that we shall soon be receiving and reviewing the proposed budget for fiscal year 1975. One of my deep wishes at this holiday season is that my messages strongly supporting these projects have been received and favorably considered by the executive branch. The Congress this past year took action when action was required. I now await something more than inaction on the part of the executive branch of Government in the 1975 budget.

RETURNABLE CONTAINERS SAVE ENERGY

Mr. HATFIELD. Mr. President, as my colleagues know, I believe very strongly that we must enact legislation to ban nonreturnable bottles and cans. I have introduced a bill to do this, the Nonreturnable Beverage Container Prohibition Act, which is presently pending before the Senate Commerce Committee.

Among the most important reasons for banning nonreturnables is their wasteful energy consumption. On December 5, Sensible Citizens Against Throwaways and Crusade for a Cleaner Environment held a press conference in Washington and provided some compelling facts in support of this proposition. We are all searching for ways to save energy and I believe this method is one which can and should be adopted soon. Because I feel that this will be of particular interest to all Senators, I ask unanimous consent that the press release and information resource kit prepared jointly by these two groups be printed in the RECORD, as well as a press release and fact sheet published on November 29 by Crusade for a Cleaner Environment.

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

SENSIBLE CITIZENS AGAINST THROWAWAYS (SCAT) AND CRUSADE FOR A CLEANER ENVIRONMENT PRESS RELEASE

The throwaway soft drink and beer container, long under attack for its litter, solid waste, resource waste, and high cost characteristics, came under a new attack today—it is a shocking waste of energy.

Proponents of a nationwide mandatory return to reusable leisure drink containers released a study showing that such legislation will save 66% of energy saved by a nationwide 50 mile an hour speed limit or more than the energy savings under one plan of limited air flights or about a third of one published government plan for lower home heating limits.

A Montgomery County Maryland citizens organization, Sensible Citizens Against Throwaways (SCAT) and a national environmental unit, Crusade for a Cleaner Environment, presented data supporting enactment of Senate bill S2062 sponsored among others by Senator Hatfield and Packwood of Oregon where similar legislation has been in effect for over a year.

It would ban all non-returnable beverage containers. The Commerce Committee is expected to hold hearings in late January. Montgomery County has studied similar legislation for the past year and its County Council will meet Friday to start final action on the bill.

The focus on the energy aspects of such legislation is timely in that the data has been collected to portray equivalent energy waste of throwaway beverage containers in comparison to other energy savings measures proposed by the Administration.

John Breier, SCAT president, showed an energy saving equivalent to 131,000 barrels of oil per day with an all returnable container system.

Dr. Robert Turner of SCAT presented data showing that at the time of disposal—each 12 oz. beer can has accumulated the equivalent of 26% of its volume in wasted gasoline. It is the same as putting both the can and 3.18 ozs, of gasoline into the family garbage can.

Turner also compared the national energy waste to the heating of 2.5 million three bedroom brick homes and the heating of an average bath to the energy waste of six average throwaway containers. He also noted that a 100-watt light bulb burning for 12 hours consumes the waste equivalent energy of a single beer or soft drink can.

Such energy savings or waste come about because each reusable container is used again and again. The SCAT study used 10 trips of one reusable bottle versus the manufacture bottling, transportation and disposal of 10 cans or one-way bottles. The equivalent waste per throwaway is 4195 BTU's.

The equivalent waste of 60 million throwaway containers used in the USA in 1972 is equal to the energy equivalent provided by 5.5 million gallons of gasoline per day. An area such as Montgomery County with 568,000 residents and 204 million throwaways per year could share the equivalent of 18,770 gallons of gasoline savings per day.

Aluminum is the most energy wasteful container; each can representing 6.9 ozs. of gasoline waste. Over 10 billion aluminum containers were used last year.

The study showed recycling is not a viable alternative. Each 16 oz. glass bottle that is recycled adds 10% to its equivalent energy budget.

The nation's total throwaway container equivalent energy waste is equal to the output of 10 Calvert Cliff size nuclear powerplants.

The study, based on those done by Dr. Bruce Hannon of the University of Illinois and the Midwest Research Institute under contract to EPA, utilizes equivalent energy units of British Thermal Units utilized by the mining, manufacturing, bottling, distribution and disposal of one-way and reusable beer and soft drink containers.

Although the total process uses energy from electricity, oil, and gasoline sources the equivalent BTU's are expressed in gallons of gasoline and barrels of crude oil to surface the equivalent energy waste in terms currently used to describe the nation's energy shortage.

Thus the 131,000 barrels of gasoline per day is the BTU equivalent of throwaway energy waste and would require 279,000 barrels of crude oil to make that much gasoline under existing refinery operations. The conversions to an all returnable system would save the *energy equivalent* of 131,000 barrels of gasoline each day. The savings would actually come in the use of less oil, electricity as well as gasoline.

SCAT also presented the results of two studies that showed a move to an all returnable system would actually mean a job increase . . . that is more net jobs with more people required in the bottling and retail outlets and less in the can and bottle manufacturing companies.

INFORMATION RESOURCE KIT: "THE ENERGY CRISIS AND THE THROWAWAY"

(Prepared by Sensible Citizens Against Throwaways (SCAT) Crusade for a Cleaner Environment)

BASIC FACTORS I—ENERGY WASTE OF THROWAWAY BEVERAGE CONTAINERS

1972 Production of Beverage Containers

Soft Drink Containers:	Billion
Cans	16.4
Throwaway bottles	13.6
Returnable bottles	17.0
Total	47.0
Beer Containers:	
Cans	21.7
Throwaway bottles	8.2
Returnable bottles	6.8
Total	36.7
Total	83.7
Less Returnables	23.8
Net Throwaways	59.9

Analysis of throwaway beverage containers by type

	Billion
Aluminum Cans	10.4
Steel and Bimetal Cans	27.7
Subtotal Cans	38.1
Bottles	21.8
Total Throwaways	59.9

Throwaway beverage containers accounted for 71.5% of production in 1972. Throwaway cans represented 45.5% of the total, and throwaway bottles contributed 26% of the total.

Facts about beverage container usage

The national average consumption of soft drinks is one drink per person per day. There has been an annual growth rate in recent years of 7% per year in leisure beverage consumption.

Sources: Beverage Industry Annual Manual, 1972–73 U.S. Industrial Outlook, U.S. Department of Commerce, 1973.

BASIC FACTORS II

U.S. Population: 208 Million.

Montgomery County: 568 Thousand.

Energy* (millions Btu 1000 gals. of beverage, 12 oz.:	
Returnable trips:	
5	46.5
10	23.6
19	17.3
Bimetal can	56.7
One way glass	70.5
Aluminum can	95.5

Weighed average throwaway Energy Waste over:

10 Trip Returnable**—4198 Equivalent BTU/container.

19 Trip Returnable—4823 Equivalent BTU/container.

10 Trip—8478 Megawatts/year.

19 Trip—9662 Megawatts/year.

With 10 trips, saving is 4.33 oz. gasoline/container.

With 19 trips, savings is 4.94 oz. gasoline/container.

125,000 BTU's equivalent/gallon of gasoline.

1 kilowatt hour=3413 BTU.

60 billion throwaways/year.

10 trip returnable use equals 131,000 BBL/day crude oil saving.

*Phase 2 Midwest Research Institute study under EPA Contract.

**10 Trip used in all calculations.

19 trip returnable use equals 149,000 BBL/day crude oil saving.

Washington Area:

400,000 homes heated w/gas heat.

150,000 oil.

25,000 electricity.

Crude oil BBL=47% gasoline.

U.S. oil use—Throwaway beverage container waste

Daily U.S. Oil Use—17,000,000 BBL's.

Projected savings*

50 mph, 200–250,000 BBL/Day.

Less Air Flights, 120,000.

—3° +3° Home, 550,000.

—10% Commercial, 400,000.

Car Pools, 780,000.

Auto Tune-up 6 months, 140,000.

Cold Water Detergents, 180,000.

All returnable system savings*

Dept. of Interior—Office of Energy Conservation, John Gibbons—November 22, 1973.

131,000 BBL's/Day 10 Trip.

149,000 BBL's/Day 19 Trip.

EFFECTS ON EMPLOYMENT OF AN ALL REUSABLE BEVERAGE CONTAINER SYSTEM—Continued

Industry	Employment (thousands) Present	Reusable	Reusable with 4 percent drop
Total	336,800	351,500	337,100
Soft drink	128.6	146.6	141.2
Malt liquor	58.1	63.2	61.3
Beer distribution	59.6	76 9	74.2
Glass container manufacturing	26.1	12.7	10.4
Basic metals	15.3		
Retail grocery	19.6	52.1	50.0
Total	336.8	351.5	337.1
Average earnings under each of the proposed systems for all of the industries involved in beverage container packaging and distribution in 1972	$7,688	$7,338	$7,343

Source: "The Beverage Container Problem: Analysis and Recommendations;" EPA–R2–059, September 1972; Bingham, Taylor H. and Mulligan, Paul F.; Research Triangle Institute.

BOTTLES AND ENERGY FACT SHEET

PRELIMINARY

A tremendous amount of energy waste is associated with "one-way" throwaway beer and soft drink beverage containers. Two comprehensive studies have been performed on the relative energy impact resulting from use of throwaway containers compared to returnable bottles, one by Dr. Bruce Hannon of the Engineering Department at the University of Illinois and the other by Midwest Research Institute under contract to the Environmental Protection Agency. In the calculations below data from the MRI analysis are used, although Dr. Hannon's figures would provide essentially the same results. Here some scientific findings are translated into everyday terms. This analysis is not exact but is intended as a "ballpark" estimate, and where assumptions had to be made they were in every case conservative (leading to lower than actual apparent energy waste), so the energy squander is actually more severe than described below.

"AVERAGE THROWAWAY CONTAINER" (ATC) DEFINED

The U.S. Department of Commerce reports that 83.7 billion containers for beer and soft drinks were manufactured in the U.S. in 1972:

23.8 billion returnable glass bottles.

28.0 billion bimetal and steel (mostly bimetal) throwaway cans.

21.5 billion throwaway glass bottles.

10.4 billion aluminum throwaway cans.

All containers are assumed here to be 12 oz.; this assumption will provide a lower energy waste estimate than is the real case. The throwaways will be compared to returnable bottles with 10 trips per bottle life, also conservative since national average is 24.

Container description	10-trip returnable	Bimetallic can	Glass throwaway	Aluminum can
Energy consumed per use (Btu's)	2,212	5,316	6,610	8,953
Energy wasted compared to 10-trip returnable (per container) (Btu's)	0	3,104	4,398	6,741
Number of uses in 1972 (billions)	23.8	28.0	21.5	10.4
Total energy consumption (trillion Btu's)	52.6	148.8	142.1	93.1

Thus energy consumed by the 59.9 Billion throwaways is 384 Trillion BTU's and from this comes a definition of an "Average Throwaway Container" (ATC). The average energy requirement for throwaways is 6410 BTU/Container, and so the average waste per unit is (6410—2212) =4198 BTU/Container. It is reasonable to define the national "Average Throwaway Container" (ATC) as a unit which wastes 4198 BTU of energy for every usage when compared to a 10 trip returnable bottle.

1 Average Throwaway Container (ATC)—4198 Btu.

204 Million ATC's (Montgomery County Annual Consumption)—856.5 billion Btu.

59.9 Billion ATC's (USA Annual Consumption)—251 trillion Btu.

GASOLINE EQUIVALENT WASTE

Gasoline contains a stored heat content of 125,000 BTU/Gallon=976.6 BTU/oz. Today we hear about barrels of oil; 1 barrel=42 gallons. It takes 2.12 barrels of oil to make 1 barrel of gasoline. The energy contents above are computed in terms of heat content of gasoline or barrels of oil required to manufacture barrels of gasoline.

12 oz Average Throwaway Container (ATC) =4.3 oz Gasoline.

This amazing result means that everytime someone consumes a 12 oz "disposable" container, he wastes on the average the energy content stored in 4.3 oz gasoline.

Who would fill a beverage container 36% full of gasoline before discarding it?

Wastes for specific container types are compared to a 10 trip returnable bottle:

12 oz Bimetallic Can=3.2 oz Gasoline=26.5% full can.

12 oz Throwaway Glass Bottle=4.5 oz Gasoline=37.5% full bottle.

12 oz Aluminum Throwaway Can=6.9 oz Gasoline=57.5% full can.

Montgomery County Equivalent Waste=6.85 Million Gallons Gasoline/Year.

Montgomery County Equivalent Waste=18,770 Gallons Gasoline/Day which are made from 950 Barrels Oil/Day.

Montgomery County Equivalent Waste=446 Barrels Gasoline/Day which are made from 905 Barrels Oil/Day.

USA Equivalent Waste=2.0 Billion Gallons Gasoline/Year.

USA Equivalent Waste=5.5 Million Gallons Gasoline /Day.

USA Equivalent Waste=131,000 Barrels Gasoline/Day which are made from 279,000 Barrels Oil/Day.

By reducing highway speed limits everywhere in the USA from 65 MPH to 50 MPH the expected national oil saving is 200,000 Barrels Oil/Day. Since stored energy content of oil is roughly equal to that of gasoline, we see that the energy content of 131,000 Barrels Oil/Day is thrown away in the form of "disposable convenience containers", and it is obvious that this waste has become critical since 66% of energy saved by everyone driving slower is literally thrown away by the use of "disposable convenience containers." It can also be considered that 131,000 Barrels of Gasoline/Day (the stored energy equivalent of all throwaways) are manufactured from 279,000 Barrels Oil/Day.

HOUSE HEATING EQUIVALENT WASTE

Washington Gas Light Co. reports that a three (3) bedroom brick house has an annual heating requirement of 102 Million BTU's.

Montgomery County Annual Throwaway Waste=856.5 Billion BTU=8400 Houses.

USA Annual Throwaway Waste=251 Trillion BTU=2.5 Million Homes.

Thus 8400 houses in Montgomery County could be comfortably heated using the energy represented by throwaways in Montgomery County alone; this is about 5% of the home heating requirement (annual) in the county. Reflect on this as you turn down your thermostat.

HOT WATER HEATING

Suppose you take a hot bath in a tub 4½ feet long, 2 feet wide with water 1 foot deep. The heat required to warm this 67.5 gallons of water from 65° F to 110° F is 25,245 BTU's, which can be represented by the energy waste of 6 Average Throwaway Containers (ATC's).

The heat stored in 60 gallons of water (an average home hot water tank) heated from 50° F to 150° F is 50,000 BTU, represented by 12 ATC's.

ILLUMINATION

A 100 watt light bulb burning for over 12 hours consumes the same energy represented by the energy waste of a single 12 oz ATC (4198 BTU).

EQUIVALENT ELECTRICAL WASTE

Dr. Priscilla Laws, Professor of Physics at Dickinson College, calculated that the USA annual throwaway energy (beverage containers only) could provide all residential electrical power for an affluent city of 7.5 Million people. Scaled down to Montgomery County annual container waste, this would serve 25,800 people.

Time Magazine (November 26, 1973) reported the following energy consumption costs for an average American home: (Note: 1 kw-hr=3413 BTU=0.813 ATC's)

Item	Annual energy (kilowatt-hours)	Equivalent ATC's
Average U.S. household	8,000	*6,500
Electric toothbrush	0.5	0.4
Electric carving knife	8	6.5
Garbage disposal	30	24
Refrigerator (average 14 ft³)	1,137	925
Refrigerator (frost-free 17 ft³)	2,008	1,632
Color TV (3.6 hr/day)	440	358
Black and white TV	120	98
Air conditioner	1,440	1,170
Automatic clothes washer	103	84
Hot water heater	4,219	3,430

* Throwaway containers.

RECYCLING COMPARED TO REUSE

Recycling, defined in the present context as return of a glass bottle for sorting, crushing, melting and remanufacture into another (identical) bottle, tends to save glass but not energy. In the reuse process the bottle is cleaned, not remade, at a considerable energy and financial saving. The following table for 16 oz. bottles illustrates this concept; the data are from the Dr. Hannon study, considered at only eight return trips.

*To get 131,000 BBL's of Gasoline would require 279,000 BBL crude.

Type use	Energy consumed per use (per bottle) (Btu)	Energy wasted compared to returnable bottle (per bottle) (Btu)
Returnable	2,400	0
Throwaway	7,260	4,860
Recycle	7,825	5,425

Two results emerge from the above table; recycling bottles does not save energy, and everytime a 16 oz. throwaway bottle is consumed 4860 BTU's of energy are wasted. The energy penalty against recycle compared to throwaway arises because it actually requires more energy to sort out the glass from mixed trash in many locations than to mine virgin glass from a single location. In the manufacturing process the overwhelming energy expenditure occurs with the melting and forming process, common to every throwaway and recycle usage. With reused bottles this melting is not repeated prior to every usage, hence the significantly lower energy consumption.

OTHER CONSEQUENCES OF UNNECESSARY CONSUMPTION

Only energy costs relating to throwaway bottles and cans have been considered above. Other factors which would enter into a total impact analysis concurrent with resource squander would include increased atmospheric emission, increased waterborne wastes including thermal pollution, more committed water volume for processing, increased post-consumer solid waste, increased industrial solid waste, dangerous and unsightly litter, more strip mines to provide more virgin raw materials, increased encroachment and stress on wildlife habitats, spoilation and ruination of lands, increased financial costs to the consumer, and of course less available fuel with which to energize higher priority activities.

EQUIVALENT WASTE OF NUCLEAR POWERPLANTS

The USA national energy waste due to the throwaway system is 251 Trillion BTU/year which equals 8500 Mw (Megawatts). Each unit of Calvert Cliffs Nuclear Power Plant in Maryland has a maximum electricity generating capacity of 880 Mw, and so the national energy waste represented by throwaway leisure beverage containers is equivalent to about ten (10) very large nuclear power plants.

STOP SQUANDERING ENERGY ON THROWAWAYS

WASHINGTON, D.C., November 29, 1973.—More than nine million people could be supplied with electricity for a whole year by the energy wasted during 1972 through use of throwaway containers rather than returnable bottles for soft drinks and beer, according to the Crusade for a Cleaner Environment.

CCE also calculates that the energy wasted by the throwaway bottles and cans last year was the equivalent of approximately 1.7 billion gallons of gasoline—enough to operate nearly 1,700,000 automobiles averaging 10 miles per gallon for a typical driving year of 10,000 miles.

Finally, based on the needs of a three-bedroom brick home in the Washington, D.C. area, CCE's figures show that approximately two million homes in the Middle Atlantic region could be heated with natural gas for an eight-month heating season by the energy wasted on throwaways in 1972.

"Through higher prices paid for beverages in throwaway containers and litter-removal costs, the American consumer has been subsidizing the beer and soft drink industries' concentration in so-called 'convenience' packaging for several years," CCE President N. E. Norton said in releasing the figures. "Now it is clear that this subsidy has included the sacrifice of precious energy supplies as well. The situation will grow even more critical if major beverage companies continue with plans to package their products in throwaway plastic bottles made from scarce petroleum."

Norton, who is also president of Royal Crown-Dr. Pepper Bottling Company of Corpus Christi, Texas, explained that while throwaway containers are wasters of energy, "returnable bottles conserve energy by functioning as their own recycling system. Each returnable travels the natural closed loop from container manufacturer to bottler, to retailer, to consumer, and back again for reuse an average of 15 times.

"With fuel shortages, brownouts and gasoline rationing real possibilities, American industry and consumers must change habits of energy consumption to 'waste not, want not.' I call on my fellow bottlers to set an example for the nation by returning to the returnable system of distributon for soft drinks and malt beverages," Norton concluded.

The Crusade for a Cleaner Environment is a non-profit educational organization working to increase public awareness of the role of throwaway beverage containers in America's litter, solid waste and energy problems.

THROWAWAY BEVERAGE CONTAINERS WASTE ENERGY

The packaging of beer and soft drinks in approximately 60 billion throwaway containers rather than in returnable bottles wasted 211.5 trillion British Thermal Units of energy during 1972.

That energy wastage is the equivalent of:

18.2 billion kilowatt hours of electricity—enough to supply the electrical needs of 9.1 million relatively affluent Americans for a whole year;

1.69 billion gallons of gasoline—enough to operate 1,690,000 automobiles averaging 10 miles per gallon for a typical driving year of 10,000 miles;

Enough energy to heat approximately 2 million three-bedroom brick homes in the Middle Atlantic region with natural gas for an entire eight-month heating season.

While throwaway containers are tremendous energy wasters, returnable bottles conserve energy by functioning as their own recycling system. Each returnable bottle travels the natural closed loop from container manufacturer to bottler, to retailer, to consumer and back again for reuse an average of 15 times.

With fuel shortages, brownouts and gasoline rationing real possibilities, American industry and consumers must change their habits of energy consumption to "waste not, want not." The perfect place to begin is by returning to the returnable bottle system of distribution for soft drinks and malt beverages.

SOURCES

System Energy and Recycling: A Study of the Beverage Industry, by Professor Bruce M. Hannon, Department of General Engineering and Center for Advanced Computation, University of Illinois, December 1971.

An Ecological Approach to Solid Waste Management, by Dr. Priscilla Laws, Professor of Physics, Dickinson College, February 1973.

Beverage Industry 1972–1973 Annual Manual, New York, September 1972.

Washington Gas Light Company, Consumer Education Services, Washington, D.C., November 1973.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader and the minority leader each be allowed to speak out of order for not to exceed 15 minutes.

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

Mr. HUGH SCOTT. Mr. President, first of all I would like to extend my thanks to the distinguished majority leader for his very kind expressions of goodwill and approbation and for what he has said about me and about the distinguished assistant minority leader. We in the Senate know that the majority has the responsibility and obligation for legislation and it could invoke far more stringent applications of its authority and responsibility than, in fact, it does. Through the tolerance of the majority leadership we in the minority enjoy the benefit of being constantly consulted and we gladly extend our cooperation in return in order that the work of the legislature may be expedited. At the same time we are well aware that the distinguished majority leader has the kind of personality which makes cooperation with him a pleasure as well as a privilege, and we do appreciate and understand the fact that he extends to us these opportunities which a more rigid application of the realities of the situation might not encompass.

I am sure that the majority leader would like to have some reference made to the fact that we in Congress found a way to apply the 25th amendment to the Constitution effectively, and for the first time, in the way we selected a new Vice President. Particularly I would like to praise the work of the Committee on Rules and Administration, chaired by the Senator from Nevada (Mr. CANNON) and the ranking member, the Senator from Kentucky (Mr. COOK), as well as those members of the committee who worked so hard and conducted the most exhaustive investigation in the history of this country into the qualifications of any person proposed for Federal office.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. HUGH SCOTT. I yield.

Mr. MANSFIELD. I concur wholeheartedly with the distinguished Republican leader. I am delighted with the work done by the Committee on Rules and Administration, of which both the Republican leader and the assistant Republican leader, as well as the deputy Democratic leader are members. I think that it was a fair investigation, and as the Senator said, the most thorough investigation of any Vice President in the annals of the history of the Republic.

Furthermore, I think we are extremely fortunate to have a man of the caliber of GERALD FORD as our Vice President. I must say it does my heart good to see him sit in the Presiding Officer's chair as the President of the Senate. So that is another asset which I think should be mentioned as indicating the scope of the work of the Senate and Congress this year.

Mr. HUGH SCOTT. I thank the distinguished majority leader. It is cer-

tainly heartening to see the Vice President devoting so much of his time to his primary duty, that of presiding over the Senate and lending his aid and counsel to us. We certainly welcome him in that capacity. With regard to the handling of the Foreign Assistance Act recently, I am obliged to express my appreciation for the able manner in which that bill was handled by the distinguished Senator from Minnesota (Mr. HUMPHREY). He is a friend for whom I have the greatest admiration and I think he handled a very difficult bill, along with the distinguished Senator from Vermont (Mr. AIKEN), with tact and ability. It enabled us to work out a matter which has normally ended up in continuing resolutions until this time. I do wish to pay that tribute.

Mr. MANSFIELD. And it is well deserved.

I am delighted that the President, if he already has not done so, has indicated willingness to sign the HEW appropriation bill, which likewise has been getting by on a continuing resolution basis, which I think is very poor parliamentary procedure for Congress to continue.

Mr. HUGH SCOTT. So do I. The President, I note from the RECORD, signed yesterday the HEW appropriation bill. I am glad he did and, as I said, he indicated he will sign the HMO bill, the manpower bill, and the District of Columbia home rule bill, also.

I would not want to let the occasion pass without noting that it is not necessarily a fact that I would agree with everything in the majority leader's report. I will have a minority report before we adjourn. But certainly we are not contentious about it. We do have differing points of view. I do not think anyone in this country except every wise and long-headed individuals, particular experts, foresaw the extent of the energy crisis. Certainly they did not do so in Great Britain where the situation is three or four times as bad as it is here. Praise for the Senators who handled the energy legislation is well deserved.

I am glad we are not getting into a quarrel with the President as to who foresaw and who did not foresee because I think neither Congress nor the President could possibly have realized the full depth and extent of this crisis. The orderly thing is that we find a way to end it and free ourselves of dependence on outside sources of energy.

I think, too, we have to take responsibility for the expenditure of public funds because while Congress has made some very important cuts in recommendations, we have to remember that every cent spent by the executive branch is first appropriated by Congress, and if we are confronted with budget deficits it is because in past sessions, as well as the present session, we have appropriated funds, had ongoing authorizations, pipeline expenditures, and so on, all of which mean Congress and the President share in the appropriating procedure. When the President spends money, he spends money Congress told him to spend, and the President, in spite of his effort to impound certain funds—and I note now that he has released those impoundments in certain areas—in the long run is compelled by Congress to spend the money Congress wants him to spend.

So I am in no way being contentious in making the point, and I do again congratuate the distinguished majority leader for his report, for his evenness of temper and disposition, for his kindness to us, and the privilege he extends to us which enables us to return our cooperation to him. I do thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, before I conclude there are a few other things I could add, of course. I could refer to the hearings on the part of the Committee on the Judiciary in the case of our colleague, Senator SAXBE, but in the interest of time I will add some of these matters.

I conclude with the observation that while the Senate is usually referred to as an uncontrolled Senate, we should emphasize the fact that this is a Senate made up of both Democrats and Republicans, and we operate on the basis of equality, mutual understanding, and cooperation.

PRENTISS M. BROWN

Mr. GRIFFIN. Mr. President, a number of my colleagues will recall with affection and high regard one of Michigan's most distinguished sons, Prentiss Marsh Brown, who served in the Senate in the years from 1936 to 1943. They will be saddened, as I was, to learn of his death yesterday at his home in St. Ignace, Michigan, at the age of 84.

In a public service career which spanned three score years, Senator Brown was an effective and articulate spokesman for the people of Michigan and the Nation. He won national recognition in connection with price control legislation and, after leaving the Senate, he served as the second administrator of the Office of Price Administration in 1943.

His career began, as it ended, in that part of Michigan he loved so well. A very able and respected practicing lawyer, he served Mackinac County as its prosecuting attorney from 1914 to 1926—and as city attorney of St. Ignace from 1916 to 1928. For many years he was a member of the State Board of law examiners. Before coming to the Senate, he served two terms in the U.S. House of Representatives.

When he returned home after his tours of service in Washington, he turned his attention to the long felt need for a bridge to span the Straits of Mackinac and join together the two peninsulas of Michigan. Under his tireless leadership, the dream of such a bridge, 5 miles long and costing $96 million, became a reality. It stands now as one of the engineering masterpieces of the world—and as an enduring monument to the vision and perserverance of Prentiss Brown, who served as a member and chairman of the Mackinac Bridge Authority from the time the structure was completed until his death.

He believed in political as well as public service and took a leading role in the Democratic Party in Michigan. Six times he was chairman of his party's State convention and often was his party's standard bearer in elections, some that were won and some that were lost.

But in victory and defeat he always had the respect of Republicans as well as Democrats throughout the State. As an indication of the esteem in which he was held, Gov. George Romney, a Republican, proclaimed June 18, 1964, "Prentiss Brown Day" in recognition of his life of service.

Mrs. Griffin and I join with a host of friends in Michigan and throughout the Nation in expressing our most sincere sympathy to Mrs. Brown and the fine family of Prentiss M. Brown.

Mr. President, I ask unanimous consent the two newspaper articles be printed at this point in the RECORD.

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

[From the Detroit News, December 20, 1973]

PRENTISS BROWN RITES SATURDAY; EX-U.S. SENATOR

Services for Prentiss M. Brown, former U.S. Senator from Michigan and guiding force behind construction of the Mackinac Straits Bridge, will be held at 2 p.m., Saturday in the United Methodist Church of St. Ignace, St. Ignace.

Mr. Brown died yesterday of a heart attack in his St. Ignace home. He was 84.

Mr. Brown served as chairman of the Mackinac Bridge Authority until his death.

In 1943 he headed the Office of Price Administration for nine months, one of the toughest administrative war-time jobs in the country.

Throughout his long legal career, Mr. Brown proudly bore the title "country lawyer" as a trademark which brought clients from cities as far away as Milwaukee, Chicago and Cleveland to his office in the tiny community of St. Ignace, his birth place, in the Mackinac straits.

Born June 18, 1889, he followed his father's footsteps as Mackinac County prosecutor from 1915 to 1927.

Although a graduate of Albion College, Mr. Brown never finished law school. Instead he studied in his father's office and was admitted to the bar.

In 1932 the Michigan Democratic party tapped him to run for Congress from the heavily Republican 11th Congressional district and he was reelected to a second term.

In 1936 Michigan Gov. Frank D. Fitzgerald appointed him an interim U.S. Senator following the death of Sen. James Couzens. Out of the intervening six years in which he was elected and served in the Senate, he won acclaim as one of the most able men on the Hill.

The Senate Press Gallery voted him as the top Democrat in 1942 and the Washington Post described him as "the most typically American senator."

During the wartime New Deal Administration, Mr. Brown was often a trouble shooter for President Roosevelt and helped line up bipartisan support for his legislation.

He was influential in getting the Federal Deposit Insurance legislation passed. This law required federal employes to pay state income taxes and state employes to pay federal income taxes.

He is also credited with getting legislation passed that helped bail out depositors in the aftermath of the Great Depression which forced some banks to close their doors and many depositors to lose their life savings.

But his close relationship with the White House cooled in 1937 when he opposed the president's plan to "pack" the Supreme Court with six additional justices who presumably would be "friendly" to Roosevelt's programs.

In 1942 Mr. Brown was defeated for his senate seat and returned to private law practice. Besides serving 10 years as chairman of the board for Detroit Edison Co., he was president of the Arnold Transit Co.; chairman of the Detroit branch Federal Reserve System and vice-president of the Paulding Sugar Co. Also, he was director of the Great Lakes Sugar Co. and a member of the Advisory Council for the U.S. Department of Commerce.

He is survived by his wife, Marion; four daughters, Mrs. Marianna Rudolph, Mrs. Ruth Evashevski, Mrs. Barbara Laing and Mrs. Patricia Watson; three sons, James, Prentiss M. Jr. and Paul; 33 grandchildren and five great-grandchildren.

[From the Detroit Free Press, Dec. 20, 1973]

PRENTISS BROWN DIES AT 84; BIG MAC IS HIS MONUMENT

Prentiss Brown, former U.S. Senator from Michigan who was a major force behind construction of the Mackinac Bridge, died Wednesday at his home in St. Ignace. He was 84.

Services will be held at 2 p.m. Saturday at the Dodson Funeral Home in St. Ignace.

A native of that city, Mr. Brown was graduated in 1911 from Albion College and he later attended the University of Illinois.

He began the practice of law with his father in 1914 and served for 12 years as prosecuting attorney of Mackinac County.

Long a leading figure in Michigan's Democratic Party, he was the first Democrat elected to Congress from the 11th District that included parts of his native Upper Peninsula and the northern tip of Michigan's Lower Peninsula.

He served in the House from 1932 to 1936 and then was elected to the Senate, where he served from 1938 to 1942, when he lost the election to Homer Ferguson.

In 1943, Mr. Brown was named director of the Office of Price Administration.

In May 1944, he was named chairman of the board of the Detroit Edison Co., retiring from that position in 1954.

But Mr. Brown, who had strong family ties in Michigan's Upper Peninsula, considered that his most important achievement was the opening in June 1957 of the Mackinac Straits Bridge (Big Mac), at the Straits of Mackinac. It links Michigan's upper and lower peninsulas, previously connected by a fleet of ferry boats. He was chairman of the Mackinac Bridge Authority.

The climax to his efforts to secure financing for the structure came in 1954, when Joseph King, president of Union Securities Corp., presented Mr. Brown with a check for $96 million.

Then Gov. George Romney proclaimed June 18, 1964, "Prentiss Brown Day" in recognition of his life of service to his native state.

Not only did Mr. Brown secure financing for the Mackinac Bridge but he later, with former Gov. Murray Van Wagoner, fought off attempts by the State Highway Commission to take over the bridge.

The bonds that financed the bridge are being retired out of the revenue from its tolls. So successful has the bridge proved that its toll has been reduced.

Mr. Brown is survived by his wife, Marion; four daughters, Mrs. Mariann Rudolph, Mrs. Ruth Evashevski, Mrs. Patricia Watson and Mrs. Bruce Laing; three sons, James, Prentiss M. Jr. and Paul, 33 grandchildren and five great-grandchildren.

Burial will be in Lakeside Cemetery, St. Ignace. Tributes may be made to the United Methodist Church of St. Ignace.

MESSAGES FROM THE PRESIDENT

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

REPORT ON OCCUPATIONAL SAFETY AND HEALTH—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate a message from the President of the United States, which with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

It was just three years ago that I signed into law the Occupational Safety and Health Act of 1970. Since that time, we have made significant progress toward our goal of a safe and healthy workplace for every worker in America.

Today, I am submitting the second President's Report on Occupational Safety and Health, outlining the activities which have taken place under that new Act in calendar year 1972. The achievements of that year indicate that the goals of the Act are becoming realities.

For example, many States have developed or are now in the process of developing their own occupational safety and health plans in accordance with the Act. As these plans are approved and carried out, enforcement will begin to shift from the Federal Government to the States with no loss in effectiveness.

Because public cooperation is vital to the success of the program, I am gratified by the support which has been extended to this program by the news media, by the professions, and by the general public. I am particularly pleased to note the cooperation and support which industry and labor organizations have given to these efforts.

The breadth and complexity of the Occupational Safety and Health Act have inevitably made it the focal point for controversy and criticism. I believe, however, that such criticism can be helpful as we work to improve our programs and as we modify and update its standards and regulations.

This year's report includes preliminary data from the first occupational injury and illness survey conducted under the new record-keeping procedures required by the Act. This data will be helpful in providing a basis upon which to judge the effectiveness of our efforts to reduce fatalities.

This report also reflects the added emphasis which has been placed on occupational health during the past year. Research in this area has increased in response to a growing awareness of the tragic toll taken by employee exposure to toxic substances and unhealthful physical environments.

Also included is the first report of the Occupational Safety and Health Review Commission, a wholly independent agency created by the Act to adjudicate citations and proposed penalties issued by the Department of Labor when they are contested by employers and employees.

This detailed account provides a useful overall view of the program and its accomplishments in 1972. It offers, too, a glimpse of what lies ahead as we work to assure safe and healthful working conditions for all of our country's working men and women.

RICHARD NIXON.

THE WHITE HOUSE, *December 20, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

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

EMERGENCY SECURITY ASSISTANCE ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn immediately to the consideration of Calendar No. 624, H.R. 11088.

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

The legislative clerk read the bill by title, as follows:

A bill (H.R. 11088) to provide emergency security assistance authorizations for Israel and Cambodia.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

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

Mr. FULBRIGHT. Mr. President, I have some amendments to offer, but I assume the manager of the bill (Mr. HUMPHREY) will wish to open with a statement. I am prepared to proceed.

Mr. HUMPHREY. Mr. President, I have just a brief statement.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, this country has one—and only one—abiding goal in the Middle East: To bring about a just and lasting settlement in that anguished region of the world, so that Arabs and Jews can come to live together peacefully, in a spirit of mutual acceptance and, perhaps eventually, even in a spirit of cooperation and mutual assistance. The path to that settlement lies in negotiation—it is the only way—and tomorrow, for the first time in the history of this long and bitter conflict, the two sides will actually sit down to begin the process of negotiation.

This negotiation will not be easy, for the participants will represent all of the emotions, the deeply held beliefs, and the animosities that have fired the Middle East conflict for 25 years. Many have

died, and there is bitterness and hatred on both sides. Our Secretary of State, Dr. Kissinger, has had to work diligently to avert the complete breakdown of these negotiations even before they have begun; and when the negotiations begin tomorrow, it will be a testimonial, at least in part, to his efforts.

Even more, however, the beginning of that negotiation tomorrow will be testimony to the emergence of what may be a new willingness on the part of the various adversaries themselves to seek the path of conciliation rather than of further conflict.

On the eve of this negotiation, it falls upon us in the Senate to ask, What can we do to support—to assist—to further the success of this conference of negotiation, a conference from which we hope will arise the beginning of a new era in the Middle East? The answer to this question, Mr. President, lies, I submit, in the bill now before the Senate.

These negotiations, like all negotiations, can only succeed if both sides are able to bargain from a position of relative security. If there is an imbalance in the strengths of the opposing participants, then those who feel weak will inevitably be forced to act from fear and apprehension, while those who feel stronger will be encouraged to escalate their demands to a level that will only exacerbate the fears of those who feel weak. Military imbalance in negotiations is a formula for failure in negotiations. Our goal, then, if we seek to foster the success of these negotiations, must be to support the maintenance of a military balance. This bill before us now, Mr. President, provides the means to achieve that objective.

Both before and during the recent war the Arab combatants received substantial military and economic assistance from the wealthier Arab States and from the Soviet Union. With the cessation of hostilities, that assistance continued—so that Arab strength is even now increasing steadily. On the Israeli side, a similar process of military and economic restoration is underway. Private contributions from all over the world are flowing into Israel, compensating in some measure for the heavy toll which the war exacted on that small nation. But without additional Government assistance to Israel, there is the dangerous possibility that a serious imbalance could soon develop in the comparative strengths of the adversaries.

It is important to emphasize that even before this recent war Israel was already carrying a tremendous economic burden as she sought to provide for her own defense. She was receiving no grant military assistance from the United States or any other nation, and her taxpayers were paying the highest rates of any in the world.

I ask unanimous consent at this point to have a statement which I have had prepared relating to Israel's foreign exchange debt and taxation be printed at this point in the RECORD.

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

Israelis had to go deeply into debt to finance defense and refugee resettlement. The following table shows Israel's rising foreign exchange debt from 1971 to 1973. The 1974 figures represent the estimated effect if the $2.2 billion military assistance is extended on a loan basis or on a grant basis.

Israel's foreign exchange debt 1971–74
(in millions of dollars)

	1971	1972	1973 [1]	1974 if grant [2]	1974 if loan [3]
External debt (end year)	3,430	4,081	4,904	5,487	7,087
Debt per capita	1,108	1,275	1,484	1,605	2,073
Annual debt service	532	687	705	850	[4] 940
Total imports	3,115	3,360	5,345	5,960	5,960
Total exports	1,912	2,285	2,625	2,930	2,930

[1] In addition $1,000,000,000 will be due on Military Sales Act (120-day) credits, mostly in February 1974.
[2] If total $2,200,000,000 emergency military assistance is extended on a grant basis.
[3] If total $2,200,000,000 emergency military assistance is extended on a loan basis.
[4] Since terms of such loan are not yet fixed, no allowance is made for additional interest or principal on this account.

If Israel must borrow for the additional weapons she is acquiring this year, her debt service would rise, as indicated, to $940 million (assuming a concessionary interest rate of two percent) or $1.1 billion (if the interest rate is six percent). This is an astronomical burden beyond the capacity of an already supertaxed and superindebted economy.

Mr. HUMPHREY. Mr. President, to that already severely taxed economy the recent war dealt a heavy blow, and even in its aftermath, during the current period of tenuous cease-fire, about 25 percent of Israel's work force remains mobilized and normal patterns of production continue to be disrupted. In short, Israel has been weakened and continues to be weakened, at least as regards to her ability to pay for the means of her own defense.

That, Mr. President, is where this bill comes in. It provides—at the key moment in recent Middle East history—that Israel, as a main participant in negotiations which hold the potential to produce a lasting peace, will not be forced to negotiate from a position of weakness. This bill will allow Israel to negotiate as an equal and to give and take at the bargaining table on the basis of conciliation and accommodation rather than because she is without strength or support.

Of the $2.2 billion provided in this bill, approximately $1 billion will be used to cover the costs of military equipment sent to Israel during the recent fighting. The remaining $1.2 billion will be available to the President to use as he deems necessary to see that Israel remains in a situation of military parity with her Arab neighbors during the period while these delicate and probably prolonged negotiations move ahead.

It is not inevitable that all of the money will be spent. But it is important that it be available—to insure continued parity and also as a demonstration that the United States does not intend to waver in support of a democratic ally whose existence and strength are directly connected to our own national interest.

Mr. President, in view of congressional action in recent years to reassert the role of the legislative branch in the field of foreign affairs—an effort which I continue to support wholeheartedly—it may be important to explain just why the Senate Foreign Relations Committee felt it necessary and proper to approve, almost unanimously, a bill which gives such broad discretionary power to the President in the expenditure of a large sum of money. Let me state it clearly: The broad discretionary power which this bill allows the President does not represent an implicit decision by the committee to reverse the recent trend of stronger congressional control in the area of foreign policy. What it does represent is a longstanding recognition by the committee that there are some areas, on some occasions, in which significant Presidential flexibility is required. The committee believes that the period ahead is such an occasion.

Since the recent outbreak of hostilities, the committee has held a number of discussions with Secretary Kissinger in executive session concerning the fighting and the coming negotiations; and from these discussions, the committee has developed a sense of confidence that the administration and the committee share the same basic goals for U.S. policy in the Middle East. With this agreement on goals clearly defined, the committee was prepared to approve a bill which allows the President the flexibility necessary if those goals are to be pursued effectively.

In sum, Mr. President, this bill accomplishes three important objectives. First, it buttresses the war-weakened Israeli economy and provides that country with the continued means to defend itself against an adversary larger and potentially stronger. Second, it sends a clear signal—to Arabs and Israelis alike—that the United States will remain steadfast in support of the continued survival of that small nation. Third, this bill provides the President of the United States and the Secretary of State with the authority and the flexibility they need in order to maintain a steady Mideast military balance and thus, to create conditions conducive to success in the difficult negotiations which lie ahead. This bill is a carte blanche neither to the Israelis nor to the President. Rather it is the granting of a tool, so that both the nation of Israel and the President can move confidently and effectively toward a goal that we all share—the goal of a just and lasting peace in the Middle East—a peace that will serve the interests not only of the people and nations in that region, but of people and nations everywhere.

Mr. President, it is our hope that we will be able to proceed with the consideration of this bill. We have a very difficult choice to make. This first session of the Congress is going to complete its work in the next day or two. And if we want this bill to become law at the time the negotiations open on the Mideast problem, tomorrow, then we will have to pass this bill as it is. If we pass it without amendment, it will go promptly to the President. That means that Secretary Kissinger, as he meets with Mr.

Gromyko tomorrow as a cohost to the Mideast Peace Conference, will know that the Congress of the United States has backed him and has backed our Mideast policy in an effort to attain what is the goal of every person in the Congress and, I hope, in this land—peace in the troubled Mideast.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I will yield to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I thank the Senator from Arkansas for yielding.

Mr. President, is there a time limitation on the bill?

The PRESIDING OFFICER. There is no time limitation.

Mr. HUMPHREY. Mr. President, might I ask my associates and colleagues if we could arrive at a time limitation, since it would expedite our work.

Mr. ABOUREZK. Mr. President, I do not intend to speak for long. I do not know of anyone else who does. However, at this time, I say to my distinguished friend, the Senator from Minnesota, I will object to any time limitation. However, we will not take very much time.

Mr. HUMPHREY. I thank the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, in testimony before the House Foreign Affairs Committee on November 30, Deputy Secretary of State Rush made the assertion that the purpose of the legislation which the committee is considering today "is to make it clear that the military options both in the Middle East and Southeast Asia are no longer viable." I find this statement extremely ironic. The real purpose of the legislation, as all who are the slightest bit familiar with it know, is to provide the administration massive amounts of money to cover Israeli and Cambodian military losses.

It does logically follow to me, as it does to Deputy Secretary Rush, that by replacing Israeli military losses, we will somehow effect a "transition from an era of confrontation to an era of negotiation." To the contrary, what the latest war has clearly shown is that our policy of fueling the Middle Eastern arms race has the effect of facilitating, rather than preventing the outbreak of war in that area. We have given Israel $1,122.3 million military assistance alone since 1959. We have sold Israel $993.15 million worth of military equipment alone since 1950. And we have provided approximately $100 million of "security supporting assistance grants" in 1972 and 1973 to supplement that military assistance. This aid totals slightly more than $2.2 billion. It has not brought peace to the Middle East. I see no reason to believe that doubling that amount by pouring another $2.2 billion in military equipment in will bring about peace. The administration has failed to indicate, to me at least, just how more weapons will serve the cause of peace in the Middle East. History has shown that the weapons certainly do not come in handy as guarantors of peace, but as tools of ever larger and more costly wars. And each war seriously endangers world peace as we saw during October of this year.

If we are to devote enormous financial resources to the Middle East, it would be much more appropriate to concentrate on achieving a peace through political rather than military means. Such a peace, in order to be viable, must assure that the rights of the Palestinian people are recognized, and that Arab territories conquered in the 1967 war are returned. Israel's security cannot result from her continued existence as a fortress state. The October war has shown this. However, if the prerequisites of withdrawal and recognition of Palestinian rights are realized, peace in the Middle East and security for all the nations of the area can become reality.

At my request, the Congressional Research Service of the Library of Congress has prepared a chronology of the Arab oil embargo which took effect 2 months ago, and which is a major contributor to the energy crisis facing this Nation and other Western countries.

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

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

(See exhibit 1.)

Mr. ABOUREZK. Mr. President, let me share with the Senate some of the information included in the chronology, which leads to the conclusion that the oil embargo could very well be the direct result of our continued supply of military equipment to Israel. On October 11—

It was reported that during the course of the Organization of Oil Exporting Countries (OPEC) meetings in Vienna, Saudi Arabia had warned the United States that if arms were sent to Israel, the Arab states would cut off oil supplies.

On October 15—

Robert McCloskey of the State Department said the resupply of weapons to Israel had begun on October 14.

On October 16 the Organization of Arab Petroleum Exporting Countries met in Kuwait to discuss the use of oil as a weapon in the war.

On the same day—

It was reported that Saudi Arabia had warned the United States that the Arab states would cut oil production by 10 percent if the United States continued to send arms to Israel. The report stated that the warning came before the October 15 announcement of U.S. arms shipments.

On October 19, Libya embargoed all shipments of oil to the United States. On October 20, Saudi Arabia followed suit. On October 21, Kuwait, Qatar, Bahrain, and Dubai joined the embargo.

It is my guess that when Secretary Kissinger met with four Arab foreign ministers in Washington on October 17, he was informed of the consequences of continued massive military supply of Israel. It is surprising that despite the Secretary's indication, at his news conference of October 12, that the Soviet resupply of the Arab military was "fairly substantial" but did not constitute a threat, he did not give more serious consideration to stopping or reducing military shipments to the Middle East in the hope of discouraging further war there.

The administration witnesses who testified earlier in support of S. 2692 have made it clear to me that the bill gives the administration license to continue its bankrupt policy of feeding the Middle Eastern flames with tanks and Phantom jets. They have completely ignored the fact that the effects of the bill will in all probability be: The continuation of the military impediment to peace in the area; and to make the embargo a lasting and debilitating reality.

In testimony before the House Foreign Affairs Committee on December 3, Assistant Secretary of State Sisco referred to approximately $1.2 billion of the administration's aid request which has not yet been expended as "imponderables." It is ludicrous that the Congress should be asked to permit the administration an additional $1.2 billion, over and above the $1 billion cost of the Israeli resupply effort, to be used for these undisclosed imponderables.

The point has been made before, but I think that it is more than appropriate to make it again here, that this Nation is operating under a terribly distorted system of budgetary priorities, we have consistently refused to provide adequate funds for social programs which attempt to provide for the basic welfare of our own citizens. Congressman LEE HAMILTON, chairman of the Near East Subcommittee of the House Foreign Affairs, remarked on the floor of the House during the debate that the administration witnesses who testified in support of H.R. 11088 could not justify the $1.2 billion aid request for imponderables on military grounds alone. He noted that—

The administration seemed to be saying that a lesser appropriation, say $1.7 billion, instead of $2.2 billion, would indicate to Israel a lessening of our commitment to it or that such an appropriation might cause havoc if the United States had to request another special appropriation during peace talks which will hopefully start December 21, in Geneva.

I cannot accept this as a justification for a request of $1.2 billion for defense assistance imponderables, and I do not see how anyone can.

If we are to spend an additional $1.2 billion, why must we spend it on imponderables? There are very beneficial and tangible purposes which the money might otherwise achieve. There are, for example, approximately 631,000 American Indians who are served, and served very inadequately, I might add, by the Indian Health Service. Because it is short of funds, the Indian Health Service is presently unable to attend to the surgical needs of over 20,000 persons. This figure includes more than 13,000 children who are in need of surgical repair of perforated eardrums. And this, I might add, Mr. President, retards their learning ability in the schools they go to. This human suffering is measurable, not imponderable. The underfunding of the IHS has also resulted in a severe shortage of physicians, overcrowded and rundown health care delivery facilities, inadequate emergency care facilities, and

numerous other abominable circumstances. To provide adequate health care an additional $40 million is needed. This $40 million is a mere drop in the bucket when compared with the $1.2 billion which the U.S. Congress will undoubtedly approve for expenditure on the imponderables of the Middle Eastern war.

In conclusion, I strongly urge the Senate to reject this request for money to fuel the Middle East arms race. To approve the request would be contrary to the interests of Middle Eastern and world peace. It would assure our country and others continued energy dilemmas. Equally important is the fact that the legislation represents another effort to waste the national income in the pursuit of military policies which have been repeatedly proven to be bankrupt, and to do this at the expense of much needed and inadequately funded programs which would directly benefit the American people.

EXHIBIT 1

CHRONOLOGY OF THE ARAB OIL EMBARGO, OCTOBER 1973

(By Clyde R. Mark, Analyst in Middle Eastern Affairs, Foreign Affairs Division, December 10, 1973)

October 6: The Saudi Arabian Minister of Defence, Prince Sultan Abd al-Aziz, stated that the United States had asked Saudi Arabia to increase its production of crude oil, but that Saudi Arabia had refused because the oil income accruing to the state was already sufficient to meet the country's needs. Prince Sultan also said that Saudi Arabia had asked the United States to curtail its support of Israel, but that the United States had refused. The Prince said that Saudi Arabia would not break diplomatic relations with the United States. (The statement was made prior to the outbreak of fighting.)

October 6: Egyptian and Syrian troops attacked Israeli held positions in the Sinai and Golan Heights.

October 6: The United States placed the 6th Fleet in the Mediterranean Sea on alert.

October 7: Iraq nationalized the Exxon and Mobil interests in the Basrah Petroleum Company.

October 9: The Kuwaiti Cabinet requested that the Minister of Oil call a meeting of the Organization of Arab Petroleum Exporting Countries (OAPEC) to discuss the role of oil as a weapon in the war.

October 10: Several members of the Kuwait National Assembly said that Kuwait should stop all oil shipments to the United States and withdraw Kuwaiti deposits from American banks.

October 10: A U.S. Government spokesman said the U.S.S.R. was rearming Egypt and Syria.

October 11: It was reported that during the course of the Organization of Oil Exporting Countries (OPEC) meetings in Vienna, Saudi Arabia had warned the United States that if arms were sent to Israel, the Arab states would cut off oil supplies.

October 11: A U.S. Government spokesman said that the United States was supplying ammunition and missiles to Israel.

October 12: At a press conference, Secretary of State Henry Kissinger said that the Soviet resupply of arms to Egypt and Syria was "fairly substantial" but did not constitute a threat.

October 13: The United States said it would send fighter planes to Israel to replace losses incurred in the war.

October 13: It was reported from Damascus that King Faisal of Saudi Arabia had sent a letter to President Nixon in which he warned that if the United States rearmed Israel, Saudi Arabia would have three choices: (1) break relations with the United States, (2) break economic relations and cut all economic ties, or (3) embargo oil shipments to the United States.

October 14: Kuwait announced that OAPEC would meet in Kuwait on October 16 to discuss the use of oil as a weapon in the war.

October 14: The Secretary General of NATO said an oil stoppage by the Arab states would "come very close to a hostile act."

October 15: It was reported that Spain, Italy, and France had restricted the exports of refined petroleum products because of the Middle East war.

October 15: Robert McCloskey of the State Department said the resupply of weapons to Israel had begun on October 14.

October 16: The OAPEC meeting began in Kuwait.

October 16: U.S. Government officials said that Israel would receive 25 F-4 Phantoms and 50 A-4 Skyhawks to replace its losses.

October 16: It was reported that Saudi Arabia had warned the United States that the Arab states would cut oil production by 10 percent if the United States continued to send arms to Israel. The report stated that the warning came before the October 15 announcement of U.S. arms shipments.

October 17: Secretary Kissinger and President Nixon met with a delegation of four Arab Foreign Ministers, headed by Umar al-Saqqaf of Saudi Arabia, to hear the Arab viewpoint in the Middle East conflict.

October 17: A communique issued at the end of the OAPEC conference in Kuwait stated that the Arab oil-producing states would cut their crude oil production by 5 percent per month (beginning with the September production figure) until Israel withdrew from the territories occupied in the 1967 war and the legal rights of the Palestinians were restored. The communique said that oil would not be cut to "friendly" states.

October 18: Saudi Arabia announced that it would reduce its oil production by 10 percent, rather than the 5 percent called for in the OAPEC communique.

October 18: Abu Dhabi announced that it would reduce its oil production by 10 percent and would stop all oil shipments to the United States.

October 19: Qatar cut its oil production by 10 percent.

October 19: Libya cut oil production by 5 percent and embargoed oil shipments to the United States.

October 20: It was reported that the Council of Ministers of Bahrain had decided to end the agreement with the United States signed in December 1971 for use of naval facilities.

October 20: Saudi Arabia embargoed oil shipments to the United States.

October 20: Algeria cut production by 10 percent and stopped all oil shipments to the United States and the Netherlands.

October 21: Kuwait cut production by 10 percent and stopped all shipments to the United States.

October 21: Qatar embargoed oil shipments to the United States.

October 21: Bahrian stopped oil shipments to the United States.

October 21: Dubai embargoed oil shipments to the United States.

October 23: Kuwait stopped oil shipment to the Netherlands.

October 24: Qatar stopped oil shipments to the Netherlands.

October 25: Oman barred oil shipments to the United States and the Netherlands.

October 25: The United States placed its armed forces on alert because of what U.S. officials described in various terms as a Soviet threat to send its troops to the Middle East.

October 28: Saudi Arabia embargoed oil shipments to the Netherlands.

October 29: It was reported that the Netherlands had stopped issuing export licenses for refined oil products to be sent to the United States, Sweden, and Norway.

October 30: Bahrain embargoed oil shipments to the Netherlands.

October 30: Saudi Arabia said it would reduce production by 15 percent per month.

November 5: It was reported that France, Italy, and the United Kingdom had ordered oil companies operating in those countries to provide the full amount of crude oil for their markets or the companies would have their operations curtailed. To comply with the order, oil companies operating in France, Italy, and Britain would have to shift the full amount of their shortfall to other nations and could not prorate the shortfall among all their contractors.

Mr. ABOUREZK. I yield to the Senator from Arkansas, and thank him for yielding to me.

Mr. FULBRIGHT. Mr. President, I think the statement of the manager of the bill is most eloquent, but I want to make one or two comments. I think the idea that there is great urgency to pass this measure before tomorrow is open to question. The truth of the matter is that, within the next few months, Israel can get as many arms with this bill as without it, if a war should break out. She has already received a billion dollars, and she can, under existing authority, draw down another $1.5 billion, with an agreement of repaying us within 120 days. So there is no real urgency from the point of actual arms requirements. I do not believe the Senator from Minnesota would say they could not get any arms they need.

Mr. HUMPHREY. I agree.

Mr. FULBRIGHT. The point he is making is psychological. He says the bill will strengthen the hand of the State of Israel at the conference. That is a key question, of course, and I shall discuss it a little later. I have arrived at an entirely different conclusion, because I think the great difficulty is going to be to persuade Israel to give up any land.

There is a very interesting assessment in today's New York Times, making it quite clear that at least some Americans who support the policy of the present Government are against any kind of compromise. I think it might be useful to put into the RECORD, Mr. President, since it illustrates the attitude of one of the leading organizations supporting the Israeli Government in this country. There are, I believe, some 30 or 40, so this is one among many.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, Dec. 20, 1973]

NO RETREAT FOR ISRAEL

". . . And thou shalt speak unto him saying, Thus says the Lord. Have you killed and also want to inherit? . . ."—Kings I, 21:19

PARTNERS IN PERFIDY

On the Day of Atonement, the holiest day of the Jewish year, Egypt and Syria, with the connivance of Soviet Russia, unleashed a treacherous attack on the people of Israel, which was repulsed at a heavy cost in human life. This time the UN truce observers posi-

tively identified Egypt and Syria as the aggressors. Now the aggressors brazenly demand that Israel withdraw to positions she held on June 5, 1967, which were the armistice liens of 1949! Their aim is to weaken Israel, softening her up for new onslaughts and eventual destruction.

Israel should not retreat. This is not taking a hard line against sincere negotiations for peace. This is taking a hard line against hypocrisy.

THE 1967 ARAB AGGRESSION

For years, and immediatley prior to June 5, 1967, Israel was threatened with annihilation. The Arabs openly proclaimed their intention of destroying the State of Israel and driving its inhabitants into the sea. Murder, harrassment, and economic warfare against Israel was the ugly routine.

In May 1967 Egypt mobilized for an assault against Israel. On May 19, the United Nations emergency peace-keeping force in the Sinai was summarily dismissed by Egypt. On May 22, the Gulf of Aqaba was closed to Israeli shipping by an Egyptian armed blockade—in itself an act of war.

Israel confronted her enemies and defeated them. In the process, the Israelis took possession of land essential to their security including areas which, at an earlier time, had been illegally seized by Egypt and Jordan and to which they never had right or title.

ARAB MISTREATMENT OF ISRAELI POWS

Unforgettable are the scenes on TV screens in American homes showing the return by Israel of Arab prisoners clad in slippers and robes. In striking contrast are the photos and other documentary proofs of the inhuman and barbarous treatment of Israeli POWs by Syria and Egypt.

Contemptuous of the Geneva Convention on the treatment of POWs, and turning a deaf ear to the plea of the International Red Cross, Syria persisted in refusing to hand over even a list of the Israeli prisoners in her hands, or permit Red Cross visits

ARAB LAND CLAIMS INVALID

Egypt and Jordan have no rights to the areas Israel wrested from their domination. These territories never rightfully belonged to them.

The west bank of the Jordan, including Old Jerusalem, was illegally occupied by the Jordanians in 1948. They annexed it without right or sanction.

Neither was the Gaza Strip Egypt's. This strip was part of Palestine and included in the Mandate of the League of Nations for the Jewish National Homeland. It, too, was occupied and held by Egypt under the armistice arrangement of 1949. It was never incorporated into the Egyptian state. It was administered by Egypt as a separate territory.

The Sinai is not Africa and is not Egyptian territory. It is an unpopulated no-man's land. Some 50,000 bedouin nomads roaming the Sinai were never granted Egyptian citizenship, or allowed to enter Egypt proper without special permit. The Egyptian claim can at best apply to only part of the Sinai, namely, the Rafa-Port Suez line, the "recognized frontier between Egyptian and Ottoman Turkey, prior to 1906." (C.L. Sulzberger, *N.Y. Times* March 14, 1971).

As for the Golan Heights, this was for decades the launching pad from which the Syrians rained death and destruction on Israeli men, women and children in the valley below. The Syrians now demand return of this area which is a plea for a new license to resume their murderous assaults.

THE INALIENABLE RIGHTS OF THE JEWISH PEOPLE

After World War I, the community of nations invited and encouraged Jews to establish the Jewish National Home in Palestine. Following World War II, the United Nations sanctioned the establishment of a Jewish State in Palestine. The United States has played a major role in the recognition of the inalienable right of the Jewish people to the Land of their Fathers, the Land of the Bible.

Throughout all of history there has never been an independent Arab state in Palestine.

A Christian view sums up today's situation as follows:

"Christian seriousness requires that Christians and the Churches support the right of Israel to live in the Land as a Jewish state. Christian seriousness requires the Churches and their members to urge the United States government and people to stand with the Jews in defense of the Land." (Engage/Social Action, a Methodist-United Church publication, Dec. 1973).

THE ARAB AIMS

The Arab aim—as before—is the destruction of the State of Israel.

Editor Mohammed Hassanein Heykal, spokesman for Egyptian President Sadat, wrote in Cairo's Al Ahram on October 19, 1973:

"The matter does not relate to the liberation of the Arab territories which were occupied since June 5, 1967, but strikes further and deeper against the future of Israel."

The clamor calling for Israeli withdrawal and retreat, noisily orchestrated for world approval by Arab-Soviet propaganda, is a fraud and should be recognized as such.

THE RUSSIAN AIMS

The aim of the Soviets—which has not changed since Czarist days—is to become the dominant power in the Middle East. Arab hostility toward Israel was a useful wedge with which to gain entry. A truncated and impotent Israel would serve the Kremlin's purposes admirably. The Russians would then have a free hand to consolidate their positions and move forward to absolute control of the Mediterranean, the Red Sea, the Persian Gulf, the Indian Ocean, and the surrounding lands. This would pave the way for mastery over the oil of Arabia, Iran, and Africa, and dominion over the natural resources and markets of a large part of the Asian and African continents.

AMERICA'S VITAL INTERESTS THREATENED

The Kremlin strategy poses an intolerable threat—politically, economically, and militarily—to the United States of America and the rest of the free world. It would place the U.S. and her allies in the untenable position of having to choose between submission to the will of Moscow or waging war to preserve their freedom and viability.

Perceiving this danger, the United States provided Israel with the aid necessary to repel the Arabs and thwart the Soviet design.

ARAB OIL BLACKMAIL

The Arab oil embargo is hypocritical. It conceals a venal profiteering motive behind a facade of high-sounding phrases. The oil embargo, intended to coerce sovereign nations not involved in the Middle East fighting, is dangerous to the peace and security of the entire world. No state or group of states, using such means, has the right to plunge the world into economic chaos with attendant suffering of millions of people.

SURRENDER IS NOT PEACE

America and Israel want peace, but surrender to the Arab-Soviet blackmail to force Israel to retreat from her rightful position will not bring peace to the Middle East and the world.

Aggressors cannot be appeased. Surrender only whets their appetites for more aggression and submission.

The U.S. in its national interest and in the interests of freedom, justice and world peace must reject all attempts to force Israel to retreat.

We call upon our President, the State Department, and Congress, and the American people to stand firm in insisting that Israel's strength and independence shall not be compromised. Anything less would be a mockery of justice and a betrayal of America's leadership as champion and guardian of world freedom.—Herman L. Weisman, President Zionist Organization of America.

ZIONIST ORGANIZATION OF AMERICA,
New York, N.Y.

Mr. FULBRIGHT. This statement is signed, "The Zionist Organization in America," 145 East 32d Street, New York, and the headline is, "No Retreat for Israel."

The body of the argument put forth is, I think, subject to no other conclusion but that they are advising the representatives of Israel not to give 1 inch, to do nothing in the way of retreating from the occupied territory, which is the main issue to be discussed at the conference.

This fortifies my feeling that it is a psychological matter, that by passing this bill today we simply make the representatives of the Government of Israel more intransigent than they might otherwise be. This was the main point, I think the Senator will admit, that I made in the committee.

I agree that this is a question of judgment, that anyone can disagree with without his motives in any way being questioned. It is a question of judgment.

I think there is undue haste being attached to our consideration of a bill involving not only a very large sum of money, $2.2 billion, but also some policy decisions with important implications for American policy in the Middle East. Are we or are we not prepared to live up to what we profess to have: an evenhanded policy designed to bring about peace in that area under the guidelines set down in resolution 242?

I think that passage with so little consideration by Members of the Senate, under considerable pressure to get the matter over with, will again confirm to all of the Arab participants in the conference, and some who do not participate but are interested, their concern that the United States is not committed to the policy we profess to be committed to.

They will conclude, if they have not already, that we have no intention of retreating from all-out, unlimited support of the military supremacy of the State of Israel, and that we are not about to use any influence to bring about a settlement.

I know that Secretary Kissinger hopes to foster a settlement, and I have done everything I know of to support him. As a matter of fact, my opposition to this bill is designed primarily to support and to strengthen the Secretary's hand, to bring about an attitude of compromise on the part of the Israeli delegates to the conference.

It is useful, I believe, to have at least one voice, or two, or three voices in the Senate that the Arabs can feel appreciate their attitude, appreciate that they have legitimate interests in this area, too. Otherwise, I can imagine that they would give up complete hope. Maybe they will anyway, because we are so few. So I think it plays some useful purpose for some few of us to raise questions about this tragic conflict, in order to assure that the other side of the argument is at least heard—someone who appre-

ciates their point of view regardless of the overwhelming majority vote which eventually ensues.

Some of the arguments the Senator from Minnesota made were so similar to the arguments made at the time of the Gulf of Tonkin resolution. Very unfortunately for me, I was the one who made those arguments, so they are impressed upon me.

I made them, because the President at that time, and the Secretary of State, urged on me the necessity of quick passage of the Gulf of Tonkin resolution, in order to show to the North Vietnamese our unity behind the President, and that the strength of this country had not been weakened by dissenting views held in Congress.

I remember that the Senator from Wisconsin (Mr. NELSON) offered a sensible amendment, that I was in accord with, which expressed what he believed the policy of the President was. I said that, unfortunately, the President is so concerned about rapid passage of the resolution that no amendment, no matter how useful, should be put on the resolution because that would occasion a conference and a delay of maybe a day or two. I repeated the President's view that it was very important that we impress on the Vietnamese the dangers of their actions and that if we showed unity and supported the action of the President, they would be deterred and seek a peace conference.

It seems today that the Senator from Minnesota is making the same argument. I recognize the argument because it is the one I was led to make, erroneously, in 1964. I was much less experienced in these matters at that time—that was nearly 10 years ago. I never thought that I would be deceived by any administration spokesman on anything of that consequence.

It may be that the President himself, in his own mind, believed that the Tonkin resolution would be effective in bringing a quick settlement. But what bothers me is, later on, he completely reversed that point of view and was responsible for sending over 500,000 American boys into the fighting in Vietnam, a tragic undertaking which has so weakened this country. Nothing we have ever done has weakened us so much, vis-a-vis the Communist countries—or strengthened them, to put it the other way relative to us.

Now we are again presented with the same arguments. This is an extremely important issue. It could result in another intervention by this country. We say we are not going to intervene, just as the President in 1964 said he would not. But the passage of this bill, under these circumstances, creates a condition which make it difficult for the Secretary of State to get a settlement in Geneva. It strengthens the determination of the Israeli representatives not to compromise at all or withdraw from any positions. And it dismays the other side, the Arabs, who will conclude there is no hope that the United States will ever do anything to persuade the Israelis to make a settlement. So it all may break down and go back to a trial at arms.

Assess the relative potential strength of these two areas. Here is 3 million citizens in Israel against 100 million or 110 million Arabs, with growing wealth, with growing training and knowledge of the use of modern weapons. Even though Israel at present has military superiority, as she has had during her whole existence, she cannot possibly stand up against the Arab nations, if they are let alone—that is, if we and the other major countries of the world do not intervene. So if we are interested in the preservation of the State of Israel, under its borders of 1967, I cannot see how one can arrive at the conclusion that this bill promotes that objective. That is why I am so strongly against it. One may say, and rightly so, "Who are you to have a judgment different from that of the majority of the committee or from the President?"

Well, here I am strengthened by a recognition that, in the case of Vietnam—after the Gulf of Tonkin resolution—and in a few other instances, my judgment has not always proved to be erroneous. There is enough of a chance that a Member of the Senate might have as good or better judgment as a President that I find it to be my duty as a Member of this body to give voice to my view, even if it is the only one like it in the Senate. So it is my duty to say it. It is not a matter that involves any great or unusual conceit on my part, in the light of the experience of recent years. I know that administrations are not always infallible, and it could be that my views are correct, as I presently believe them to be.

So it is with that in mind that I simply ask questions of the Senate. Eventually, perhaps, some of the people of this country—if by any chance what we say here ever gets to the press—will have something to think about, and come to see that there is some alternative to this policy of unqualified support for Israel—which I consider can be a dangerous one.

So I do not think there is any urgency whatever in passing this bill. Where there is urgency is in achieving a settlement. If we do not get a settlement, I anticipate that there will be another war in a year or two.

What I am doing is trying to direct every possible argument and influence I can to getting a settlement at Geneva. That is the whole objective of my amendments and my arguments—to do something to bring about an attitude of compromise on the part of the parties there.

I believe the Arabs wish to abide by their declared intention to lift their embargo, to have normal relations in every way, to be friends with this country, if we do implement 242. They have made it very plain. Even this morning's paper had some articles indicating that they would be willing, at least over a short period, to increase their production up to 20 million barrels a day to accommodate us, during a transitional period, while we develop our own resources from coal and the other things.

They have gone that far, which is a very recent development. I see no reason to believe that they would not do this, because they are quite conscious of their interdependence with the rest of the world. They want to use their wealth to develop their own countries, to diversify their own industry.

The minister from Algeria, who was here at luncheon a little more than a week ago, made it very clear what their objective is. All they are trying to do is to imitate the industrialized Western countries by using their wealth to diversify. It is a reasonable objective. Why anybody would question it, I do not know. I think it is a reasonable objective, but it hinges on the success of this conference.

I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. I appreciate the Senator yielding and share many of the concerns about this bill that the Senator from Arkansas has expressed.

I am also concerned about the cost of the bill, $2.2 billion. We say that we are here to represent the best interests of this country, and that should be foremost in our minds at all times. We undoubtedly will exceed the President's $268 billion budget, and we should look closely at any item that costs $2.2 billion. Some of the amount is to cover the cost of replacement of arms of Israel, but some are the imponderables. the word that was used earlier today.

I am also concerned about laying the foundation for another Vietnam. We know that Vietnam just grew upon us. There was no intention by Congress for us to go into a war that would involve 500,000 or more of our young men.

When we start sending arms to any nation and have our own men delivering those arms, flying the aircraft that are taking the arms; when we do not have a place to land our aircraft; when our so-called allies, the people in the NATO pact, will not let us land, in some instances will not even let us fly over their land; when we have to go to the Azores and then by nonstop to Israel, we are sort of going it alone, without any major nation with us.

I would like us to be one of the peace-loving nations of the world that would work with other peace-loving nations, so that we can maintain peace throughout the world. But when we are going it alone, when our allies think we are taking the wrong course, I feel we had better take time to consider carefully a matter such as this.

Apparently, the majority of the Senate has made up its mind. We have had resolutions that have been cosponsored by a majority of the membership of this body, and I am not naive enough to feel that this bill is not going to pass.

I have read some of the amendments that the Senator from Arkansas plans to propose. I am going to support at least one and possibly all of the amendments. But I hope we do have a rollcall vote on this measure. I feel that it is important enough that the people of the country ought to see who is voting for and who is voting against it. I am not sure that enough Members are on the floor now, but it is my understanding that the distinguished chairman of the full committee intends to ask for a rollcall vote at least on final passage. Is that correct?

Mr. FULBRIGHT. The Senator is cor-

rect. On a bill of this magnitude, it would be irresponsible not to have a rollcall vote. I intend to ask for it.

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

Mr. FULBRIGHT. I yield.

Mr. HUMPHREY. I surely want to see that there is a rollcall vote on final passage. I think that on a bill with this amount of money and of this significance, we simply must have it.

Mr. FULBRIGHT. If we can get enough Members on the floor, I will ask for it.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays on the three amendments I intend to offer.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that it be in order?

Mr. FULBRIGHT. I ask unanimous consent, to save the trouble. I ask unanimous consent that we may authorize the yeas and nays.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays on all three amendments, with one show of hands.

The yeas and nays were ordered.

Mr. CASE. Mr. President, today the Senate acts on legislation I introduced authorizing up to $2.2 billion in grants and credits for the resupply of Israel. The bill before us is identical to legislation that already has passed the House of Representatives. Appropriations legislation passed the Senate a few days ago.

The intent of this measure is well known. It was proposed by the administration to resupply Israel and maintain the military balance in the Middle East.

Maintenance of that balance is essential if anything is to come of the peace conference soon to open in Geneva. This aid to Israel will serve to put the Arab States on notice once again that the United States will continue in the quest for a lasting peace settlement. Further, it will make clear to the Soviet Union we do not intend to change our basic policy.

With the passage of the legislation before us, Israel will be able to enter into serious negotiations, knowing it does not stand alone.

Mr. HATFIELD. Mr. President, as a member of the Appropriations Subcommittee on Foreign Operations, I have been closely involved in the inquiry concerning the administration's request of $2.2 billion in emergency assistance to Israel. After careful review of the testimony of State and Defense Department witnesses and the classified information pertinent to this matter, I have concluded that the administration has given Congress no sufficient explanation concerning the necessity of granting an additional $1.2 billion over and above the $1 billion of military supplies that have already been sent to Israel since the outbreak of the recent hostilities. The administration has stated that the initial $1 billion has fulfilled the major task of replacing the equipment and materiel lost in the war.

It is understandable that provision be made for Israel to be assisted at this time in the amount of $1 billion, but what would be sent to Israel by an additional $1.2 billion has not even been identified by the administration. They have stated that such amounts would be used to restore "military balance" to the area and have added, "It is, however, extremely difficult to state precisely the types and quantities of equipment that will be needed for this purpose." The administration's reply to the subcommittee chairman further stated:

> We do not want to stimulate additional procurement by the Arab combatants and thereby initiate a new escalation in the level of armaments in the area.

The administration has made it clear that it does not know how much of this total request will be made on the basis of loans, and how much on the basis of grants. Further, they have said that if the total amount is not needed, it will be returned to the Treasury.

In sum, the Congress is being asked to authorize and appropriate $1.2 billion of this $2.2 billion for equipment and materiel that cannot be even identified at this time, and that may not all be needed.

When asked why Congress should now give such a blank check for up to $1.2 billion worth of additional military equipment to Israel, over and above the replacing of that which was lost in the war, the administration has given two generalized responses. First, they have stated:

> If the Congress were to act only on an amount sufficient to cover equipment already supplied to Israel, it could be interpreted as an indication that the United States Government is not prepared to provide whatever is necessary to enable Israel to defend itself.

Second, they have stated:

> Peace negotiations will not be promoted if in the middle of them, we have to return to the Congress with an additional request for military assistance funds for Israel with the attendant weeks or months of uncertainty (until the bill is passed) as to whether the USG will provide the wherewithal for Israel's defensive needs.

In response to the first point, the historic and resolute commitment of the United States to provide Israel with the means of her defense has been firmly demonstrated to the world time and time again. Most recently, during the past war, our country not only demonstrated that commitment by the intensive airlift and sealift which resupplied Israel with all the equipment that was needed for her defense, but our nation was also brought to the brink of a nuclear confrontation to prevent the entry of Soviet troops into the region. We do not need to give the administration authority to supply an additional $1.2 billion of military equipment that is not even identified and specifically justified in order to prove the credibility of this nation's commitment to Israel.

Regarding the second point, Congress has always demonstrated that it will act and act swiftly to provide the wherewithal for Israel's defensive needs. It is inconceivable that Congress would ever deny any specific request for equipment above that which has already been given to Israel that is shown to be essential for her security. This would be so particularly during a time of negotiations.

Thus, I find the administration's justification of the $1.2 billion beyond that which we have already supplied to be wholly unpersuasive.

In the past, many of my colleagues have argued that Congress should be a full participant in matters relating to our military assistance and foreign commitments, and I have joined in making these points. We have said that Congress must not give to the executive branch blank checks and broad discretions of unlimited authority in such matters. We have argued that Congress must be more relevantly involved in this decisionmaking process, as was the intent of the Constitution. I believe that there should be no exception to those principles, and that they should be applied in this instance as well.

If, in fact, the administration decides that additional equipment, above what has been lost in the past war and replaced, is needed for a military balance, then that can be supplied in the same fashion as our aid up to this point has been given—under the Foreign Military Sales Act. In such a case, Congress would have a full 120 days to consider such action, and to provide additional loans or grants as it sees fit. Certainly that is the proper way to proceed, and the minimum that is necessary if Congress is to be an equal and responsible participant in this process.

I have heard it frequently contended that if Congress does not give to the Executive carte blanche for all that it wants, then its ability to reach a desired negotiated solution on a given matter may somehow be jeopardized. Previously, I have rejected such rationale when considering congressional action on such matters as the ABM, our troops in Europe, and our involvement in Southeast Asia. I do not accept that rationale in this instance either. Further, in this case it is not being suggested that funds for an ongoing commitment or program be denied, but that additional funds yet to be required, justified, or specified not be prematurely given.

The administration has stated:

> We recognize that what we are asking is highly unusual.

I wholeheartedly agree, and believe that Congress should not abdicate its own responsibilities as it exercises the power of the purse. In effect, the Executive is asking the Congress to renege from exercising any meaningful role at all in the provision of an additional $1.2 billion of military aid to Israel, beyond what has been supplied to replenish the losses from the recent war. I see no reason why Congress should accede to this highly unusual request.

Finally, it is my belief that there is no ultimate military solution to the conflict in the Middle East. The only solution is a negotiated settlement of the political and social issues which lie at the root of the tensions there. I earnestly hope and pray that the negotiations about to begin will yield such a settle-

ment. For this reason, it is all the more imperative that we not take these actions which would encourage a reliance solely on military might as the means for building ultimate security. In the past, the arms we have given to the Middle East in the name of building a balance of power have been used in war. Another war in the future would be even far more costly in human terms for both Israel and the Arabs, and run the same risks of nuclear confrontation between the world's most powerful nations. Therefore, now more than ever it is our responsibility to stress by our actions and words to all parties that successful negotiations, resolving the fundamental issues and grievances, rather than blind reliance on military might, are the only means for achieving true security.

AMENDMENT NO. 930

Mr. FULBRIGHT. Mr. President, in order to get along with this matter, I call up my amendment No. 930.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

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.

Mr. FULBRIGHT. Mr. President, as I already have said, I support the President and Secretary of State Kissinger's basic policy in the Middle East, to seek a settlement based on U.N. Security Council Resolution 242. That objective is in the interest of all mankind. But this bill, as written, does not further that policy; it undermines it.

The primary importance of this bill is not the money, but the policy involved. And that policy is a shortsighted and imprudent one—promoting the military superiority of Israel—when the circumstances require a policy furthering a peaceful settlement. Regardless of all the rhetoric about "restoring a military balance," passage of this bill will be seen by the world as a major policy declaration on the most difficult and dangerous problem confronting our country. This bill contemplates a military solution to a problem requiring diplomacy and negotiations.

This bill sends a signal to the world that the United States does not intend to pursue an evenhanded policy. As the only country in a position to talk to all parties involved, maintenance of U.S. credibility is most important. Our deeds must match our words. This bill speaks not of peace, but of war.

Passage of such an unbalanced bill at this critical juncture may have serious consequences for the peace negotiations. There is too much at stake for the United States, Israel, and the world to run such a risk.

The strong political tilt of this bill could be corrected to some extent by making additional aid to Israel conditional on her taking appropriate steps to comply with Resolution 242 and the cease-fire resolution of October 22.

Mr. President, this bill is vastly more important than the giving away of $2.2 billion of the taxpayers' money. Our national interests as well as those of Israel, the Arabs, and the world are tied to a successful conference in Geneva. We must not do anything to undermine that conference. It is an opportunity which we cannot afford to miss. It offers the best hope for real peace in the region since the founding of Israel. A stalemate will assure a fifth round of fighting, great danger to Israel's future security, and a return to the cold war, if we can avoid involvement in a hot one.

Passage of this amendment, conditioning any aid to Israel beyond $1.2 billion on good-faith steps toward compliance with Security Council Resolution 242, which all parties profess to support, may help to soften the adverse impact of this bill on the negotiating process.

I urge the adoption of the amendment.

I ask unanimous consent to have printed in the RECORD at this point my individual views from the Foreign Relations Committee's report on H.R. 11088.

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

INDIVIDUAL VIEWS OF SENATOR J. W. FULBRIGHT—BILL ENDANGERS A NEGOTIATED SETTLEMENT

The coming talks in Geneva must succeed if we are to prevent a worldwide recession, a renewal of the Arab-Israeli war, and a breakdown of the movement toward normalization of our relations with the Soviet Union. Approval of this bill to give $2.2 billion in military aid to Israel will undermine the tasks before they begin.

The bill is ill timed and ill advised. It should be set aside for further consideration next session after there has been an opportunity to weigh the progress made in the negotiations. The primary importance of this bill is not the money but the policy involved. And that policy is a short-sighted and imprudent one—promoting the military interests of Israel—when the circumstances require a policy furthering a peaceful settlement. Regardless of all the rhetoric about "resorting a military balance," passage of this bill will be seen by the world as a major policy declaration on the most difficult and dangerous problem confronting our country. This bill contemplates a military solution to a problem requiring diplomacy and negotiations.

To Israel it could be an encouragement to further intransigence. And to the Arabs it will be seen as a re-affirmation of the inability of the United States to pursue an evenhanded policy. I offered a number of amendments in Committee to lessen the political tilt of this bill. All were rejected. The text of these and other amendments I offered are printed in the appendix.

Instead of advancing our national interests in the Middle East, this bill threatens to set them back. The United States has three fundamental interests in the Middle East: a secure and peaceful Israel; friendship with the Arab states and a reliable source of oil; and the avoidance of conflict with the Soviet Union. The great strength of our position is the fundamental compatibility of these three basic interests.

All can be advanced by an equitable Arab-Israeli settlement. The time to press for that settlement is now, before hostilities flare anew in the Middle East, as almost certainly they will if there is not early, substantial progress toward peace. The precise terms and exact boundaries of a settlement must await negotiations in the peace conference, but the basic principles of an equitable peace are clear. The peace must be based upon Security Council Resolution 242 of November 1967, which requires Israeli withdrawal from occupied territories and which emphasizes the "inadmissability of the acquisition of territories by war." In accordance with that Resolution, the peace must also make explicit and detailed provisions to assure the territorial integrity and political independence of Israel and all other Middle East states.

The chances for achieving a stable and equitable peace in the Middle East are greater than at any time since the founding of Israel in 1948. On the other hand, if there is not a settlement, there is every likelihood of still another war, and that more likely within months rather than years. What now seems out of the question is a return to the status quo which prevailed between the wars of 1967 and 1973.

Like the Balkans before 1914, the Middle East has become the potential flash point of world conflict. It threatens the great powers—and the world—with repeated trips to the brink of nuclear confrontation. For this reason alone the United States and the Soviet Union have not only the right but the responsibility to intercede for a compromise peace. If the two great powers were willing to leave the Arabs and Israel to work out, or fight out, their differences regardless of the outcome, the issue might then be regarded as regional and autonomous. The Russians are not going to abandon the Arabs, and the United States is most certainly not going to leave Israel to her fate. But leaving Israel to her fate and encouraging her to show a spirit of compromise are quite different matters.

Our moral and political commitment to Israel is about as solid and unalterable as any we have in the world. We are not, however, committed to current Israeli policy, to the retention by Israel of occupied lands, or to abetting intransigence in the coming peace talks. Insofar as the retention of these lands threatens endless war from which we cannot remain aloof, we have the right and the responsibility to intercede for a compromise peace based upon the principles of the Security Council Resolution of November 1967. And we have a duty to refrain from actions which will stiffen Israeli opposition to implementation of that resolution. I offered an amendment to the Committee to make the provision of any aid to Israel beyond $1.2 billion conditional on her "taking appropriate steps" to comply with Resolution 242 and the Security Council's cease-fire resolution of October 22 of this year. The amendment was rejected.

A peace based on Resolution 242 is to the advantage of all concerned, not the least Israel herself. This fourth Arab-Israeli war has confronted Israel with the grim specter of endless conflicts, not easy and successful conflicts like the war of 1967, but grinding attrition in which the Arabs would have a steadily increasing advantage driving from their vastly greater numbers, growing military and technological capacity, and the enormous financial resources of the oil-producing states of the Arabian world. The Arab states, including those which are now conservative, are likely to be radicalized as their grievances fester. Israel, already a garrison state, faces the prospect of mounting terrorism and recurrent war, of a national existence with no semblance of security. However confident they may be of their own

military prowess, the Israelis can hardly relish this prospect.

The Israelis must give up the chimera of absolute military security through the occupation of territory, recognizing that th absolute military security of one nation means absolute insecurity for its neighbors. Israel is going to have to reconcile itself to compromise, and time is no longer on her side. Whatever else the recent war has shown, it has shown that Israel's military supremacy is a diminishing asset. As Israel's first Prime Minister, the late David Ben-Gurion, recognized some time ago—

Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security.

Israel has won its long sought political goal; recognition by the Arab world of Israel's right to exist. Guarantees of its security can now be arrived at in the Geneva conference. Israel has bravely accepted the risks of war. Now she must be willing to accept the risks of peace. Those unknown risks are certainly far less dangerous than the risks of a fifth round of fighting, Israel, therefore, has everything to gain from a peace based on Resolution 242, a peace which would allow Israel to become, at long last, an integral, accepted part of the Middle East.

In this critical period a special responsibility falls on those Americans whose efforts have been designed so long and so assiduously to assure the survival of the State of Israel. Israel can no longer hope to base its security on military strength alone. If Israel is to be secure, a guaranteed peace is required, and such a peace will require great concessions by Israel as well as by her adversaries. Israel's American friends can do her no greater service than to commend this necessity to her. There has been no better opportunity for Israel to strike a bargain with her enemies. This is the time for compromise and magnanimity, not for belligerence and intransigence.

The second basis for the outside world's concern for a stable peace in the Middle East—hardly less compelling than the danger of a nuclear war between the United States and the Soviet Union—is the burgeoning energy crisis, which now threatens the economies of much of the industrial world. If it continues, the energy crisis will grow to frightening dimensions. The world's economy, especially that of the United States, is uniquely dependent on one commodity—oil. We have taken oil for granted so long we cannot quite imagine the consequences of being without it. The industrial world is now learning the hard way.

With six percent of the world's population, the United States consumes one-third of the world's energy. Nearly half of the energy we consume comes from oil, and a third from natural gas. Less than two-thirds of the oil we consume comes from domestic production. Because of the Arab oil cutoff, our supplies may be as much as 20 percent short of meeting current requirements.

The impact on Western Europe and Japan, which are far more dependent on Middle East oil, will be nothing short of catastrophic unless a solution is found to the Arab-Israeli conflict. Their economic collapse will inevitably bring down our own economy, just as the depression of the 1930's had its origin beyond our shores. The world's economy is more interdependent than ever before, as is our own economy. Although the domino theory has been shown to be of dubious relevance in international politics, it has unusual validity in international economics.

The Arab Middle East possesses at least 300 billion of the 500 billion barrels of proven world oil reserves. With no spare productive capacity of its own, the United States—like other industrial nations— is increasingly dependent on Middle Eastern oil, and consequently in need of good relations with the producing countries. These countries, it is well to remember, have no direct quarrel with the United States and have never done anything to harm the United States. Our dependence on their oil is a matter of national interest, no more so perhaps than our emotional bond to Israel, but surely no less so either.

In the long run, it is true, we are going to have to develop alternate sources of energy, if only because the world's supply of fossil fuels is limited. Regardless of long-term needs, however, and regardless of any crash programs we may now undertake, there is no way—absolutely no way—to avoid reliance on Middle East oil for at least the next several years. It is generally agreed by petroleum experts that it is going to take some three to five years substantially to increase United States production of oil fuels and a great deal longer to develop solar, thermal, nuclear and then fusion sources of energy.

The energy crisis clearly is going to be with us for some years to come, but whether it will bring economic collapse or be manageable will depend upon restoring good relations with the major oil-producing states of the Middle East. The key to restoring the good relations we enjoyed before the war is to use our influence to bring about an agreement at Geneva. Passage of this bill will lessen the chances of reaching a settlement, thus prolonging the oil boycott, increasing the dangers of a serious recession and, possibly, bringing on a worldwide depression.

Aside from the danger this bill poses to the negotiations, there are other serious objections. Congress should not act in unseemly haste on such a vast grant of authority. No justification has been made for $1.2 billion of the amount requested, and ample authority exists to provide Israel with additional arms, if the war breaks out again. Israel has already been provided with $1 billion in arms, at least restoring the losses she suffered during the fighting. An additional $300 million in credit sales has been authorized in the foreign aid bill, bringing to $2.5 billion the total military assistance which will be available for Israel in FY 1974.

The Israeli Defense Minister, Moshe Dayan, was quoted in the press recently as saying: "We in Israel were never as strong as we are now. Never." Administration witnesses, nevertheless, have tried to justify the additional $1.2 billion on the basis of "imponderables." The total military aid authorized by this bill should be limited to the $1 billion already provided. If the war resumes, Israel could be supplied under the same 120-day authority used for the recent resupply effort. Congress should not give the President a $1.2 billion contingency fund, certainly not without requiring that Israel engage in good-faith negotiations.

This bill constitutes a vast grant of discretionary power to the President, reversing a healthy trend in recent years for Congress to reassert its authority in foreign policy. Congress is preparing to give the President carte blanche authority to dole out $2.2 billion to one country as he sees fit and without any policy guidelines. The plea, "Don't tie the President's hands," has a familiar ring. Large grants of authority and money to the President should be as objectionable in the case of Israel as with Vietnam. The potential dangers are, in fact, greater.

This bill must also be viewed in the light of our economic situation, past and present assistance to Israel, and the flow of private resources to that country.

Over the years, assistance to Israel from both the U.S. Government and private sources has been substantial. When the assistance to be authorized in this bill is added, by the end of this fiscal year the United States taxpayers will have provided Israel with $5.7 billion in loans and grants since it became a state, shown on the tables in the Appendix. Assistance to Israel for the current fiscal year will be an estimated $2.6 billion including this request, $833 for every man, woman and child of that country.

And the flow of private American financial aid to Israel has always been substantial. The *American Jewish Yearbook for 1972* states that between 1948 and 1971 the United Jewish Appeal, contributions to which are tax deductible, provided $1.6 billion for use in Israel and that $1.6 billion in Israel bonds, exempt from the interest equalization tax, were sold here during the same period. When funds raised over the last two years are included, the total comes to some $4.2 billion.

According to the State Department, Israel set a private fund-raising goal of $1.9 billion after the outbreak of the recent war. At least two-thirds of that is likely to be raised in the United States, more than the $1 billion in military assistance provided to Israel since the war began. Israel's foreign exchange reserves were $1.8 billion at the end of October and the State Department reports that her foreign exchange position remains "strong," hardly an apt description of our own situation.

Recently Congress approved a bill to raise the federal debt limit to a record $475 billion, an increase of $119 billion over the last five years. This request for Israel will bring the total United States foreign aid program for the 1974 fiscal year to $9.2 billion, shown on the table in the Appendix, all to be paid for by more deficit spending. Our nation faces a recession, high unemployment, continued inflation, a serious reduction in revenues, and a cutback in domestic programs of great importance to millions of Americans. I offered an amendment to require the release of funds impounded for certain domestic water and sewer projects among other, in order to stress the question of domestic versus foreign priorities involved in this bill. That amendment was tabled by a vote of 11 to 3, preventing a vote on the merits of a fundamental issue.

In view of the proven record of generous private support from the Jewish community for Israel, Israel's strong foreign reserve position, the state of our government's fiscal condition, and the gloomy prospects for our economy, I believe that any military assistance authorized for Israel should be on a credit basis, not as grants.

This bill is vastly more important than the giving away of $2.2 billion of the taxpayers' money. Our national interests as well as those of Israel, the Arabs, and the world are tied to a successful conference in Geneva. We must not do anything to undermine that conference. It is an opportunity which we cannot afford to miss. It offers the best hope for real peace in the region since the founding of Israel. A stalemate will assure a fifth round of fighting, great danger to Israel's existence, and a return to the cold war, if we can avoid involvement in a hot one.

A failure at Geneva will also assure worldwide economic chaos. The prospect of the world's industrial machine and transportation system sitting idle for lack of oil is not pleasant. But unless progress is made in the negotiations within the next several months we are in for economic difficulties of a magnitude which, at this point, are unimaginable.

I support the President and Secretary of State Kissinger's basic policy in the Middle East, to seek a settlement based on Resolution 242. That objective is in interest of all mankind. I want to strengthen Secretary Kissinger's hand in exerting United States in-

fluence to bring about a compromise agreement. This is why I oppose passage of this bill. The domestic political pressures which have resulted in such hasty action in Congress on the authorization and appropriation bills will now shift to the White House and the Department of State. Whether those pressures can be resisted and the additional $1.2 withheld from Israel remains to be seen.

But the real damage will have been done; the signal will have gone out to the world that the United States does not intend to pursue a more even-handed policy. As the only country in a position to take all parties involved, maintenance of United States credibility is most important. Our deeds must match our words. This bill speaks not of peace but of war.

The passage of this bill at this critical juncture, may have serious consequences for the peace negotiations. There is too much at stake for the United States, Israel, and the world to run such a risk.

APPENDIX TO INDIVIDUAL VIEWS OF SENATOR J. W. FULBRIGHT

AMENDMENTS TO H.R. 11088 PROPOSED BY SENATOR FULBRIGHT AND REJECTED BY THE FOREIGN RELATIONS COMMITTEE

COMPLIANCE WITH SECURITY COUNCIL RESOLUTIONS

I. Sec. 7. No assistance shall be furnished under this or any other Act, and no sales shall be made under the Agriculture Trade Development and Assistance Act of 1954, to any country if the President finds that such country is not taking appropriate steps to comply with United Nations Security Council resolution 242 (1967) and 338 (1973) concerning peace in the Middle East.

(Explanation: This amendment is designed to insure that United States assistance to any country in the Middle East is conditioned on compliance by that country with Security Council resolutions 242 of 1967 and 338 of this year. It covers all foreign aid programs and all countries, affecting Jordan, for example, as well as Israel.

It will help strengthen the President's hand in trying to arrange a settlement based on the Security Council resolutions, which the Administration supports. And it will emphasize that the purpose of this bill is to help achieve peace, not to finance a resumption of the war.)

ASSISTANCE NOT A COMMITMENT

II. Sec. 7. Military and economic assistance provided by the United States to Israel and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Israel for its defense.

(Explanation: This amendment simply states that the act of giving aid to Israel does not constitute a commitment by the United States to defend that country. It is identical to a provision, sponsored by Senator Javits, in the Special Foreign Assistance Act of 1971 relating to Cambodia.)

REQUIREMENT FOR PRESIDENTIAL FINDING

III. 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.

(Explanation: Amendment number 3 is similar to amendment number 1. Before more than $1.2 billion in aid could be provided to Israel, the President would be required to make a finding that Israel was taking appropriate steps to comply with UN Security Council resolutions 242 and 338.)

CALLING FOR LIMITATION ON ARMS SHIPMENTS TO THE MIDDLE EAST

IV. Sec. 7. It is the sense of the Congress that, in order to promote peace in the Middle East, the President should make every effort to reach an international agreement, to be supervised by the United Nations, providing for effective limitations on the quantity and type of arms which can be supplied by outside sources to nations in the Middle East.

(Explanation: This amendment would put Congress on record in favor of working out an international agreement, under United Nations supervision, to limit arms shipments to the Middle East.)

REQUIRING THAT ASSISTANCE FOR ISRAEL BE IN THE FORM OF CREDITS

V. A. On page 1, beginning on line 9, strike out "military assistance or foreign military sales credits, or for both, as the President may determine, for Israel" and insert in lieu thereof "foreign military sales credits for Israel".

B. In section 3 on page 2, beginning on line 18, strike out the first sentence, and on line 23 strike out "such" and after the word "funds" insert "appropriated under section 2 of this Act".

(Explanation: Amendment number five would require that the assistance authorized by this bill be in the form of credits. The bill now allows the President to decide how much is to be given in credits and how much in grants.

In view of the proven record of generous private support for Israel, Israel's strong foreign reserve position, and the state of our government's fiscal condition, and the gloomy prospects for our own economy, aid to Israel should be on a credit—not a grant—basis. The President can still set generous credit terms—40 years and 3 percent interest, or be even more liberal, if he chooses to do so.)

CHANGE OF TITLE

VI. A. Change the title of the Act from "To provide emergency security assistance authorizations for Israel and Cambodia" to "To authorize appropriations for military assistance for Israel".

B. Change the short title from "Emergency Security Assistance Act of 1973" to "Military Assistance for Israel Act of 1973".

(Explanation: Amendment six would merely change the title to reflect more accurately the purpose of the bill.)

RELEASE OF IMPOUNDED FUNDS

(Comparable to a provision of the Foreign Assistance Act of 1971 and S. 837 approved by the Committee earlier this year.)

VIII. Sec. 7. Limitation on Use of Funds—(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.

(Explanation: This amendment is designed to prohibit the use of these funds after January 31, 1974, unless the President has released funds impounded for four departments—Agriculture, Transportation, HEW, and HUD.

(It is similar to an amendment that became part of the 1971 foreign aid authorization Act. A similar provision was also added by the Committee to the military aid bill earlier this year; however, since a continuing resolution was voted for the remainder of the 1973 fiscal year, that provision was not enacted into law.)

Estimated assistance to Israel—Fiscal year 1974 and cumulative assistance—Fiscal years 1949–73

	Estimated fiscal year 1974
I. Military assistance:	
1. Emergency military assistance	$2,200,000,000
2. Military credit sales authorized in the Foreign Assistance Act	300,000,000
Total, military	2,500,000,000
II. Economic assistance: [1]	
1. Supporting assistance	50,000,000
2. Aid for Soviet immigrants	36,500,000
3. Public Law 480 food aid	58,865,000
4. Aid to Israel educational institutions	4,000,000
Total, economic	149,365,000
Total assistance, fiscal year 1974	2,649,365,000
Assistance, fiscal years 1949–73	3,112,100,000
Total assistance, fiscal years 1949–74	5,761,465,000

[1] Does not include housing investment guarantees.

Estimated private flows to Israel as a result of the war [1]

	Estmated fiscal Year 1974
I. Worldwide fund raising goal set after outbreak of the war	$1,900,000,000
1. United Jewish Appeal	(1,250,000,000)
2. Government of Israel bonds	(650,000,000)
II. Funds to be raised in the United States:	
1. United Jewish Appeal	750,000,000
2. Government of Israel bonds [2]	487,500,000
Total to be raised in United States	1,237,500,000

[1] Data from Department of State.

[2] Estimated at 75 percent of worldwide total.

TABLE 1.—PRIOR UNITED STATES ASSISTANCE TO ISRAEL, FISCAL YEARS 1949–73

[Millions of dollars]

	Fiscal year—										Total fiscal years 1964–73	Total fiscal years 1949–73
	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973		
Grants:												
Supporting assistance									50.0	50.0	100.0	100.0
Immigrant assistance									2.0	49.0	51.0	51.0
American schools and hospitals				[1] 1.0	6.0		12.5	2.5	5.6	4.4	32.0	32.0
Public Law 480 title II	0.4	0.5	0.9	.6	.5	0.6	.4	.3	.4	.3	4.9	61.4
Other (1948–62)												278.0
Loans:												
Public Law 480 title I	16.6	28.3	25.9		51.3	36.1	41.0	55.5	53.8	[2] 47.6	356.1	561.5
EXIM bank long term		3.4		9.6		38.6	10.0	31.0	21.1	21.3	135.0	371.6
Aid housing guarantee									[3] 50.0			
Foreign military sales credit		12.9	90.0	7.0	25.0	85.0	30.0	545.0	300.0	300.0	1,394.9	1,422.3
Other loans	20.0	20.0	10.0	5.5							55.5	234.3
Total assistance	37.0	65.1	126.8	23.7	82.8	160.3	93.9	634.3	432.9	[2] 472.6	2,129.4	3,112.1
Grants	(.4)	(.5)	(.9)	(1.6)	(6.5)	(.6)	(12.9)	(2.8)	(58.0)	(103.7)	(187.9)	(522.4)
Loans	(36.6)	(64.6)	(125.9)	(22.1)	(76.3)	(159.7)	(81.0)	(631.5)	(374.9)	[2] (368.9)	(1,941.5)	(2,589.7)

[1] Equivalent in local currency.
[2] Preliminary.
[3] Not included in totals.

ESTIMATED FOREIGN ASSISTANCE, FISCAL YEAR 1973–74

[In thousands]

	Fiscal year 1973	Fiscal year 1974
I. Military assistance:		
1. Military assistance grants	$589,100	$642,000
2. Military assistance to South Vietnam and Laos	2,735,000	1,126,000
3. Military assistance to Israel		2,200,000
4. Additional assistance to Cambodia		200,000
5. Excess defense articles	185,000	150,000
6. Ship transfers	121,000	6,500
7. Real property transfers	721,091	244,553
8. Public Law 480 defense grants	157,900	162,080
9. Foreign military credit sales	400,000	325,000
10. Supporting assistance (outside Indochina)	155,300	125,000
Total, military assistance	5,064,391	5,181,133
II. Bilateral economic assistance:		
1. Indochina economic aid	444,700	504,000
2. AID development assistance-general	974,300	837,500
3. South Asian relief	101,100	
4. American schools and hospitals abroad	25,532	19,000
5. International organizations	127,472	155,022
6. Contingency Fund	23,998	30,000
7. Administrative expenses	61,579	50,100
8. Narcotics control program	20,500	42,500
9. Peace Corps	$80,560	$77,100
10. Public Law 480 assistance	1,260,100	1,146,800
Total, bilateral economic assistance	3,119,841	2,862,022
III. U.S. contributions to international financial institutions:		
1. International Development Association	320,000	320,000
2. Inter-American Development Bank	418,000	693,000
3. Asian Development Bank		100,000
Total, U.S. contributions to international financial institutions	738,000	1,113,000
IV. Miscellaneous:		
1. Migration and refugee programs	8,500	8,800
2. Assistance for Soviet refugees	50,000	36,500
3. Inter-American Foundation	3,473	13,285
4. Latin American Highway	20,000	30,000
Total, miscellaneous	81,973	88,585
Total, foreign assistance	9,004,205	9,244,740

SECURITY COUNCIL RESOLUTION 242

(November 27, 1967)

(Unanimously Adopted)

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East.

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security.

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter.

1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. *Affirms further* the necessity

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) For achieving a just settlement of the refugee problem;

(c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. *Requests* the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. *Requests* the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

RESOLUTION 338—1973

(Adopted by the Security Council at its 1747th meeting, on 21/22 October 1973)

The Security Council

1. *Calls upon* all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. *Calls upon* the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;

3. *Decides* that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

Mr. HUMPHREY. Mr. President, I shall make a brief comment. The amendment was brought up in committee. It was tabled in committee primarily on the basis of the argument I made at that time; namely, that it was the judgment of the majority of the committee that the bill before us should be passed as is and should go to the President. The thought in mind was not to seek to encourage combat or war, but rather to give assurance to the people of Israel that they do have a friend, as we ask them to make concessions, which they will have to make under Resolutions 242 and 338 of the United Nations.

Let us remember, as the chairman himself has said, that Israel has supported both resolutions and, therefore, is committed to them already, just as the United States of America has supported the resolutions and the Soviet Union has supported the resolutions.

I think it is important to proceed quickly to get the bill through both Houses of Congress and then to the President's desk for his signature. As Secretary Kissinger opens the conference at Geneva, he will have the reaffirmation of Congress in support of his policies. It will support Secretary Kissinger's presentation of our views on the Middle East crisis as they come before the conference.

Mr. President, I ask unanimous consent that the text of the Security Council Resolution 338 be printed at this point in the RECORD; and also that an article entitled "An Interpretation of Resolution 242," written by our former Ambassador to the United Nations, Arthur J.

Goldberg, which was published in the Washington Star-News of December 9, 1973, be printed in the RECORD.

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

SECURITY COUNCIL RESOLUTION 338 [1]

The Security Council

1. Calls upon all parties to the present fighting to cease all firing and terminate all military activity immediately, no later than 12 hours after the moment of the adoption of this decision, in the positions they now occupy;

2. Calls upon the parties concerned to start immediately after the cease-fire the implementation of Security Council resolution 242 (1967) in all of its parts;

3. Decides that, immediately and concurrently with the cease-fire, negotiations start between the parties concerned under appropriate auspices aimed at establishing a just and durable peace in the Middle East.

WITHDRAWAL NEED NOT BE TOTAL—AN INTERPRETATION OF RESOLUTION 242

(By Arthur J. Goldberg)

Peace in the Middle East is not at hand, but it may be achievable if a common will to peace is shared by the parties and if the superpowers, acting as "honest brokers," do not over-play their hands.

Perhaps a good way to start is to recall the rationale that guided the United States and many other governments at the United Nations, during the long period of debate and negotiations following the Six-Day War and culminating in the unanimous adoption of the critically important Resolution 242 by the Security Council on Nov. 22, 1967. This principle was often stated by me in these words: "To return in the situation as it was on June 5, 1967, is not a prescription for peace, but for renewed hostilities."

I believe that this principle was sound then. I believe it is sound now.

I think it is appropriate to recall also what the United States, immediately after the June war, said, at the highest level, about the nature of a peace settlement in the Middle East:

"But who will make this peace where all others have failed for 20 years or more? Clearly the parties to the conflict must be the parties to the peace . . . It is hard to see how it is possible for nations to live together in peace if they cannot learn to reason together . . . The nations of the region have had only fragile and violated truce lines for 20 years. What they now need are recognized boundaries and other arrangements that will give them security against terror, destruction and war."

Again, I believe that this insight was right then. I believe it is right now, though others can and should assist in the efforts to achieve settlement.

United Nations resolutions, particularly in recent times, are more honored in the breach than in the observance. Notwithstanding, there are several reasons why Resolution 242 may prove to be the framework for the settlement of the Middle East impasse.

The resolution has been "accepted" by the principal contending parties, although their respective interpretations of the Resolution widely differ. It is the only substantive resolution (excluding calls for a ceasefire) relating to the Middle East accepted both by the parties and the Security Council since the Six-Day War and virtually even before. And, despite recurring threats by both sides to repudiate Resolution 242, their acceptances have never been withdrawn. Notwithstanding pejorative expressions and resolutions in recent times by the General Assembly and other organs generally critical of Israel, and a resolution proposed to the Security Council but vetoed by the United States, seeking to re-interpret Resolution 242, the resolution continues to command the support of the great powers, the United States and the Soviet Union.

If I am correct in my postulate that the forthcoming peace negotiations will be based on Resolution 242, as Secretary of State Kissinger said last week and as this fall's U.N. Resolution 338 contemplates, it becomes important to examine both the test and the legislative history of this Resolution.

Resolution 242 is a carefully—some would say artfully—drafted set of guidelines designed to promote agreement and to assist the parties to achieve a peaceful and accepted settlement. The stated goal is the establishment of a just and lasting peace in which every state in the area can live in security.

The resolution expressly and by implication repudiates the concept of an imposed peace and opts for "agreement" and "accepted settlement" by and between the parties. Thus, the experience of the 1957 imposed settlement, following the 1956 war, is not to be repeated.

Resolution 242, in most explicit terms, rejects the long-asserted claim of the Arab countries of the existence of a state of belligerency against Israel. The resolution recognizes that belligerency cannot coexist with peace.

The resolution calls for respect and acknowledgment of the sovereignty of every state in the area. Since Israel never denied the sovereignty of its neighboring countries, this language obviously requires these countries to acknowledge the sovereignty of Israel. The legislative history of 242, as reflected in the debates and votes in the Security Council and Special Session of the General Assembly held in 1967, shows that there was little support in the U.N. community at the time for the view that, after two decades, Israel's very existence could be denied by its Arab neighbors.

In dealing with the withdrawal of Israel's forces, the resolution does not explicitly require that Israel withdraw to the lines occupied by it on June 5, 1967, before the outbreak of the war. The Arab States urged such language; the Soviet Union proposed this to the Security Council in June of 1967, and Yugoslavia and some other nations to the Special Session of the General Assembly which followed the adjournment of the Security Council. But such withdrawal language did not receive the requisite support either in the Security Council or in the Assembly.

Indeed, Resolution 242 simply endorses the principle of "withdrawal of Israel's armed forces from territories occupied in the recent conflict," and interrelates this with the principle that every state in the area is entitled to live in peace within "secure and recognized boundaries." In light of Arab unwillingness to acknowledge Israel's right to sovereign existence, this language, though speaking in terms of all states, is designed primarily to assure Israel's right to secure boundaries recognized by its Arab neighbors.

The notable omissions in regard to withdrawal are the words the and all and the June 5, 1967 lines (according to the English language text, the version actually voted on by the Security Council). In other words, there is lacking a declaration requiring Israel to withdraw from the or all the territories occupied by it on and after June 5, 1967. Rather, the resolution speaks of withdrawal from occupied territories, without defining the extent of withdrawal. And the notable presence of the words "secure and recognized boundaries," by implication contemplates that the parties could make territorial adjustments in their peace settlement encompassing less than a complete withdrawal of Israeli forces from occupied territories.

The Arab Nations, to buttress their claim that the resolution calls for a complete Israeli withdrawal, say the Israeli interpretation of the resolution's withdrawal language is overly restrictive. They point to the language of the resolution emphasizing "the inadmissibility of the acquisition of territory by war." This language, the Arab states argue, in effect, calls for complete withdrawal of Israeli forces from all the territories occupied by them in the Six Day War. Further, the Arab states contend that the U.N. charter itself, in spirit, supports their contention that military conquest of territory is inadmissible.

It is passing strange that the concept of the inadmissibility of acquisition of territory by war is insisted and relied upon by the Arab states and the Soviet Union. The Arab states acquired territory as a consequence of the 1948 war, contrary to the U.N. Partition Resolution. The Israelis also acquired additional territory in the aftermath of this war, which they justify on the basis that they were willing to abide by the partition lines but were forced to war and acquired territory as a result of the attack upon them by the Arab states.

More surprising is the Soviet support of the principle of the inadmissibility of the acquisition of territory by war. The Soviet Union holds territory in its firm grasp acquired in recent times by war from Finland, Poland, Romania, Japan and other states. Even our own country, some time ago, acquired territory by war from Mexico and Spain, and numerous other examples involving many nations could be cited.

The resolution speaks of "respect and acknowledgement of . . . the territorial integrity of every state in the area." This, too, is much relied upon in support of the demand for complete withdrawal of Israeli forces from all of the Arab territories. It is rather ironic, that, for many years, it was the Israelis who sought respect for their territorial integrity which was denied them by the Arab States.

But the territorial language of the resolution is qualified by other language declaring the right of all states "to live within secure and recognized boundaries free from threats and acts of force." The secure and recognized boundaries language, the legislative history shows, represents a major concession to Israel which, as I have pointed out, found the armistice lines often violated and insecure.

The logic coupling the territorial and secure boundaries concepts is that both territorial integrity and secure and recognized boundaries are to be reconciled in the give and take of negotiations between Israel and the Arab States culminating in peace agreements.

The most that can be said of the withdrawal and related language of Resolution 242, in light of its legislative history, is that it neither commands nor prohibits territorial adjustments in the peace agreements contemplated by the resolution, although it "tilts" in favor of adjustments to ensure secure boundaries for Israel. This is not to say that the resolution contemplates a complete redrawing of the map of the Middle East. Further, the withdrawal language of the resolution would seem to indicate that its patent ambiguities, and the differing interpretations of the parties, can only be resolved by an accepted and agreed upon settlement concluded after negotiations between the parties.

On certain aspects, the resolution is less ambiguous than its withdrawal language. Resolution 242 specifically deals with free passage through international waterways. In precise language it affirms "the necessity for guaranteeing freedom of navigation

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[1] Adopted on Oct. 22 at 12:50 a.m. by a vote of 14 to 0 (China did not participate in the voting).

through international waterways in the area." This language demonstrates the lack of sympathy of the powers, big and small, against interference with free passage in international waterways. With an end of belligerency, no good reason should exist under international law for denial to Israel of access to the Suez Canal and, particularly, to the Straits of Tiran—the closing of which by President Nasser of Egypt was universally recognized and forewarned by Israel to be a causus bellum. The resolution similarly would preclude a blockage of Bab el Mandeb. The Israelis have made it crystal clear that, whatever the pressures, they will continue to insist upon direct contractual assurances on these points from Egypt.

The resolution by its very words, the action of the Security Council and the legislative history also recognizes that Israel, the Arab States and the world community jointly share responsibility to afford better justice to the refugees—the casualties of the 1948, 1956 and 1967 wars. The resolution does not reiterate the language of prior U.N. resolutions calling for total repatriation or optional compensation for these refugees, a concept long resisted by Israel. Rather, it implicitly recognizes that all must participate in solving this problem—Israel by a more generous policy of repatriation and compensation, the Arab states by ceasing to utilize refugees as political pawns, and their camps as breeding grounds for hate and despair, and the world community both by more generous financial assistance and liberal immigration policies.

The resolution refers to the utility of the establishment of demilitarized zones in assuring peace and guaranteeing territorial inviolability. The location of the demilitarized zones is left, obviously, to the parties to negotiate.

A notable and purposeful omission in the resolution is any specific reference to the status of Jerusalem and its failure to reaffirm past U.N. resolutions for the internationalization of the city. Resolution 242 thus realistically recognizes the desuetude of the internationalization resolutions. It further reflects the belief, at that time, on the part of a considerable number of U.N. members that King Hussein, having rejected Israel's offer not to engage in war and having been ousted from East Jerusalem by force of arms, cannot now hope to partition Jerusalem again, but, at best, might in a peace agreement negotiate with the Israelis for some special status for Jordan with regard to Moslem holy places—a status compatible with the unity of Jerusalem under Israeli sovereignty and administration. However, resolution of status of Jerusalem is complicated by the strong position of Saudi Arabia and by the oil embargo.

There is further light on the ambiguities and meaning of Resolution 242 in its legislative history.

The cease-fire resolutions which were adopted during and following the Six-Day War differed dramatically from previous resolutions of the council in the Israeli-Arab wars of the preceding 19 years. In the earlier resolutions, the call for a cease-fire was usually accompanied by a demand for a withdrawal of troops to the positions held before the conflict erupted. In June of 1967, however, no withdrawal provisions were incorporated as part of the cease-fire resolutions. This was not by accident but rather as a result of the reaction by a majority of the Security Council to what had occurred.

As the debates revealed, the requisite majority of the council was unwilling to vote forthwith withdrawal of Israeli forces because of their conviction that to return to the prior armistice regime would not serve the goal of a just and lasting peace between the parties. Proof that this was so is provided by the action of the Security Council with respect to a resolution pressed at the time by the Soviet Union. The Soviet delegate offered a specific resolution not only reaffirming the council's call for a cease-fire, but, additionally, condemning Israel as the aggressor and demanding a withdrawal of its forces to the positions held on June 5, 1967, before the conflict erupted. But this resolution of the Soviet Union, although put to a vote, did not command the support of the requisite nine members of the Security Council.

Israel was not condemned as an aggressor because of the conviction of a majority of the Security Council, shared by world opinion, that President Nasser's actions, particularly the eviction of the U.N. peacekeeping forces, the substantial movement of his troops into the Sinai, and the blockade of shopping in the Straits of Tiran, were the causes of the war, regardless of who fired the first shot.

But even more fundamentally, the debates in the council made it clear that a majority of members felt strongly that something more was needed to assure peace than the fragile armistice agreements that had prevailed for the previous 19 years and had frequently been breached.

In short, the unwillingness to support the Soviet resolution for a withdrawal of Israeli forces to the positions they held before June 5, 1967, was based upon the conviction of this substantial number of the Security Council members that, whatever the extent of withdrawal of Israeli troops, it should this time be in the context of accepted and agreed upon peace settlements, ensuring secure and recognized boundaries for Israel.

Why did the Arab States accept Resolution 242, and why do they still profess acceptance of it? Why did Israel accept, and why does it still adhere to its acceptance?

Having been rebuffed both in the Security Council and in the Assembly, the Arab States belatedly came to the conclusion that the language of Resolution 242 was the best they could hope for from the U.N. They obviously counted on the resolution's ambiguities to permit them to assert their own interpretation of the resolution. They also heavily relied upon major Soviet support both diplomatically and militarily. Further, they conceived that the passage of time would erode the support of the United States and like-minded states for Israel.

To a certain extent, Arab calculations have been realized. World opinion overwhelmingly supportive of Israel as the "underdog" at the time of the war has, in some degree, shifted to a measure of sympathy for the defeated and now "underdog" Arab States. Some countries have watered down their prior support of the resolution's principles—witness the recent resolution proposed to the Security Council and vetoed by the United States which sought to re-interpret Resolution 242, although purporting to adhere to it. Witness also the abject attitudes of many nations to the Arab oil "blackmail."

But I trust that the United States has not departed from its support of 242, as interpreted by the United States at the time of its adoption. It should still remain the position of the United States that the way to peace in the Middle East is a negotiated peace agreement by and between the parties, based on the real meaning of Resolution 242, rather than the restoration of the prior and often breached Armistice Agreements through embodiment in a peace agreement.

The Israeli's accepted Resolution 242, interestingly enough, for some of the same reasons as their Arab antagonists. It was the best Israel could hope to get from the U.N. under the given circumstances. They were rightly fearful that their diplomatic support would erode if Israel proved to be intransigent. Like the Arab States, the Israelis concluded that the resolution's ambiguities permitted them to assert their own interpretation of the resolution. The Israelis also were unwilling to unduly provoke the Soviets, fearing greater involvement by them in the area—a fear justified by recent events. Most important, Israel, rightly or wrongly, recognized the danger of alienating the United States government and American public opinion by an overly-inflexible position in light of Israel's need for military hardware and economic assistance which has been forthcoming.

Despite the passage of time since the adoption of Resolution 242 and the recent war and, perhaps, because of these events, I adhere to the view that the resolution does provide the basis to achieve a peaceful and accepted settlement between the parties provided they will come to share the will and courage to achieve a just and lasting peace, which is the goal of the resolution. Perhaps my "optimism" is based on the fact that the resolution gives something to both sides.

I do not, however, wish to minimize the difficulties in achieving a peace agreement. Only strong and secure leaders, buttressed by popular support, can consummate a peace settlement; for peace, if it is to be lasting, necessarily involves compromise and political risks. It is an historical truth that the making of peace often calls for greater courage than the making of war.

UNITED NATIONS SECURITY COUNCIL RESOLUTION 242—1967

(Adopted by the Security Council at its 1382d Meeting, on November 22, 1967)

The Security Council,

Expressing its continuing concern with the grave situation in the Middle East,

Emphasizing the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security,

Emphasizing further that all Member States in their acceptance of the Charter of the United Nations have undertaken a commitment to act in accordance with Article 2 of the Charter,

1. Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. Affirms further the necessity

(a) For guaranteeing freedom of navigation through international waterways in the area;

(b) For achieving a just settlement of the refugee problem;

(c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

3. Requests the Secretary-General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

4. Requests the Secretary-General to report to the Security Council on the progress of the efforts of the Special Representative as soon as possible.

Mr. HUMPHREY. Mr. President, unless there is further debate, it is my in-

tention to move to table the amendment of the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I shall make only an observation on the article written by former Ambassador Goldberg. I have great admiration for Ambassador Goldberg as a man, as a jurist, and as an Ambassador. But I think his interpretation of the resolution demonstrates his extremely great talent for semantics and juggling of words.

And I think that anyone reading Resolution 242—any ordinary layman reading it—would understand it better than former Justice Goldberg, a distinguished lawyer, who seems overly concerned with all the nuances such as whether the French translation or the English translation should be read.

As I understand it, in the French translation the word "the" is used before the word "territories." In the English translation the "the" does not appear. A great argument has arisen over the use of "the" before the word "territory."

I submit that any ordinary layman with commonsense, reading that resolution, would understand that it means a substantial withdrawal from the occupied territory, which is what was intended. Justice Goldberg's interpretation makes a nullity of the whole resolution.

I cite one historical justification: the official pronouncement by the former Secretary of State, speaking as the Secretary of State in the Nixon administration, that it meant a "substantial" withdrawal from all the territory. That was a pretty good description of what I think it means. It certainly was intended to be practically all the territory that was taken.

I make no criticism whatever of Mr. Goldberg, because I have the greatest respect for him as a man, as a jurist, and as an Ambassador, but I think he has been led far afield by his dealing with the semantics of the two translations.

Mr. HUMPHREY. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. FULBRIGHT. Mr. President, the yeas and nays have been ordered.

The PRESIDING OFFICER. They have not been ordered on this motion.

Mr. FULBRIGHT. 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 to lay on the table the amendment of the Senator from Arkansas. 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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from New Mexico (Mr. DOMENICI) is detained on official business.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 62, nays 12, as follows:

[No. 607 Leg.]

YEAS—62

Allen	Gurney	Muskie
Baker	Hart	Nelson
Bartlett	Hartke	Nunn
Bayh	Haskell	Packwood
Beall	Hruska	Pastore
Bentsen	Huddleston	Pell
Bible	Hughes	Proxmire
Biden	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Ribicoff
	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Clark	Long	Stennis
Cook	McClellan	Stevens
Cranston	McGovern	Stevenson
Dole	McIntyre	Symington
Dominick	Magnuson	Thurmond
Eagleton	Mathias	Tunney
Fannin	Mondale	Williams
Griffin	Montoya	Young

NAYS—12

Abourezk	Hansen	Metcalf
Burdick	Hatfield	Scott, William L.
Curtis	Hathaway	
Fulbright	Helms	
Goldwater	Mansfield	

NOT VOTING—26

Aiken	Domenici	Pearson
Bellmon	Eastland	Percy
Bennett	Ervin	Roth
Brock	Fong	Saxbe
Brooke	Gravel	Taft
Buckley	Hollings	Talmadge
Cannon	McClure	Tower
Church	McGee	Weicker
Cotton	Moss	

So the motion to table was agreed to.

Mr. JAVITS. 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. CASE. 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. CASE. Mr. President, I ask unanimous consent that during the further consideration of this measure, amendments, and votes thereon, my assistant, Stephen Bryen, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. JAVITS. Mr. President, I make the same request in behalf of Peter Lakeland, my assistant.

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

What is the pleasure of the Senate?

AMENDMENT NO. 931

Mr. FULBRIGHT. Mr. President, I call up my amendment No. 931, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

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.

Mr. FULBRIGHT. Mr. President, as my colleagues can see, this amendment is a very simple one. It merely says that the act of giving aid to Israel shall not be construed as a commitment by the United States for its defense.

In the early period of the Vietnam war, the then Secretary of State, Dean Rusk, used to cite the fact that Congress had each year approved a foreign aid bill containing money for South Vietnam as one of the elements constituting what was called a "commitment" to defend that country.

The view that we somehow became committed to go to war to defend another country by giving foreign aid startled me. The Senate repudiated that thesis, by a vote of 70 to 16, when it adopted the National Commitments Resolution, the text of which I ask unanimous consent to have printed in the RECORD at this point.

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

10. NATIONAL COMMITMENT—SENATE RESOLUTION 85, AGREED TO JUNE 25, 1969

RESOLUTION

Whereas accurate definition of the term "national commitment" in recent years has become obscured; Now, therefore, be it

Resolved, That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

Mr. FULBRIGHT. This amendment only makes a matter of law, in connection with this particular bill, a general principle which the Senate has supported overwhelmingly in the past. The text of the amendment is identical, ex-

cept for countries, to the one now on the statute books relative to Cambodia.

That amendment was originated by the Senator from New York. I see no reason why a different principle should apply to Israel, and I urge the Senate to adopt this amendment.

Mr. HUMPHREY. Mr. President, let me take just a brief moment to respond.

The chairman has indicated that we did pass in the Senate, on June 25, 1969, S. Res. 85, known as the National Commitment Resolution. I simply point out that the bill before us makes no commitment; it does not define any commitment; it does not state any commitment; and the resolution that we have already adopted in 1969 makes it very clear, insofar as the Senate is concerned, what a national commitment would be, by definition.

Therefore, as I move to table this amendment, it is not an objection to its text or its purpose, but rather because it is superfluous and because additional amendments to this bill would result in its delay. I think it is important that it be passed and signed by the President immediately.

Mr. JAVITS. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HUMPHREY. I yield.

Mr. JAVITS. Mr. President, I wish to emphasize the great respect which we have for our chairman's thinking, even though, as is well known, I differ with him 180 degrees on this issue.

I deeply believe, Mr. President, that he has made his case, and a very important case, that this is not the way in which to bring about the best expectation of a successful conclusion at Geneva. But I interpret the vote in our committee, which was 15 to 2 to report this bill without amendment, as a determination by me and I think most of the other Senators whom I have talked with—they can speak for themselves—that it is a necessary element if we are to have any real hope in Geneva.

Now, none of us is God. We may be wrong, and Senator FULBRIGHT may be right. But in carrying out the policy which we believe is the necessary policy, without in any way casting discredit on any amendment, which I do not wish to do, either—as the Senator says, it is an amendment which I myself interposed successfully in respect of the Vietnam war—the only procedure we have which will get this matter effected is the tabling procedure, and I think it is very important that Senators understand the basic reason why we have really no other course, having decided the fundamental question, as raised by Senator FULBRIGHT himself, differently from the way he does.

One last point, Mr. President: It is very clear that Senator FULBRIGHT, honoring his own statement to the Senate, seeking as he properly must as the chairman, the proper respect for his committee, when an appropriation preceded an authorization, with everyone's support he had written into the appropriation bill that it was subject to authorizing legislation.

That is fine, and we all agreed. But now, the dignity having been preserved, we had all better recognize that if our decision is to be effective, it has to be effective within the next 2 days.

So I think it is a tribute to all Senators, as well as Senator Fulbright and Senator Mansfield, both of whom are on the other side of this particular issue, that recognizing that fact, Senator Fulbright has undertaken to present the case with his usual eloquence, and then to allow the Senate to express its will rather quickly, as the situation demands.

I think that ought to be said, Mr. President. We all live together for a long time, and I, for one, would like to make it clear that I understand it fully, and that it is deeply gratifying in terms of being a U.S. Senator that men can proceed with differences, and yet agree, with a high-minded understanding, that there comes a time when they really should be resolved.

I thank my colleague for yielding.

Mr. HUMPHREY. Mr. President, I would just like the record to note that H.R. 11088, the bill before us, does not make a commitment of the United States of America to the defense of Israel.

Second, Israel herself has not asked the United States for a commitment in her defense. Israel has never asked for manpower from the United States. What she has asked for in the past was credits, and she has received them.

In this bill, if the bill is passed, she will have the opportunity for both credits and grants. But in the light of the notice adopted by the Senate known as the National Commitments Resolution back in 1969, and in the light of what both the Senator from New York (Mr. JAVITS) and myself have said, I think it is very clear that we are not committing the United States to any military action. We are not committing the United States in terms of a treaty. As a matter of fact, the Senator from Arkansas is the one who has suggested the possibility of a treaty.

So I would only say that while I find great merit in the language of the amendment, I believe it would be untimely. I think it would complicate the consummation of this legislation, and therefore I oppose it.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. HUMPHREY. I yield.

Mr. FULBRIGHT. With regard to the treaty, the Senator knows very well that I have spoken of a treaty only as a measure resulting from, and subsequent to, the successful negotiation of a settlement, and in pursuance of such a settlement and a guarantee by the Security Council of the United Nations.

Mr. HUMPHREY. Yes, I understand that, and I am pleased that again the Senator has noted his thinking on it.

Mr. FULBRIGHT. I ask the Senator from New York, who was the sponsor of the one on Cambodia, which was subsequent to that 1969 law, if this one is superfluous now, why was it not superfluous at that time? I supported it then, as did the Senator from New York, and I think the Senator from Minnesota supported it. I ask them, Why is it superfluous now and not then?

Mr. HUMPHREY. For the very simple reason that we had the Southeast Asia Treaty Organization, which gives us greater commitments in that area.

Mr. FULBRIGHT. Not to Cambodia.

Mr. HUMPHREY. No, but in that area of the world. Let me say also that we had military operations in that area. We had been involved militarily. And let me say again that I see no reason to complicate the legislative language. Israel had asked for no commitment; we are making no commitment. What we are doing is authorizing an appropriation of $2.2 billion, which has already been acted on by the Appropriations Committee.

Mr. FULBRIGHT. The Senator from New York said that in order for this to be effective this has to be passed now. This bill does not die with our recess or adjournment of this session of Congress, will it? It will still be on the calendar and still subject to action after we come back next year?

Mr. HUMPHREY. The Senator from Arkansas is absolutely right, as he said so fairly earlier today. It is because of the interpretation, the question of whether we think it will be helpful or not helpful at the negotiations in Geneva. I happen to believe that passage will be helpful.

Mr. President, I move to table the amendment of the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President——

The PRESIDING OFFICER (Mr. NUNN). The motion is not debatable.

Mr. ROBERT C. BYRD. Mr. President, the Senator wants to make a unanimous-consent request.

Mr. HUMPHREY. Mr. President, I should like to propose a unanimous-consent request that the Senator from Arkansas be permitted to offer his other amendment and that we have a back-to-back rollcall vote on the two amendments.

Mr. FULBRIGHT. I wish to have about 5 minutes to make a short statement.

Mr. HUMPHREY. The Senator can make his full statement, and that will accommodate Senators so that when they come over we can have separate votes on the two amendments.

Mr. CASE. Mr. President, reserving the right to object, is there a time limitation on the amendment?

Mr. HUMPHREY. There is no limitation of time.

Mr. CASE. So that 20 minutes each would be the time for the rollcall votes?

Mr. HUMPHREY. 15 minutes.

Mr. CASE. 15 minutes. I want to be sure. I think it should stay at 15 minutes.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senator from Arkansas may be permitted to offer his third amendment, and at the conclusion of his presentation I will then move to table that amendment and we will have back-to-back rollcall votes on the two amendments.

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

The clerk will call the roll——

Mr. FULBRIGHT. Mr. President, it is my understanding the Senator wishes me to offer this amendment now and

make my statement for the record and then, after I have completed this, we will have two rollcall votes—separate votes—on amendment 3 and amendment 2, is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 932

Mr. FULBRIGHT. Mr. President, I call up my amendment No. 932 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

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.

Mr. FULBRIGHT. Mr. President, this amendment is designed to help insure that our domestic needs are given priority when it comes to spending the taxpayers' money. It would require the release of impounded funds that were appropriated for programs of four Departments—Agriculture, Health, Education, and Welfare, Housing and Urban Development, and Transportation—before any additional aid can be provided to Israel under this bill after January 31, 1974. According to Office of Management and Budget statistics, $5.5 billion in appropriations for these four departments were impounded as of September 30, 1973.

The amendment is substantially the same as one approved by Congress and enacted into law in the 1971 Foreign Assistance Act. A similar, but broader provision was approved by the Foreign Relations Committee in S. 837 earlier this session. That bill, however, never became law because a continuing resolution was passed to fund the foreign aid program for the remainder of fiscal year 1973.

The point I wish to make is that Congress has endorsed this principle embodied in this amendment in the past—and probably would have done so again this year had the normal legislative process been completed on S. 837.

I ask unanimous consent to have printed in the RECORD following my remarks excerpts from the Foreign Relations Committee's report on that bill, several current articles and editorials concerning the impoundment problem, and pertinent tables.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, this bill comes before the Senate shortly after the administration has impounded $550 million appropriated by Congress for grants for water and sewer systems. We are being asked to approve $2.2 billion for foreign military assistance, yet the administration refuses to spend a much smaller amount—less than one-fourth as much—already appropriated by Congress for programs vital to the development of our towns and cities.

Should this request be approved, the Government will be spending more than $9.2 billion in this fiscal year for various foreign assistance programs. I find it difficult to understand how the President can justify, and the American people can tolerate, continued expenditures of this scope for foreign aid, while funds for important domestic programs are withheld and cut back.

The total of $9.2 billion for foreign assistance is, for example, $3 billion more than the $6.2 billion appropriated in the recent Labor-HEW appropriations bill for all our federally supported and assisted education programs—and the administration opposed allocating even that much for education.

As for the water and sewer systems, the amount appropriated—and then impounded—is miniscule in comparison with our foreign expenditures. Impoundment of funds for water and sewer systems is, of course, nothing new under this administration, which has consistently refused to allocate funds appropriated for this purpose. Impoundment is, in my view, clearly contrary to the intent of the Constitution and in this case violates a specific congressional directive.

Previously the President, in impounding water-sewer funds, has claimed that money for the same purposes could be obtained elsewhere, specifically through the Environmental Protection Agency. However, the administration earlier impounded $6 billion in EPA appropriations made by Congress in overriding President Nixon's veto.

The Farmers Home Administration water and sewer grants and loans are essential for the development of our small communities. We can ease the burden on our larger cities by making the smaller communities attractive and viable places to live. Yet these communities are unable to obtain the relatively small amounts needed to develop the basic infrastructure of water and sewer facilities. In nearly every case these communities have raised funds locally and have sought supplementary Federal loans and grants, only to find them unavailable.

The administration has not only impounded the entire $150 million allocated for the FHA water-sewer program. Reports indicate that the $400 million appropriated for the urban counterpart, administered by the Department of Housing and Urban Development, is also being impounded. Altogether there are at least 139 Arkansas municipalities which cannot offer basic water and sewer community services at the current time. All these communities are in need of grant funds. I am certain that similar statistics could be cited from other States.

When our Government is failing to meet these basic needs of our people, I find it extremely difficult to understand how we can afford to undertake foreign expenditures, such as the $9.2 billion for various foreign assistance categories. I believe our true interests and security are best served by attending to the many critical needs which we face in this country.

Passage of this amendment will tell the American people that the Senate is as concerned about our domestic needs as it is about the highly questionable needs for enormous military assistance to Israel. Enactment of this amendment will show that, although we are involved with the problems of Israel, we put the promotion of the welfare of our own people first.

There is also a fundamental constitutional issue involved here. If the Congress' power of the purse is infrinegd by unrestricted Presidential impoundment of appropriated funds, Members of Congress power of the purse is infringed by go home. This is the only real power that Congress has left and it must be guarded and protected. This amendment is designed to help in that effort.

Although the morning press reported that the President has agreed to release $1 billion in impounded funds for Health, Education and Welfare programs, it was made clear by administration spokesmen that this does not mean that funds appropriated for programs of other departments will be released. Approval of my amendment will insure that funds for the Departments of Agriculture, HEW and HUD are released and used in the way Congress intended.

EXHIBIT 1

SECTION 11. LIMITATION ON USE OF FOREIGN AID FUNDS

This amendment, sponsored by Senator Fulbright, requires release of impounded funds totalling $4.9 billion (according to the Office of Management and Budget) appropriated for programs under the authority of the Departments of Agriculture, Transportation, Health, Education, and Welfare and Housing and Urban Development. The amendment is a revision of section 658 of the Foreign Assistance Act of 1971. As revised, this section includes the following provisions:

It requires a cut-off of funds appropriated pursuant to the Foreign Assistance Act and the Foreign Military Sales Act if by April 30, 1973, the President has not released all funds appropriated during fiscal years 1972 and 1973 for the Departments of Agriculture,

Transportation, Housing and Urban Development, and Health, Education, and Welfare.

It requires a similar cut-off of aid and military credit sales funds if future appropriations for these departments are impounded for more than 60 days.

It defines the term "impounded funds" to include any action which effectively prevents the creation of obligations or expenditures of appropriated funds, or of authorizations to create obligations in advance of appropriations, for any period of time irrespective of whether such action is taken by the Office of Management and Budget or the agency head.

It requires that aid and military credit sale funds be spent on an orderly basis so as to insure that the prohibitions in the amendment are not nullified either by "reimpoundment" or by a speed up in the obligation of aid funds.

It provides for the withholding of funds in accordance with specific legal requirements as may be contained in the authorizing legislation for the departments affected or as is provided in the Anti-Deficiency Act. The Committee recognizes that this Act authorizes reserves in the apportionment process. The Committee wants to emphasize, however, that such reserves are authorized under the Anti-Deficiency Act only (1) for contingencies; and (2) to effect savings whenever savings are made possible by or through (*a*) changes in requirements, (*b*) greater efficiency of operations, or (*c*) other developments subsequent to the date on which such appropriation was made available. This latter provision refers to unforeseen developments subsequent to the enactment of appropriations which reduces funds required to carry out the program and does not include various other reserves sometimes referred to as being for "routine financial administration." The Committee will look to the General Accounting Office to pursue this interpretation and to ensure compliance with it.

Finally, this provision calls upon the Comptroller General to review the accuracy of the certification made by the heads of the departments with respect to the impoundment of funds of their departments and to issue quarterly reports on his findings beginning with the first quarter in fiscal year 1974.

When the Committee considered Senator Fulbright's amendment, he reported on a letter which he had received from the Comptroller General asking that certain modifications be made in the original text. The Committee accepted these modifications. The text of the Comptroller General's letter, with enclosure, follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., February 22, 1973.

B–135564.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: On February 8, 1973, you offered your amendment No. 7 to the administration's foreign aid authorization bill which would amend section 658 of the Foreign Assistance Act of 1971. In explaining the amendment you said that it will bring an end to the expenditure of foreign aid funds if the President insists upon impounding funds for high-priority domestic programs. Amendment No. 7 together with explanatory remarks appears on pages S2431–S2433 of the Congressional Record of February 8, 1973.

We are primarily concerned about the proposed subsection 658(c) which contains no exceptions for reservations of funds made strictly within the authority of subsection (c)(2) of the Antideficiency Act, 31 U.S.C. 665(c)(2) and subsection 658(e) which would provide substantial additional duties for the Comptroller General.

In my testimony of January 30, 1973, on Senator Ervin's Impoundment Control bill, S. 373, 93d Congress, I stated that we are not aware of any objections to impoundments falling squarely within the literal language of subsection (c)(2) of the Antideficiency Act, 31 U.S.C. 655(c)(2), or specifically authorized in other law. This testimony was given at a Joint Hearing held by the Subcommittee on Separation of Powers of the Senate Judiciary Committee and an ad hoc subcommittee of the Senate Committee on Government Operations. A copy of my prepared statement and the attachments are enclosed. It was suggested that consideration be given to amending S. 373 to provide that its provisions shall not apply to funds being withheld in accordance with this and other specific requirements of law. As you are aware, section 658 of the Foreign Assistance Act of 1971 presently exempts impoundments made in accordance with specific requirements of law and, as stated in my testimony on S. 373, I interpreted that provision as applying only to section (c)(2) of the Antideficiency Act. We suggest a revision of subsection 658(c) to reinstate that exemption to avoid the burden of reporting impoundments which involve only contingencies or savings in carrying out legislative programs and which are generally conceded to be not only of a noncontroversial nature but also desirable in achieving efficiency and economy.

As now written, subsection 658(e) would require that the Comptroller General determine if funds of the Departments of Agriculture, Transportation, Housing and Urban Development, and Health, Education, and Welfare have been impounded more than 60 days. The imposition of such a requirement on our Office would result in a workload that would severely tax our resources and even then we could never be assured that all of the impoundments had been found. The impoundments can be made by the head of a Department as well as by the Director of the Office of Management and Budget and documentary evidence thereof, if any, may be difficult to locate. We would therefore much prefer language which would require the head of each Department named to send us a report certifying the amounts impounded during each 60-day period which we would review for the purpose of making our quarterly reports to the Congress.

We also suggest that the parenthetical language "(including any authorization to create obligations in advance of appropriations)" which effectively includes contracting authority in the definition of appropriation and which is included in subsection (a) be inserted in subsection (b). This will avoid any implication that contract authority is included with respect to fiscal years 1972 and 1973 but not to fiscal year 1974 and subsequent fiscal years.

We have some reservations on one other aspect of subsections (a) and (b). Under those subsections, if the impounded funds are not timely released for obligation and expenditure, no further expenditure of foreign assistance and military sales funds may be made notwithstanding that payments may be due in liquidation of previously incurred valid obligations. We believe this prohibition against further obligations would accomplish your purpose and avoid some objections which may be raised against prohibiting expenditures in liquidation of valid obligations of the United States.

Language to carry out these suggestions is enclosed. I do not believe these suggestions will alter the purpose or impact of your amendment. At the same time I feel that they will: (1) clarify the meaning of appropriation, (2) avoid some needless reporting, and (3) afford a facility for keeping the Congress informed of impoundments in the four named departments. If we can be of further assistance concerning these suggestions or anything else involving your amendment or the impoundment issue we would, of course, be pleased to provide such assistance.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

[Enclosures.]

(1) Delete the words "or expended" from subsections (a) and the words "or expended" and "and expended" from subsection (b).

(2) Insert between lines 7 and 8 of subsection (b) parenthetical phrase "(including any authorization to create obligations in advance of appropriations)."

(3) Amend subsection (c) to read as follows:

"(c) The provisions of this section shall not apply with respect to funds impounded in accordance with any provision or law specifically authorizing the impoundment of funds of any such department, if the impoundment is made only with respect to and in accordance with such provision authorizing the impoundment as interpreted by the Comptroller General."

(4) Strike the first sentence of subsection (e) and insert in lieu thereof the following language:

"The head of each such department shall certify to the Comptroller General within 10 days after the expiration of each 60-day period in the fiscal year 1974 and any fiscal year thereafter (1) the amount of funds appropriated to such department which are impounded, (2) whether such funds have been impounded for more than 60 days, and (3) if, and when, such funds have been released in accordance with this section. The Comptroller General shall review these certifications and take such action as he deems necessary to verify their accuracy."

In its report on the initial impoundment provision adopted in 1971, the Committee offered the following explanation of its action:

The objective of this amendment is to give the American public some indication that the Committee is just as aware of our domestic needs as it is of the needs of other countries. The provisions of the section say to the taxpayers of this country, "You will be assured of getting the funds appropriated by Congress for domestic programs and projects before additional foreign aid funds can be obligated for similar programs and projects in Rio de Janeiro, Nairobi or New Delhi."

In addition to focusing attention on domestic vs. foreign needs in the context of the whole national priorities debate, this section of the bill also addresses the separation of powers issue and the Constitutional responsibilities of the Legislative and Executive Branches of our Government.

If the President is left free to impound funds appropriated by the Congress, this could result in an even greater imbalance between the two Branches than has developed in the field of foreign affairs. If the Congress's power of the purse is infringed or restricted in any way—such as through the impoundment of appropriated funds—Members of Congress might as well pack their bags and go home. This is the only real power the Congress has left and it must be guarded and protected, and kept whole and intact. The Committee believes that the requirements of this section are consistent with this goal.

A majority of the Members of the Committee believe this explanation is as valid today as it was then.

[From the Washington Post, Dec. 17, 1973]

IMPOUNDMENT: ONCE MORE INTO WONDERLAND

Despite a lengthening list of defeats in the lower federal courts, the Nixon administration seems determined to continue trying to impound, at will, money appropriated by Congress for programs the executive branch dislikes. The latest casualty reportedly is

most of the $550 million appropriated for rural and urban water and sewer grants. The administration, considering the programs redundant, first tried to "terminate" them by impounding the fiscal 1973 funds a year ago. Congress appropriated money for this year anyway, and now those funds are apparently being "non-spent." Some highway monies have also been held up.

The issue here is not whether the programs are good or bad, but whether the executive branch has the legal and constitutional authority to make such judgments unilaterally after Congress has provided the funds. With a remarkable degree of accord, federal judges across the country have now ruled in at least three dozen separate cases that impoundment exceeds the bounds of the administration's legal latitude. Most of the early decisions turned on the precise language of the laws involved, but recently judges have been more inclined to rest their rulings on general constitutional principles. For instance, Federal District Court Judge George Hart recently declared that if Congress insists funds should be spent, the executive branch has no choice but to comply. "It is the prerogative of Congress," Judge Hart said, "to spend money foolishly if it wants to, and the remedy is, I suppose, in the electorate."

The Nixon administration has magnified this problem of constitutional process but impounding billions in the most autocratic way. Last year, for instance, the administration claimed that housing subsidies and other urban programs had been "terminated" because they were "inequitable, wasteful and ineffective." But documents have just become public which show that the programs were frozen *before* the Department of Housing and Urban Development had undertaken in-depth analysis or indeed provided any written justifications for the freeze at all. It calls to mind the juridical approach of the Red Queen in "Alice in Wonderland": "Sentence first—verdict afterward."

With the impoundment of water and sewer grant funds, the administration is back in Wonderland. The Labor-HEW appropriations act may be something of a turning point. In order to produce a measure which Mr. Nixon would sign, the conferees agreed to authorize the President to impound up to $400 million, but specified that no program may be cut more than 5 per cent. If the administration abides by this—in other words, actually spends the rest of the $32.9 billion appropriated in that act—it would be a refreshing change, since the executive branch impounded over $1 billion from a smaller appropriation for fiscal 1973.

Meanwhile, Congress remains strangely reluctant to assert its own authority. Committees have not gone beyond spirited but non-binding language in reports. The general remedy, a stern anti-impoundment law, has been approved once by the Senate and, in different form, twice by the House, but the two bodies have shown little sense of urgency about reconciling their differences. Meanwhile, programs in many fields have been disrupted, and state and local governments and private groups are being forced to go to court at considerable expense to pry loose public funds which the Congress intended to provide.

[From the New York Times, Dec. 17, 1973]

POWER OF THE PURSE

Congress in its collective wisdom decided last year and again this year to appropriate funds for the construction of needed water and sewer systems in rural areas. The executive branch decided that the program was unnecessary and impounded the money.

Far from being "redundant"—to use the Administration's word—the program in dispute is distinct from the Government's existing program, which has to do with sewage treatment systems, not sewers themselves. But even if the Administration's explanation were sound, it would be no answer to the real question involved.

The question is this: Which branch of government is constitutionally charged with making laws and appropriating the necessary money and which branch is charged with executing those laws and spending that money? Even in this instance, where Congress has explicitly directed the expenditure within a fixed period, the Administration takes the view that its judgment must prevail.

Its action should quicken the pace of Congressional efforts to curb a growing usurpation of legislative function by the executive branch. Both houses have already passed bills giving Congress the power to override such impoundments and force the release of appropriated funds. Tacitly acknowledging that these attempts might be vetoed, the House of Representatives embodied an anti-impoundment section in a much-needed bill to enhance budgetary responsibility in Congress.

Combining these two purposes would not only make it harder for President Nixon to veto a curb on his own Administration's assumption of the power of the purse; it would increase the possibility of overriding such a veto if it did come. The Senate would do well to follow the lead of the House.

[From the Arkansas Gazette, Monday, Dec. 10, 1973]

THE MONEY BATTLE

The United States has spent no telling how many tens of millions of dollars in 1973 on its space exploration program, while the Nixon administration refuses to spend $550 million Congress has appropriated for development of water and sewer systems.

If there is juxtaposition here it is that the glamorous too often wins out over the mundane in the political decision making process, despite the rationale of higher stated purposes, in this case requirements of the economy.

What is really behind the impoundment of the water and sewer money, in any case, is pure stubbornness at the White House and in its Office of Management and Budget, which clings to the fiction that the American people are still willing to take the president's side over that of the Congress. The matter is rapidly becoming a battle of wills and a suddenly awakening legislative branch could have the upper hand if the leadership would snap out of its own slumber.

Of the $550 million impounded, $400 million was to have gone to urban programs and $150 million was to have been funneled into a rural program to promote home and industrial development. The rural part of the appropriation is a special favorite of some senior Southern Democrats, notably Representative Jamie Whitten of Mississippi, who's sore as can be about the Nixon impoundment. (It takes a mighty powerful issue to get Jamie off the old Nixon bandwagon.)

Congress has already dealt with the water and sewer funds issue once this year by passing a second appropriation to counter presidential impoundment. A second impoundment ensued.

The effect of the White House persistence is likely to be passage in the Senate of a new Budget Control Act that received House approval last week. The Act gives either house the power to force release of impounded funds, and of course it applies not just to the $550 million for sewer and water systems but funds for other worthy programs as well. The Senate should not hesitate in approving the House measure and neither chamber should then hesitate to apply the Act's provisions whenever its good judgment dictates.

ADMINISTRATION IMPOUNDS FUNDS FOR WATER AND SEWER SYSTEMS

(By William Robbins)

WASHINGTON, December 6.—The Nixon Administration has quietly impounded $550-million voted this year for development of water and sewer systems despite a directive from Congress to spend the money.

The action, which included withholding of funds for a popular rural development program, is considered likely to increase pressure behind a bill that would allow Congress to force release of money it appropriates.

The rural program provided $150-million to promote home and industrial development, and thus aid distressed communities, through grants for construction of water and sewer systems.

The program had been "terminated" early this year by a Presidential impoundment action but revived by Congress, which also adopted an accompanying conference report directing the Administration to spend the money.

Representative Jamie Whitten, Democrat of Mississippi, the powerful chairman of the House appropriations subcommittee, reacted today with a thinly veiled warning, although he said:

"I don't want to be in a position of threatening the Administration."

Under present conditions, Congress lacks the power to force the Administration to spend the money, Mr. Whitten noted, but he added, "Next year, you can make them wish they had spent the money."

He observed that Congress has the power of the purse, enabling it to control funds for both the White House and the Office of Management and Budget, but added quickly that "the country cannot afford" a stalemate between the White House and Congress.

The impoundment issue has been a focal point of controversy between President Nixon and Congress since the current session began. A total of about $12-billion in appropriated funds had been withheld by the Administration at one point, but some of that has since been released and court suits have compelled the spending of additional money for several programs.

Both houses have passed bills giving Congress the power to review and override Presidential impoundment decisions, but they have never gone to conference.

Those bills would be superseded by a new budget control act, passed by the House yesterday, which contains a section giving either chamber the power to force release of impounded funds. The Senate is expected to act on a similar bill early next year.

President Nixon is considered likely to veto the bill if it reaches his desk with the anti-impoundment provision intact, but the withholding of rural funds disclosed today is expected to reinforce support for any attempt to override.

The $150-million was the rural counterpart of a water and sewer program administered by the Department of Housing and Urban Development, for which $400-million had been voted in the same Congressional appropriations measure.

The withholding of funds for the grants does not affect a loan program for the same purpose, for which $470-million has been authorized and $110 million obligated this fiscal year, which ends next June 30.

Arthur C. Harmon, Jr., the deputy administrator of the Farmers Home Administration, which supervises the rural program, said today that his agency and higher officials in the Administration considered the water and sewer grants "redundant" because a similar program was administered by the Environmental Protection Agency.

Mr. Whitten had argued during appropriation hearings, however, that the only relevant E.P.A. program was that funded under the Water Pollution Control Act. That act, he said, provided mainly for sewage treatment systems and, under allocation systems set by the states, little money filtered down to rural areas.

A staff aide at the House agricultural appropriations subcommittee noted today that, although it was possible to fund sewage-collection systems under the pollution act, those were normally given a low priority by the states, and there was no provision for development of water systems.

An official at the Environmental Protection Agency said rural sewer systems were not considered to be a primary objective of its program. He said that it was impossible to determine how much money might have gone to rural areas thus far.

In another action involving impounded funds, six states filed suit today seeking release of $2.7-billion in highway construction funds for all 50 states.

The suit was filed in United States District Court here by Louisiana, Washington, Nevada, Oklahoma, Pennsylvania and Texas. It names as defendants Secretary of Transportation Claude S. Brinegar, the Federal Highway Administrator, Norbert T. Tiemann and Roy L. Ash, director of the Office of Management and Budget.

[From the Washington Post, Dec. 7, 1973]

WATER-SEWER FUNDS ARE IMPOUNDED

(By Bernard Brenner)

Apparently ignoring a blunt directive from Congress, the White House Office of Management and Budget has quietly impounded all of the $150 million voted by the lawmakers for rural water and sewer grants.

No public announcement was made. But officials at the Agriculture Department, in reply to a query, said they had been told the OMB would not release the appropriation.

The action may revive an administration-Congress controversy that began early this year when the White House, after holding spending on the water-sewer grants below appropriated levels in past years, suspended the program altogether.

In reply, congressional leaders inserted the $150 million fund in the Agriculture appropriation bill and wrote in language directing revival of the grants and a similar grant program operated by the Department of Housing and Urban Development.

Reports accompanying bills do not have the force of law. But since they are considered to express the will of Congress, they are usually heeded by administrative officials.

BUDGETARY RESERVES (IMPOUNDMENTS) REPORTED AS OF JUNE 30, 1973, AND SEPT. 30, 1973[1]

[In thousands]

Major agency and program	Budgetary reserves (impoundments) June 30, 1973	Budgetary reserves (impoundments) Sept. 30, 1973
Executive Office of the President	$2,077	
Funds appropriated to the President:		
Appalachian regional development programs	65,000	$40,000
Foreign assistance programs	60,652	55,652
Department of Agriculture:		
Rural environmental assistance	210,500	210,500
Rural electrification loans	456,103	456,103
Rural water and waste disposal grants	120,000	120,000
Rural housing insurance fund	133,000	133,000
Forest roads and trails	278,398	208,934
Other	118,174	44,700
Department of Commerce	139,594	63,251
Department of Defense—military:		
Shipbuilding and conversion	$1,336,184	$556,593
Military construction	260,480	264,254
Aircraft and missile procurement		317,329
Other	21,084	4,504
Department of Defense—civil	33,426	1,398
Department of Health, Education, and Welfare	20,530	22,726
Department of Housing and Urban Development:		
Open space land program	27,730	27,730
Grants for basic water and sewer facilities	400,175	400,175
Other	32,303	28,511
Department of Interior:		
Land and water conservation fund	269,590	61,422
National Park Service—construction	90,448	49,110
Bureau of Indian Affairs: road construction		20,000
Other	117,687	31,287
Department of Justice (prisons)	36,441	13,594
Department of State	5,511	
Department of Transportation:		
Federal airport and aviation programs	223,359	269,707
Federal aid highway programs	2,580,699	3,500,604
Grants to Amtrak		48,100
Other	81,095	19,747
Department of Treasury	21,519	21,517
Atomic Energy Commission	117,880	26,650
General Services Administration (mainly public buildings)	261,629	258,751
National Aeronautics and Space Administration	2,200	2,200
Veterans' Administration	44,195	43,358
District of Columbia, loans for capital outlay		72,277
National Science Foundation	62,400	3,500
Small Business Administration	50,234	31,094
Tennessee Valley Authority	22,318	
Other independent agencies	28,921	17,768
Total	7,731,536	7,446,046

[1] Reported by Office of Management and Budget pursuant to Federal Impoundment and Information Act, Public Law 92-599 as amended.

[2] Excludes $6,000,000,000 in water pollution contract authority enacted last session for fiscal 1974, available in 1973, withheld by agency action and deleted from budget authority totals for 1973 and 1974.

ESTIMATED FOREIGN ASSISTANCE, FISCAL YEARS 1973 AND 1974

[In thousands]

	Fiscal year— 1973	1974
I. Military assistance:		
1. Military assistance grants	$589,100	$642,000
2. Military assistance to South Vietnam and Laos	2,735,000	1,126,000
3. Military assistance to Israel		2,200,000
4. Additional assistance to Cambodia		200,000
5. Excess defense articles	185,000	150,000
6. Ship transfers	121,000	6,500
7. Real property transfers	721,091	244,553
8. Public Law 480 defense grants	157,900	162,080
9. Foreign military credit sales	400,000	325,000
10. Supporting assistance (outside Indochina)	155,300	125,000
Total	5,064,391	5,181,133
II. Bilateral economic assistance:		
1. Indochina economic aid	444,700	504,000
2. AID development assistance—general	974,300	837,500
3. South Asian relief	101,100	
4. American schools and hospitals abroad	25,532	19,000
5. International organizations	127,472	155,022
6. Contingency fund	23,998	30,000
7. Administrative expenses	61,579	50,100
8. Narcotics control program	$20,500	$42,500
9. Peace Corps	80,560	77,100
10. Public Law 480 assistance	1,260,100	1,146,800
Total	3,119,841	2,862,022
III. U.S. contributions to international financial institutions:		
1. International Development Association	320,000	320,000
2. Inter-American Devel. ment Bank	418,000	693,000
3. Asian Development Bank		100,000
Total	738,000	1,113,000
IV. Miscellaneous:		
1. Migration and refugee programs	8,500	8,800
2. Assistance for Soviet refugees	50,000	36,500
3. Inter-American Foundation	3,473	13,285
4. Latin American highway	20,000	30,000
Total	81,973	88,585
Total foreign assistance	9,004,205	9,244,740

Mr. HUMPHREY. Mr. President, I have been one in this body who has deplored the Presidential impoundment of appropriated funds. I have voted repeatedly for resolutions to overcome that exercise of executive power, which I consider to be unconstitutional.

Congress is going to take action on this matter. We have on our Calendar No. 584, House Resolution 7130, and the Senate bill, S. 1541. We will take that up on January 21 of the coming year. Those bills are related to establishing a procedure providing congressional control over impoundment of funds by the executive branch, and for other purposes.

This is another amendment which the Senator from Arkansas offers that is very good in its substance and in its purpose. But it will not help us at this time; it will not expedite the passage of this measure. Most likely, it will not become effective in its own right as a part of this bill.

Therefore, Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 931.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. As I understand it now, there will be two rollcall votes on amendments 2 and 3, on the motion to table.

The PRESIDING OFFICER. The amendments are No. 931 and No. 932. There will be two back-to-back rollcall votes on the motions to table each of those amendments.

Mr. HUMPHREY. The first vote is on amendment No. 2.

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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Utah (Mr. MOSS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut Mr. WEICKER) are necessarily absent.

The Senator from New Mexico (Mr. DOMENICI) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 49, nays 25, as follows:

[No. 608 Leg.]

YEAS—49

Baker	Huddleston	Pell
Bayh	Humphrey	Proxmire
Beall	Inouye	Randolph
Bentsen	Jackson	Ribicoff
Bible	Javits	Schweiker
Biden	Johnston	Scott, Hugh
Case	Kennedy	Stafford
Chiles	Magnuson	Stennis
Cook	Mathias	Stevens
Cranston	McGovern	Stevenson
Dole	McIntyre	Symington
Dominick	Mondale	Thurmond
Eagleton	Montoya	Tunney
Griffin	Muskie	Williams
Gurney	Nelson	Young
Hartke	Packwood	
Haskell	Pastore	

NAYS—25

Abourezk	Fannin	Hughes
Allen	Fulbright	Long
Bartlett	Goldwater	Mansfield
Burdick	Hansen	McClellan
Byrd, Harry F., Jr.	Hart	Metcalf
	Hatfield	Nunn
Byrd, Robert C.	Hathaway	Scott, William L.
Clark	Helms	
Curtis	Hruska	Sparkman

NOT VOTING—26

Aiken	Domenici	Pearson
Bellmon	Eastland	Percy
Bennett	Ervin	Roth
Brock	Fong	Saxbe
Brooke	Gravel	Taft
Buckley	Hollings	Talmadge
Cannon	McClure	Tower
Church	McGee	Weicker
Cotton	Moss	

So Mr. HUMPHREY'S motion to lay on the table Mr. FULBRIGHT'S amendment No. 931 was agreed to.

The PRESIDING OFFICER. Under the previous order, the vote now occurs on the motion to table amendment No. 932. 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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

The Senator from New Mexico (Mr. DOMENICI), is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER), would each vote "yea."

The result was announced—yeas 62, nays 12, as follows:

[No. 609 Leg.]

YEAS—62

Allen	Hansen	Packwood
Baker	Hart	Pastore
Bartlett	Hartke	Pell
Bayh	Hathaway	Proxmire
Beall	Hruska	Randolph
Bentsen	Huddleston	Ribicoff
Biden	Humphrey	Schweiker
Burdick	Inouye	Scott, Hugh
Byrd, Harry F., Jr.	Jackson	Scott, William L.
	Javits	
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Cook	Long	Stennis
Cranston	Magnuson	Stevens
Curtis	Mathias	Stevenson
Dole	McGovern	Symington
Dominick	McIntyre	Thurmond
Eagleton	Mondale	Tunney
Fannin	Montoya	Williams
Goldwater	Muskie	Young
Griffin	Nelson	
Gurney	Nunn	

NAYS—12

Abourezk	Fulbright	Hughes
Bible	Haskell	Mansfield
Byrd, Robert C.	Hatfield	McClellan
Clark	Helms	Metcalf

NOT VOTING—26

Aiken	Domenici	Pearson
Bellmon	Eastland	Percy
Bennett	Ervin	Roth
Brock	Fong	Saxbe
Brooke	Gravel	Taft
Buckley	Hollings	Talmadge
Cannon	McClure	Tower
Church	McGee	Weicker
Cotton	Moss	

So the motion to lay on the table Mr. FULBRIGHT'S amendment No. 932 was agreed to.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

At the end of the bill add the following new section:

"Sec. The Congress hereby finds and determines to be adverse to the public interest any contract or agreement, within the scope of Title 49 US Code, Section 1382, between an air carrier, and any citizen, corporation or agent of any country which 1) prohibits or limits the export of crude oil or refined petroleum products from such country to the United States or 2) harbors, gives refuge to, aids, abets or augments the activities of any individual or organization engaging in acts of violence against air commerce."

Mr. DOLE. Mr. President, let me briefly explain the purpose of the amendment.

In the Washington Post of this morning there is an article datelined Kansas City, Mo. The headline is "TWA Trains Arab Pilots Despite Embargo." The story details how this airline is training Saudi Arabian pilots in jets that use about 1,800 gallons of jet fuel an hour.

I had a rather irate phone call last night from a Kansan who does not understand how we can permit this to go on at the very time that we are asking Americans to limit their gasoline purchases, curtail air traffic and make other sacrifices.

We have airline pilots and others who are being furloughed because of the fuel shortages, as are stewardesses, machinists, and others who work for the airlines. Many people are being laid off because of the shortage.

Mr. President, I do not fault the training program, for it is undoubtedly based on firm and binding contract arrangements. But it seems that the Arabs should at least have brought their own fuels, because they have them in abundance, and we do not.

It would be my expectation that most Americans think the airlines of nations which place an oil embargo against America or which harbor air terrorists should not receive this kind of benefit from America's airlines and their well known capabilities for training and instructing flight crews.

The need for this is emphasized by the growing squeeze against this country by the oil embargo, and it is hard to see any need for our planes to be burning American fuel to train Arab pilots at a time when American citizens are being asked to buy only 10 gallons of gas a week.

I understand that TransWorld Airlines is the only airline that conducts such a program for an Arab airline, and it would be my assumption that they have a contractual obligation to furnish these services.

My amendment would establish a basis for the Civil Aeronautics Board to disapprove of any such training agreement with airlines of oil-blocking countries. It would further ban any such agreement with the airlines of nations

which refuse to deal with aircraft hijackers and terrorists according to the requirements of international law and justice.

These measures are dictated by commonsense. I do not know of any reason to allow oil boycotting nations or those which condone terrorism to enjoy the benefits of our airline technology and know-how and to use up our vital fuel in the process.

Mr. President, the amendment has been discussed with the distinguished Senator from Minnesota (Mr. HUMPHREY) and with the distinguished Senator from New York (Mr. JAVITS). I understand it is important that we not add amendments to this bill which might force a conference. I agree with that thinking.

We are in the final stage of the session, and a conference at this time, even on an amendment which I believe is important and which has wide support, would take time. Knowing what happens at this stage of the proceedings of a session of the Congress, it might mean that some measure might have to go over.

I have discussed this with both of my distinguished colleagues and intend to withdraw my amendment. However, before doing so, I would yield to the distinguished Senators from New York and Minnesota for their views on some action which could be taken that would prevent or at least limit what is happening at this time.

Mr. HUMPHREY. Mr. President, if the Senator will yield, first of all, I am in full sympathy with the Senator's amendment, as the Senator understands.

The amendment says what I think needs to be said and the public policy it expresses is a sound public policy. It is regrettable that this amendment, as is the case with other similar amendments, would, if added to this bill, force a conference.

We are running close to not having a quorum in the other body as well as in this one. I am afraid that we would not get any legislation on what I consider to be very important legislation in light of the upcoming Geneva Conference on the possibilities of peace in the Middle East.

I appreciate it that the Senator from Kansas is willing to withdraw his amendment. However, I think that we should take this matter up with our energy director, Mr. Simon. After all, the allocation of fuel oil and jet fuel is under the control of the Federal Government. This practice does not relate to commercial air traffic. It relates to the training of pilots of countries that have imposed an oil embargo on us or countries that have harbored those who have engaged in acts of violence against air commerce.

Mr. President, I would join the Senator from Kansas in insisting that Mr. Simon, the present Director of the energy program of the U.S. Government, take a look into this matter at once and inform the TWA that jet fuel is in scarce supply and that, contract or no contract, we do not have the fuel to engage in this kind of activity to which the Senator's amendment is directed.

I would be happy to cooperate in any way that I can to effectuate the purpose of the amendment.

Mr. DOLE. Mr. President, I thank the Senator from Minnesota. The course the Senator from Minnesota suggests is one which bears very closely on the purpose of my amendment, and I would agree with his suggestion.

Mr. JAVITS. Mr. President, if the Senator will yield. I join with everything that the Senator from Minnesota has said. I will join with both Senators, the Senator from Kansas and the Senator from Minnesota, in the effort that is made to stop this practice and to see that appropriate action is taken by the administrator of the FEEA.

Second, as a member of the Foreign Relations Committee, I will immediately communicate with the State Department and really do everything that I humanly can on the second part of the amendment, the terrorist part. This is a most shocking, most barbaric, unreasoned force which is let loose on mankind, innocent people who become involved with not the remotest connection to any of this. They are nevertheless killed or are treated as hostages.

I attended a great meeting of the Organization of World Peace, for World Law and Organization. It occurred in August, and it took part of our holiday to do that.

I advocated there an international conference on terrorism. Unhappily for all of us, the so-called developed countries think that these activities are healthy revolutionary activities in connection with breaking the bonds of colonial policies.

By not permitting the adoption of an international conference on this matter, this practice is condoned and we have this kind of terrorism which we saw in Rome and Athens.

I could not think of more convoluted reasoning, and I agree with the Senator that we shall have to make a unilateral effort. I have tried before on other bills, and we have not been successful, to promote multilateral action. But the indignation of mankind has to be expressed by someone, and I hope we will do it.

So I thoroughly agree with the Senator, and shall do my utmost, through foreign relations, to do that which he seeks, which is attributable to the State Department.

Mr. DOLE. I thank the Senator from New York and the Senator from Minnesota, and would underscore that I am particularly concerned, as I think everyone in this body is with the problem of terrorism and with what appears to be a crisis regarding the fuel shortage.

Turning again to the training program, it has been carried on, I understand, by TWA for some 20 years or more, with pilots from a number of foreign countries, and I do not really find fault with the program. The oil embargo certainly could not have been foreseen at the time it was initiated. But it seems to me that at this time, when we are asking Americans to make sacrifices, we ought to at least take a close look at those foreign countries which tell us the oil supply will be shut off to America. I think the training program, where they use up our precious fuel, should be shut off to them.

I repeat, Mr. President, the need for this measure is emphasized by the growing squeeze of the Arab oil embargo against the United States and this week's senseless loss of life in the Rome airport.

There is no reason for American planes to be burning our precious fuels for Arab commercial pilot training at a time when the average motorist is being told to hold gasoline purchases to only 10 gallons.

One major U.S. airline is continuing to train Saudi Arabian pilots in the face of that country's leadership of the Arab oil embargo. I assume their contractual arrangements provide no release from this obligation. But my amendment would establish the basis for the Civil Aeronautics Board to disapprove any such training agreement.

The amendment would further ban any such agreements with the airlines of nations which refuse to deal with air terrorists according to the requirements of international law and justice.

These measures are only dictated by commonsense. There is no reason to allow oil boycotting nations to enjoy the benefits of our airlines great technological know-how and our vital fuels. And likewise any nation which gives any comfort or encouragement to air terrorists—regardless of nationality, religion or ideology—should be cut off from all benefits and considerations which law-abiding nations enjoy.

I ask unanimous consent to have printed in the RECORD the article entitled "TWA Trains Arab Pilots Despite Embargo," published in this morning's Washington Post.

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

TWA TRAINS ARAB PILOTS DESPITE EMBARGO

KANSAS CITY, MO., December 19—Trans World Airlines officials acknowledged today that despite the Arab oil embargo, the company is training Arab commercial pilots in jetliners that burn 1,800 gallons of domestic jet fuel an hour.

Disclosure of the Arab pilot training program came as TWA resumed service after a 45-day strike by stewards and stewardesses.

A spokesman said 16 per cent of domestic service and 6 per cent of TWA's international service was restored the first day. Complete resumption of service was expected by Saturday.

"It is a little surprising to me that the government of Saudi Arabia would have the audacity to expect the American people to let this happen," Rep. Jerry Litton (D-Mo.) said. "I am frankly shocked and amazed. There is a principle involved here."

TWA said it has trained Arab pilots since 1946 and that Saudi Arabia is only one of a number of foreign countries sending pilot trainees to TWA's training center in Kansas City.

"TWA's management and technical assistance contract with Saudi Arabian Airline has been determined to be in the public interest and repeated and current indications from CAB (Civil Aeronautics Board) as well as the Department of State reflect that the program is desirable and in the interest of our international relations," said TWA Vice President Thomas K. Taylor.

Litton said he had telegramed the CAB asking for a "re-examination and if necessary a revocation" of the CAB-approved

agreement whereby TWA trains the Arab pilots.

"Consideration should include mandating that Saudi Arabia supply the fuel necessary to provide training of their personnel in lieu of using domestic fuel so critically short in the United States," Litton added.

TWA trains the pilots mostly in Boeing 707 and 727 jets, taking off and landing at Rosecrans Memorial Airport, St. Joseph, Mo.

A Boeing 727 burns about 1,350 gallons per hour, a 707 about 1,800 gallons per hour.

"I am not condemning TWA because as I understand it this has been a management agreement that has been in effect since 1946," Litton said.

"I am concerned, though, that the American people have been asked to turn down heat in their homes and not drive on Sunday. . . while in excess of 1,000 gallons of American jet fuel an hour is being burned for the benefit of pilots from a country partly responsible for our shortage."

Litton also said he had taken up the matter with the State Department and was considering introducing a bill in Congress.

Mr. DOLE. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HELMS. Mr. President, I have an unprinted amendment at the desk, which I call up and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS' amendment is as follows:

On page 3, delete lines 3 through 13, and insert the following:

SEC. 4. At any time prior to June 30, 1974, the President is hereby authorized within the limits of funds appropriated under Section 2 of this Act for Israel, to make loan agreements with Israel to permit payments for defense articles and defense services purchased or financed under the Foreign Military Sales Act or under this Act during the period beginning October 6, 1973, and ending June 30, 1974, to the extent that interest is charged at a rate which will, as nearly as practicable, be equivalent to the average cost of funds to the United States Treasury, as determined by the Secretary of the Treasury, on outstanding marketable obligations of the United States having maturities comparable to maturities of credits extended under this section.

Mr. HELMS. Mr. President, my amendment would limit the funds authorized under this bill to loans made at the same rate of interest as the U.S. Treasury is itself forced to pay when it borrows money—which the Treasury is constantly doing.

As I understand it, the funds authorized in this bill are to pay for shipments made under the Foreign Military Sales Act, which requires payment within 120 days after delivery. Credits under that act are usually made at the cost of interest to the U.S. Treasury. My amendment would insure that the Department of Defense gets paid for the items which were shipped to Israel at the height of the October war so that they can be replaced in our own inventory, while at the same time it prevents us from simply adding $2.2 billion to our own national debt, a 2.2 billion which will otherwise be in addition to the present U.S. budget.

The simplest thing, and the honest thing for this bill to do would be merely to cancel the obligations which Israel owes under the Foreign Military Sales Act. But bookkeeping requires that the Department of Defense be reimbursed so that our own defenses can be kept up to par. Whichever way it is done, the funds become an outright grant, and a grant that adds to the U.S. debt. The arms were sold to Israel, and we have to assume that the purchase was made in good faith. Now we are being asked to cancel the sale and make an outright gift. Indeed, we are told that Israel cannot afford to buy the arms already shipped and used.

Mr. President, the Senate is being presented with an accomplished fact, and we are asked to ratify something done without authorization. Technically, the President was authorized to make a sale, but he was not authorized to make a sale which was intended to be a gift. The initial transaction should not be treated as a subterfuge.

I do not oppose the sale of arms to Israel; and I see merit in the concept of an even-handed balancing of arms shipments to both sides in the conflict. But I do oppose adding up to $2.3 billion to our national debt at the stroke of a pen.

I do not think that it is asking too much to ask the Israelis to pay the same rate of interest that the American people must pay in taxes for money borrowed by the U.S. Government.

It has been said that Israel is in no financial position to undertake more debt. Well, Mr. President, how about the United States?

That aside for the moment, Mr. President, the Department of State has prepared an analysis of the Israeli fiscal situation which show that Israeli foreign exchange reserves, at the end of October 1973, totaled $1.8 billion. Capital inflows for 1973 are expected to total $2.3 billion, not including the $2.2 billion to be authorized under this act. The Israeli economy was booming until the beginning of the October war. It will boom again if a stable peace agreement is achieved in Geneva. I do not think we should encourage Israel to plan in terms of extravagant arms purchases in the future; we should be encouraging all parties in this dispute to come to a reasonable settlement. There must be no removal of incentive—either Israel's or the Arabs'—to go back to a peacetime economy.

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

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

ISRAELI ECONOMIC INDICATORS

The Israeli economy was disrupted by the war but there was virtually no war damage to the economic infrastructure. The direct impact of the war on the economy has been felt in three ways: GNP not produced (there has been an estimated temporary 20 per cent drop); internal financing of the government's wartime expenditures, and the financing of wartime expenditures particularly for military imports.

For the five years prior to the outbreak of hostilities in October 1973, the Israeli economy had been in a condition of continuous boom. The economy was experiencing strong inflationary pressures resulting from a combination of full capacity, booming demand, and rising import prices. There was virtually no unemployment. Growth in real GNP was projected at about 8 per cent for 1973. Foreign exchange reserves at the end of October 1973 totaled $1.8 billion, up about $600 million from the level at the end of 1972 and quadruple the figure for early 1970, just before large U.S. financial assistance began. Because of capital inflows now expected to total $2.3 billion in 1973, Israel's foreign exchange reserve position remains strong. (The $2.3 billion figure does not include the extraordinary assistance now being considered by Congress.)

Although Israel has been chronically in a deficit position in current account during each of the past five years, this deficit has been more than offset by loans and gifts from abroad. Foreign gifts and loans have exceeded $1.5 billion annually. Following the outbreak of hostilities in October, the Israelis announced a goal of raising $1.9 billion in gifts of which $750 million is expected from the United Jewish Appeal in the U.S. and $500 million from Europe, South Africa and Australia. The balance, $650 million, is to be in the sale of Israeli bonds. The Israeli Ministry of Finance has announced that from October 1 to November 23 Israel raised $350 million abroad.

Prior to the October war, Israel's total foreign debt was about $4.2 billion with annual repayments (i.e., debt service payments), amounting to about $690 million annually. However, unilateral transfers during the past decade have increased at a faster rate than debt burden so that the ratio of debt payments to exports—called the debt service ratio, a conventional indicator of ability to service debt—actually decreased during the period. Before the outbreak of hostilities, exports had been increasing and were expected to continue to increase faster than imports and the current account deficit was expected to decline after 1973. The ratio of debt service payments to Israel's exports was estimated to decline from 20 per cent in 1972 to 16 per cent in 1973. However, even these ratios tend to be overstated because a sizable portion of Israel's foreign debt is in Israeli bonds, more than half of which has always been redeemed in Israeli pounds rather than foreign exchange. If the U.S. were to provide the entire $2.2 billion in 20-year FMS credits for Israeli military purchases, it could increase the projected 1973 ratio of debt repayments to exports to an estimated 27 per cent and somewhat less in future years—assuming of course that balance of payments continued to develop as previously projected.

While the Israeli economy appears to have come through the war in a reasonable condition so far, it is still very early to have a complete picture of how the situation will develop. We do not know how long the partial mobilization will be needed, or how exports to Western Europe, Israel's principal market, will be affected by Arab oil pressures. With the Israeli pound linked to the dollar, inflation and realignment of Western European currencies have already increased the price of imports. The need for increased defense production instead of exports will further affect the trade balance. Whether Israel is able to purchase its military requirements on credit terms or must rely upon United States grant aid is contingent upon how these critical factors develop.

OFFICIAL FLOWS OF U.S. ASSISTANCE TO ISRAEL

[Millions of dollars]

	Fiscal year—										Total, fiscal year 1964–73	Total fiscal year 1949–73
	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973		
Grants:												
Supporting assistance									50.0	50.0	100.0	100.0
Immigrant assistance									2.0	49.0	51.0	51.0
American schools and hospitals				[1] 1.0	[1] 6.0				5.6	4.4	32.0	32.0
Other (1948–62)							12.5	2.5				278.0
Loans	20.0	20.0	10.0	5.5								
Public Law 480	17.0	28.8	26.8	.6	51.8	36.7	41.4	55.8	54.2	[3] 47.9	361.0	622.9
Title I (loan)	16.6	28.3	25.9		51.3	36.1	41.0	55.5	53.8	[3] 47.6	356.1	561.5
Title II (grants)	.4	.5	.9	.6	.5	.6	.4	.3	.4	.3	4.9	61.4
Exim Bank long term		3.4		9.6		38.6	10.0	31.0	21.1	21.3	135.0	371.6
AID housing guarantee									[2] 50.0			
Foreign military sales credit		12.9	90.0	7.0	25.0	85.0	30.0	545.0	300.0	300.0	1,394.9	1,422.3
Total assistance	37.0	65.1	126.8	23.7	82.8	160.3	93.9	634.3	432.0	[3] 472.6	2,129.4	3,112.1
Grants	(.4)	(.5)	(.9)	(1.6)	(6.5)	(.6)	(12.9)	(2.8)	(58.0)	(103.7)	(187.9)	(522.4)
Loans	(36.6)	(64.6)	(125.9)	(22.1)	(76.3)	(159.7)	(81.0)	(631.5)	(374.9)	[3] (368.9)	(1,941.5)	(2,589.7)

[1] Equivalent in local currency.
[2] Not included in totals.
[3] Preliminary.

TABLE 1.—SUMMARY BALANCE OF PAYMENTS, 1971–72

[In millions of dollars]

Item	1971			1972		
	Net credit	Debit	Credit	Net credit	Debit	Credit
Total transactions		4,049	4,049		4,690	4,680
Autonomous movements	+172	3,683	3,855	+687	3,945	4,630
Goods and services	−1,227	3,101	1,874	−1,074	3,281	2,207
Goods (f.o.b.)	−665	1,659	994	−594	1,797	1,285
Services	−562	1,442	880	−480	1,484	1,004
Unilateral transfers	766	16	782	1,055	7	1,062
Long-term capital	703	369	1,072	716	483	1,199
Private	226	190	416	302	196	498
Government	477	179	656	414	287	701
Private short-term capital	−78	197	119	−19	172	155
Errors and omissions	8		8	9		9
Balancing items	−172	366	194	−687	737	50
Government short-term capital	16	96	112	−37	73	36
Central monetary institutions	−270	270		−582	582	
Other monetary institutions	68		68	−82	82	
Special drawing rights	14		14	14		14

Source: Central Bureau of Statistics, press release.

TABLE 2.—FOREIGN EXCHANGE OBLIGATIONS BY CREDITORS AS OF MAR. 31, 1970, 1971, AND 1972

[In millions of dollars]

	Mar. 31, 1970	Mar. 31, 1971	Mar. 31, 1972
Total	2,255.9	2,944.3	3,502.5
1. Direct obligations	1,821.8	2,343.0	2,716.3
2. Long term	1,800.6	2,272.4	2,635.4
World Bank	41.0	38.7	36.2
International Monetary Fund	45.0	65.0	32.5
West Germany	[1] 294.8	324.5	393.5
Israel bonds (including principal)	916.8	1,066.9	1,249.9
U.S. Government	481.5	765.9	861.0
Eximbank	(41.6)	(41.6)	(36.2)
DLF	(8.1)	7.4))	(6.8)
AID	(157.8)	(112.9)	(105.7)
AID—defense loan		(177.7	(140.5)
Public Law 480	(83.7)	(135.0)	(177.8)
MOD $500,000,000 loan	(190.4)	(291.4)	(372.7)
MOD $20,000,000 loan	(—)	(—)	(19.8)
MOD $25,000,000 loan	(—)	(—)	(1.5)
Bank and other loans	[1] 14.7	6.5	59.0
Suppliers' credits	6.6	4.9	3.3
Other credits	[1] .1	.1	.1
b. Medium term		43.4	49.0
Bank of America		30.0	20.0
Bank and other loans			6.3
Suppliers' credits		3.6	8.3
Other credits		9.8	14.4
c. Short term	21.1	27.2	31.8
Bank and other loans	13.2	.2	31.4
Bank credit for imports	8.0	11.2	
Suppliers' credits		15.7	.4
Other credits		.2	
2. Guaranteed obligations	126.8	165.1	175.8
a. Long term	118.3	125.6	130.1
World Bank	44.6	46.4	53.5
U.S. Government	16.0	18.3	31.4
Eximbank	(14.2)	(16.4)	(29.5)
AID	(1.8)	(1.8)	(1.8)
Bank of America	6.0	4.8	3.6
Bank and other loans	12.7	22.3	14.7
Suppliers' credits	38.6	30.9	20.6
Other credits	.4	2.9	6.0
b. Medium term	8.5	39.6	40.7
Loans from foreign deposits	3.0	8.3	21.0
Bank and other loans	4.6	30.7	19.6
Suppliers' credits	.3	.2	0
Other credits	.6	.4	.1
c. Short term			5.0
Bank and other loans			5.0
3. Guarantee of convertibility	304.8	406.4	538.5
a. Long term	175.4	257.3	376.7
U.S. Government: Eximbank	12.3	15.5	20.9
Loans from foreign deposits	3.3	3.3	3.2
Bank and other loans	68.3	93.2	107.4
Suppliers' credits	28.9	59.9	115.7
Other credits	62.7	85.4	129.7
b. Medium term	40.8	60.8	77.0
Loans from foreign deposits	1.2	11.1	16.9
Bank and other loans	18.2	26.6	24.1
Suppliers' credits	8.4	16.9	22.7
Other credits	13.0	6.2	13.3
c. Short term	88.6	88.4	84.8
Loans from foreign deposits	14.6	26.9	22.8
Bank and other loans	24.7	12.9	5.9
Bank credit for imports	33.5	39.6	44.4
Suppliers' credits	15.5	8.9	9.7
Other credits	.2	0	2.0

[1] The total of these 3 items was $309,600,000; the breakdown is estimated from other sources.

TABLE 5.—FOREIGN DEBT SERVICE, 1952–73

[In millions of dollars]

Calendar year	Debt service payments			Exports of G. & S.	Unilateral transfers	Debt service ratio (percent)	
	Total	Principal	Interest			Exports	Plus transfers
1952	40.3	29.0	11.3	85.7	191.7	47.0	14.5
1953	37.0	21.0	16.0	102.1	174.4	36.2	13.4
1954	70.5	55.3	15.2	140.9	266.7	50.0	17.3
1955	19.5	5.0	14.5	144.3	214.0	13.5	5.4
1956	80.2	62.0	18.2	178.5	244.3	44.9	19.0
1957	108.6	86.5	22.1	223.1	254.2	48.7	22.8
1958	141.5	113.1	28.4	216.5	263.5	65.4	29.2
1959	115.1	81.4	33.7	266.8	255.7	43.1	22.0
1960	134.3	92.0	42.3	336.0	318.1	40.0	20.5
1961	147.6	97.1	50.5	397.9	347.8	37.1	19.8
1962	168.2	115.3	52.9	471.8	335.5	35.7	20.8
1963	229.4	176.3	53.1	576.8	352.7	39.8	24.7
1964	206.2	146.5	59.7	618.9	337.6	33.3	21.6
1965	209.1	141.0	68.1	710.6	330.5	29.4	20.1
1966	303.3	226.2	77.1	832.2	295.0	36.4	26.9
1967	263.5	169.0	94.5	908.4	538.6	29.0	18.2
1968	326.4	221.9	104.5	1,146.8	448.3	28.5	20.5
1969	374.3	251.6	122.7	1,288.3	473.9	29.1	21.2
1970	445.0	291.8	153.2	1,397.3	673.6	31.8	21.5
1971	531.5	335.1	196.4	1,848.4	808.9	28.8	20.0
1972 (est.)	690.0	450.0	240.0	2,275.0	945.0	30.3	21.4
1973 (est.)	710.0	420.0	290.0	2,615.0	895.0	27.2	20.2

Sources: 1952–69—CBS, "Israel Balance of Payments, 1952–70"; 1970–71—CBS, "Monthly Bulletin of Statistics Supplement," May 1972; 1972–73—"National Budget for 1973." Interest estimated.

	1973 forecast	1972 estimate	1971	1970
1. Unilateral transfers	895	945	800	674
Institutional transfers	245	300	264	290
German personal restitutions	250	280	231	204
Private transfers	350	335	305	180
USG grant	50	30		
2. Gross foreign investment	180	180	100	53
3. Long- and medium-term loans	1,030	980	1,003	851
Israel bonds	315	310	301	231
Agricultural surplus loans	60	55	59	50
Export-Import Bank loans	40	40	28	18
AID housing loans	50	50		
USG loans (military credits)	300	255	258	318
Loans from international institutions (IMF and IBRD)	45	25	23	4
Thereof: World Bank	(45)	(25)	(13)	(4)
German loans	45	45	37	38
Other loans	175	200	297	192
4. Redemption of long- and medium-term loans	420	450	336	292
Israel bonds	135	115	117	96
USG loans	60	59	57	34
Export-Import Bank loans	15	15	12	9
Loans from international institutions (IMF and IBRD)	10	43	10	8
Thereof: World Bank	(10)	(11)	(10)	(8)
Other loans	200	218	140	145
5. Investments abroad and liquidation of investments	45	−15	53	43
6. Increase in long- and medium-term debt (3−4)	610	530	667	559
7. Net capital imports (1+2+5+6)	1,640	1,670	1,514	1,243
8. Deficit on current account (including territories)	1,365	1,075	1,203	1,234
9. Surplus of capital imports over current deficit (7−8)	+275	+595	+311	+9
10. Thereof: Net change in Bank of Israel reserves		+494	+215	+23
11. Foreign debt	4,570	3,960	3,430	2,622
12. Net Bank of Israel reserves at end of year		1,070	576	361

Note (as of Dec. 31, 1972): Based on still provisional data for the balance on current account.

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TABLE 6.—BALANCE-OF-PAYMENTS FORECAST FOR 1973

[Millions of dollars]

	1972[1]	National budget forecast
A. CURRENT ACCOUNT (EXCLUDING OCCUPIED TERRITORIES)		
Imports, total	3,222	3,780
Goods	1,895	2,215
(Ships and aircraft)	(64)	(130)
(Diamonds)	(316)	(370)
Services	835	1,020
Defense	492	545
Exports, total	2,119	2,435
Goods	1,082	1,215
(Agricultural)	(160)	(170)
[Citrus]	[109]	[110]
[Other]	[51]	[60]
(Industrial)	(922)	(1,045)
[Diamonds]	[389]	[455]
[Other]	[533]	[560]
Services	1,037	1,220
(Tourism)	(212)	(280)
Deficit on goods and services	1,103	1,345
Unilateral transfers, net	1,055	895
Private transfers, net	392	350
Institutional transfers	310	245
Personal restitutions	292	250
USG grants	60	50
B. CAPITAL ACCOUNT		
Foreign investment, net	130	135
Foreign investment, gross	141	180
Israeli investment abroad	11	45
Long- and medium-term loans (+)	1,007	1,030
State of Israel bonds	300	315
World Bank	16	45
West Germany	in other	45
USG	380	450
(Eximbank)	(30)	(40)
(Public Law 480)	(48)	(60)
(Military credit)	(252)	(300)
(AID housing guaranty)	(50)	(50)
Other	311	175
Debt redemption (−)	−425	−420
State of Israel bonds	−116	−135
World Bank	−11	−10
West Germany	−7	−5
USG	[2] −125	−75
(Eximbank)	(−20)	(−15)
(Public Law 480)	(−48)	(−60)
(AID, DLF and military credit)	(−57)	
Other	−166	−195
Capital imports, net	1,768	1,640
Balancing movements, or accumulation of reserves	665	295

[1] N.B.: There are difficulties in comparing 1972 final figures with the 1975 forecast, due to definitional problems which could not be fully resolved.

[2] Of this sum, $43,800,000 equivalent was repaid in local currency, including, $30,000,000 equivalent for the endowment of the United States-Israel Binational Science Foundation.

Source: Bank of Israel, "Annual Report: 1972; National Budget for 1973;" Amembassy Tel Aviv.

Mr. HELMS. Also, Mr. President, I ask unanimous consent that the text of Senate Resolution 192, submitted earlier by me and Senators McCLURE, WILLIAM L. SCOTT, and THURMOND, be printed in the RECORD at this point to emphasize my conviction that there must be concessions on both sides of this dispute.

There being no objection, the resolution (S. Res. 192) was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 192

Whereas, the negotiated cease-fire in the Middle East is a welcome development because military conflict endangers the political and economic structure of the entire region; and

Whereas, any permanent settlement must guarantee the political sovereignty, territorial integrity and economic viability of Israel; and

Whereas, the unresolved problems of Palestinian refugees and the unsettled territorial controversies will continue to increase rather than to reduce tensions in the area; and

Whereas, arms shipments by the superpowers to both sides can lead only to a renewal of military confrontations and to the potential of subsequent involvement by the super-powers; and

Whereas, the economic prosperity and future development of all nations of this region and of all nations which are dependent upon stability in the distribution of world energy resources can be jeopardized by the increase of Soviet influences in the area; and

Whereas, the recent tragic events demonstrated the necessity for a permanent balanced political solution rather than the maintenance of balanced military forces; Now therefore be it

Resolved, That it is the sense of the U.S. Senate that the President should continue his mediation between the opposing parties of the area to bring about a long-term, lasting peace settlement. Such a peace should consider all the political and economic realities of the region, including the territorial integrity of all states involved, the need of Israel for protective buffer zones, the Arab aspiration for the return of their territories, and the long-term development of a sound economic base for the elimination

of social and political problems. In this spirit, the settlement should include—

(1) Re-establishment of the civilian administration of the Sinai Desert and Golan Height areas and the west bank of the Jordan River under Egypt, Syria, and Jordan, respectively;

(2) Establishment of broad demilitarized zones on the borders between Israel and its neighbors;

(3) Achievement of a just settlement of the Palestinian refugee problem;

(4) The cooperation of major free market countries and the Arab world in a long-range program of technical and industrial investment and development, with special emphasis upon the creation of job opportunities for Palestinian refugees;

(5) The negotiation and signing of a permanent peace treaty within six months after the cease-fire.

Mr. HELMS. Now, Mr. President, it has been said that Israel has one of the highest per capita national debts in the world. It certainly does have a high debt, but it does not have the highest debt.

According to the State Department, the Israeli foreign debt is about $4.2 billion, with annual repayments amounting to about $690 million annually. With an estimated 1973 Israeli population of 3.2 million, that works out to a debt of $1,312.50 per person.

The U.S. national debt is presently $463 billion. With a population of 200 million, that works out to a debt of $2,315 per person.

In other words, the U.S. per capita debt is almost twice the Israeli per capita debt. We are being asked to make grants which will increase our own debt by $2.2 billion on the grounds that Israel cannot afford any more debt of her own. Yet proportionally, our own debt is twice as heavy a burden.

I think that the proponents of the $2.2 billion as a gift are underestimating the decision, sacrifice, and patriotism of the Israeli people. It was their survival that was at stake; and I am sure that they will not object to whatever cost was necessary. The fact that we shipped the arms at the critical moment provided the difference in the turn of the battle. That in itself demonstrates our esteem and our willingness to help when necessary. But there is no reason to ask that the United States bear the long-term burden of the cost when our own balance of payments is so precarious and inflation continues to rob the dollar of its value.

Let me repeat, Mr. President, a little recitation that I have often made on this floor.

The American people ask about inflation; they talk about it; they want something done about it. And yet this Congress sits here and year after year appropriates more money than is to be taken in.

The Federal debt of the United States of America is in the neighborhood of $463 billion, which is a rather expensive neighborhood when one considers that it costs $52,000 a minute to pay the interest alone on the money already borrowed and spent by this Government in excess of receipts.

If you want to break that down farther, every time the clock ticks, there is another nearly $900 in interest that the American taxpayers must pay on the debt we already owe.

So that is the purpose of this amendment. I think we must look at it in perspective, and I urge the Senate to approve this amendment.

Mr. HUMPHREY. Mr. President, a very brief comment. First of all, the present Military Sales Act does not impose the same kind of restrictions or requirements as proposed in the amendment of the Senator from North Carolina. The present Military Sales Act leaves the matter of interest up for negotiation on the part of the Government of the United States.

Second, the bill before us, H.R. 11088, is not a grant bill. What it says is,

. . . there are hereby authorized to be appropriated to the President not to exceed $2,200,000,000 for emergency military assistance or foreign military sales credits, or for both as the President may determine, for Israel, of which sum amounts in excess of $1,500,000,000 may be used pursuant to this section . . .

I hope that this amendment will be rejected, primarily because I believe this legislation to be necessary and timely in light of the upcoming Geneva Conference on the Middle East. The amendment would delay passage.

Mr. ABOUREZK. Mr. President, will the Senator from Minnesota yield, before he moves to table?

Mr. HUMPHREY. I yield.

Mr. ABOUREZK. I wonder whether I am correct in assuming that the appropriations bill already passed before the authorization bill includes a maximum of $1.5 billion in grants rather than in credits?

Mr. HUMPHREY. That is the most that could be utilized for grants out of the total of $2.2 billion.

Mr. ABOUREZK. Does the Senator know whether the administration has said how much will be given in grants?

Mr. HUMPHREY. No, sir, it has not been stated. May I say to the Senator from South Dakota that when we proposed the amendment of $1.5 billion, we did so after colloquy with the distinguished Senator from Hawaii (Mr. INOUYE), so that we could get in detail from the administration as to what it had in mind in terms of grants or loans.

It seems to me that we should get as much in loans as possible, that the grant program should be used as sparingly as possible. But we should face the fact that there is a limit to what a country can carry——

Mr. HELMS. Including our own.

Mr. HUMPHREY. Including ourselves. I am not unaware of that. If I did not feel that our assistance to the State of Israel was in our national interest, I would not be up here trying to ask for votes for this bill.

Mr. HELMS. That is not the issue.

Mr. HUMPHREY. I am sure we would agree on that. The question here is on the interest rate. I should say to the Senator once again that his amendment goes further than the present Military Sales Act. Presently, by the way, we give grants and military assistance to the neighboring country of Jordan.

Mr. GOLDWATER. If the Senator will yield, I am glad the Senator brought that out. I wanted to rise to state that a lot of this interest we are discussing here has come from the American people who are beginning to see that there are two sides to the question. I wanted to add that we are constructing military buildings in Saudi. We have instructed Libyan pilots at Williams Air Force Base in Arizona. In any case, we will find that we have sold equipment to any country, whether Arab or any other country, and that their officers and men are in this country studying the operation of weapons.

So, for those people who say we are aiding only Israel, I have to say that we are aiding both sides, even though this has never been revealed in the press, that I know of—not that I am especially surprised, because the press only prints what it wants to print—but it is an interesting revelation to learn that our Army Engineers have been in Saudi, and are in Saudi, and we have been helping both sides of the fence—which is not unusual for the United States.

Mr. JAVITS. Mr. President, if the Senator will yield, I would not dream of interposing here except just to supply a fact, which is important. I think the amendments important which have been proposed. This particular amendment which has been proposed is made in the utmost good faith, to bring attention to the safeguards which our country requires. But I would like to point out to my colleagues that Israel now owes the United States over $2½ billion. Incidentally, Senators, it is in the same tables—I have put it in the RECORD before—which shows that loans to Israel are $2.5 billion already and the grants have been $522 million. I do not use that word "only" in any sense of saying that that is little money, because it is a lot of money.

What is breaking the back of Israel, apparently, is the carrying charges, which the Senator from Minnesota (Mr. HUMPHREY) says has come to about $900 million a year. That is on the aggregate export, which is not more than 3 or 4 times that, if that. So if we took everything they got, including contributions, which are extensive, the whole thing would come to about $4 billion. So that they are paying one-quarter in carrying charges.

The only thing I say is, we have vested the administration with the authority. The fact that the Senator from Minnesota (Mr. HUMPHREY) got the appropriations bill to say that up to $1.5 billion could be in credits is no assurance that it will be, or should be. I am saying that. I am saying that, without waiting for anyone else to say it. I am very serious about that.

Both Senator HUMPHREY and I pledge to you the oversight of the Committee on Foreign Relations with the greatest devotion to the fact that the maximum should be in loans. I thoroughly agree with that point.

So Israel may be broke now in terms of a balance sheet, but they are a productive people and tomorrow they may do very well indeed. So, short of absolutely destroying them, credit-wise, in the world, so that no one will trust them with even a bill for freight, it is right

that we should make the most hard-headed arrangements upon this side—upon these amounts which are justified by the overall financial condition. I will lend myself to that myself.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. I think we are going to move to table the amendment.

Mr. HUMPHREY. Yes, it is my intention to move to table the amendment. I might add, I do not want to cut off debate before the Senator from South Dakota speaks——

Mr. ABOUREZK. I have a couple more questions to ask the Senator from Minnesota. He made the comment that the $2.2 billion was needed in order to assure some kind of peaceful settlement at the peace conference in Geneva. I do not think there is any question that the amount of arms used in Israel during the October war was about $1 billion; is that not correct?

Mr. HUMPHREY. About $1 billion. The Senator is correct.

Mr. ABOUREZK. The appropriations bill provides $2.2 billion?

Mr. JAVITS. May I make a correction there, if the Senator will yield? What happened was that they burned up what they had. Not everything go used up——

Mr. ABOUREZK. About $1 billion?

Mr. JAVITS. No, not quite that. They burned up what they had. They were running out of ammunition. We then supplied $1 billion. It is not that they used up $1 billion. We had to supply $1 billion to keep them fighting. They burned up a great part of that. Now they need, say—they asked for $3 billion in the aggregate with credits, and $1 billion were sent over there in the terrible emergency. We are giving them $2.2 billion. Our authorities say that they need $1.5 billion in addition to the $1 billion they have already received. Congress has cut that by $300 million.

Mr. ABOUREZK. Which authorities said they needed $1.5 billion more? I understood the administration witnesses to say that they could not justify, on any specific grounds, the additional $1.5 billion over and above the $1 billion that was used.

Mr. JAVITS. Clements and Rush testified before the Committee on Foreign Relations, and their testimony is here.

Mr. HUMPHREY. Yes, it is here.

Mr. JAVITS. It is on the desk of each Senator. They testified that that was their estimate. They had looked into the matter because the request was $3 billion, and we are providing $2.2 billion.

The point I wish to make is to be sure that we understand exactly what happened. The Senator is at liberty to challenge every figure and every conclusion. But what happened was that they were running short of ammunition. It was almost like Fort Sam Houston. They were already up against it, because they apparently used that ammunition the day we delivered it. It was taken from the plane to the fighting line.

The point is that, having burned up practically everything they had, they got $1 billion, and they burned a lot of that up because they threw it right into the fight.

Now we end up with our vote of 15 to 2 in the Foreign Relations Committee that we think it is necessary to put them in a position in which they are not vulnerable to hostilities being renewed.

So that, first, it is a talking point, because it is a little nation; and, second, it is to prevent the people who are against them from feeling that they are a target, that they are suckers for another attack.

We all respect Senator FULBRIGHT'S argument, Senator MCCLURE'S argument, and the argument of the Senator from South Dakota that it would be better if we did not give it to them, that it would be more conducive to peace. We wrestled with that and fought it out in the Committee on Foreign Relations.

Mr. ABOUREZK. I would like to get into that. I ask the Senator from New York whether it is not true that General Dayan, when he was in this country, said that Israel is stronger than it has ever been as a result of our resupply effort.

Mr. JAVITS. General Dayan did not say that in reference to the Arabs. He was making a rhetorical speech to raise money for Israel. Was he going to tell them that it was going under?

We are all human beings, and we are relying on our own authorities, who give us this appraisal. We believe that if they are denied this figure, they will be put in a very seriously jeopardized condition in this negotiation. It is the old story: We are stronger than ever. Compared to whom?

As to the Arab armies, we only think about the 3d Army, sitting on the east bank of the Suez, the one that is surrounded, in danger of being surrounded. They have two more armies north of that, which are not surrounded, and which are part of the cease-fire; and the Israelis have armies facing those and an army in Egypt. None of us wants that fire to start all over again.

Mr. ABOUREZK. I agree with that.

I also wonder why, in their testimony, the administration witnesses who appeared in hearings held by the House Foreign Affairs Committee and the Senate Appropriations Committee, said that the additional $1.2 billion was for "imponderables." They did not know what it was to be used for. They could not justify it.

Mr. HUMPHREY. One of the imponderables is that we just do not know how much the Soviet Union has poured into the Arab countries and how much more it continues to pour in. It is important that the Senator note that in the testimony of the Deputy Secretary of State, Mr. Rush, he said:

> We will not spend funds that are not needed, and we will not spend funds to tilt the balance in Israel's favor to the point where you have an imbalance of strength.

The point that was made very honestly—I thought the administration did not try to give us a lot of double talk and did not try to con us—was that there was $1 billion for now, they had to have it right away, and there was another $1.2 billion that they thought was a minimum amount in light of what had already been shipped into the Arab countries by the Soviets, plus what the Israelis had used up over the $1 billion in the war.

We are dealing with a set of figures here which is not precise, and that is why, under this measure, there is no requirement that the President spend it all. What we are really doing is giving to the Secretary of State, in the Geneva Peace Conference on the Middle East, some chips, to say, "You are not going over there with just a hope and a prayer. You are going there with the fact that we have made some commitments, in terms of military assistance, to Israel, and we are going to see that a military balance is maintained in the area." The purpose of the military assistance is peace and not to have another war.

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

Mr. HUMPHREY. I yield.

Mr. McGEE. Very relevant to the point the Senator from South Dakota has just raised is that because there are many unknown elements here, Congress has to watch its own position. I sat through those hearings, and we were there when all the dialog was going on. It is no more possible to assess what the Russian input is with the Egyptians than it is possible to assess the total damage suffered by the Israelis. If it is discovered later—I mean next month, February—that it indeed was much worse, as some even now suspect it is——

Mr. ABOUREZK. That what is worse?

Mr. McGEE. The military losses—that is, the materiel losses. In that case, we would be right back here, with Congress preparing to add some money.

Imagine what would happen in the negotiating tents at that moment. The Arabs would walk out, and the chances for a continuation of the negotiations would have been wrecked.

From the very first, $2.2 billion has been the "guesstimate." It is no secret. The Arabs know it. The Israelis know it. The whole world knows it. It is simply a matter of protecting that bargaining chip, as the Senator from Minnesota has said. But if the Senate had to come through 6 weeks from now with still more because even worse was discovered, I would think then that even if the negotiations had been proceeding on track, it would blow them out of the tent. That is one of the options.

Nothing is being risked now, in this way, and we still keep open the option of cutting it back, if it does not become necessary to commit it.

Mr. ABOUREZK. My guess is that there will not be any outbreak of fighting while these peace talks are going on. I do not know, and the Senator from Wyoming does not know. That is my best guess. In the event the peace talks break down and if a resupply effort is needed, Congress can consider it at that time. But, in my opinion, the most dangerous thing for Congress to do at this point is to upset the peace talks before they get underway, by giving $2.2 billion worth of military aid to Israel.

As the Senator knows, the attitude of the Arab countries is that we have not been even-handed in our Middle East foreign policy. I do not think the Senator can dispute that. That fact infuriates the Arabs. If we are to play a constructive role in ending hostilities and bringing peace to the Middle East, it seems to me inappropriate to grant the request for more military aid for Israel.

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

Mr. HUMPHREY. Let me yield first to the majority leader, for a moment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on final passage occur no later than 3 p.m. and that, of the time period in between, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes.

Mr. ABOUREZK. Mr. President, reserving the right to object, I ask the distinguished majority leader why he wants to cut off this debate?

Mr. MANSFIELD. I do not want to cut off the debate. The manager of the bill has asked me——

Mr. HUMPHREY. I thought that, since we had repeated the arguments about four or five times, perhaps we have all learned them by now.

Mr. MANSFIELD. I understood that there was not going to be much further debate on it.

Mr. ABOUREZK. I withdraw my objection.

Mr. McGEE. Mr. President, will the Senator yield for 1 minute?

Mr. ABOUREZK. I have another question I would like to ask.

The PRESIDING OFFICER. The Chair would ask the distinguished majority leader if he includes in his request that rule XII be waived?

Mr. MANSFIELD. Yes, I do.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. Is the manpower conference report coming up immediately following disposal of this measure?

Mr. MANSFIELD. Exactly.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, since there is a time certain on the passage, this would not preclude a rollcall vote, would it?

Mr. HUMPHREY. No, that has been ordered.

The PRESIDING OFFICER. It would not preclude a vote.

Mr. JAVITS. May we have a ruling?

The PRESIDING OFFICER. If there is no objection, it is so ordered.

Mr. ABOUREZK. That is all I have to say at this time.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD an economic fact sheet in connection with emergency military assistance to the State of Israel.

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

ECONOMIC FACT SHEET FOR CONSIDERATION OF EMERGENCY MILITARY ASSISTANCE TO THE STATE OF ISRAEL

The Yom Kippur War cost Israel approximately $250 million a day. Total expenditure was between $5 and $6 billion.

Israel, a country of three million people, spends approximately 34 percent of its total budget on defense or 20 percent of its total GNP.

Israeli citizens are taxed more heavily than citizens of any other nation. Before the war, an Israeli earning $5,000 a year paid half of this sum in taxes. A $10,000 income was taxed at the rate of 63 percent. Since the outbreak of the war an additional forced savings tax has been imposed taking another 7 to 12 percent from personal income.

The pre-war external debt of Israel was about $4.5 billion—Israel has the highest per capita external debt in the world.

The total loss in GNP for Israel from October to December of this year will be approximately $476 million. The loss in GNP for 1974 is estimated to be more than $900 million.

Israeli labor force is still mobilized cutting this force by one-third. Tourism has been badly damaged by the war and is off 25%.

The Israeli balance of payments has been injured by increased expenditures for defense. The deficit will be about $1.2 billion more than expected because of defense expenditures.

Israel repays its external debt at the rate of about $800 million per year. This represents roughly half of the nation's foreign currency reserves. Servicing this debt has meant that Israel has only three to four months of foreign currency reserves which are badly needed for purchasing food, oil and other imported commodities.

In 1973 Israel will have absorbed 55,000 to 60,000 immigrants—the majority from the USSR. It costs Israel about $40,000 per family for immigrant absorption. Total cost for 15 to 20,000 new families could range from $600 million to $800 million. Sale from bonds net is only about $100 million to $120 million. Israelis have sold about $2.5 billion in bonds and have repaid more than $1 billion.

Between 1946 and 1972 according to AID the U.S. provided grant military assistance totaling approximately $55 billion. None of this grant military assistance went to Israel. In fact, during this same period we provided Arab states with approximately $321 million in grant assistance. Grant economic assistance to Arab states has exceeded similar assistance to Israel.

Mr. HUMPHREY. Mr. President, I move to table the amendment of the Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. 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 Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH) the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 61, nays 14, as follows:

[No. 610 Leg.]

YEAS—61

Allen	Gurney	Muskie
Baker	Hart	Nelson
Bartlett	Hartke	Nunn
Bayh	Haskell	Packwood
Beall	Hathaway	Pastore
Bentsen	Huddleston	Pell
Bible	Hughes	Proxmire
Biden	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Ribicoff
	Jackson	Schweiker
Byrd, Robert C.	Javits	Scott, Hugh
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Clark	Long	Stennis
Cook	Magnuson	Stevenson
Cranston	Mathias	Symington
Dole	McGee	Thurmond
Domenici	McGovern	Tunney
Dominick	McIntyre	Williams
Eagleton	Mondale	Young
Griffin	Montoya	

NAYS—14

Abourezk	Goldwater	Mansfield
Burdick	Hansen	McClellan
Curtis	Hatfield	Metcalf
Fannin	Helms	Scott, William L.
Fulbright	Hruska	

NOT VOTING—25

Aiken	Eastland	Roth
Bellmon	Ervin	Saxbe
Bennett	Fong	Stevens
Brock	Gravel	Taft
Brooke	Hollings	Talmadge
Buckley	McClure	Tower
Cannon	Moss	Weicker
Church	Pearson	
Cotton	Percy	

So Mr. HUMPHREY'S motion to lay on the table Mr. HELMS' amendment was agreed to.

Mr. BURDICK. Mr. President, at this time I cannot support this authorization for $2.2 billion in aid to Israel. It is my understanding that numerous attempts have been made to find out what the $1.2 billion for "imponderables" would actually be used for. No adequate justifications have been forthcoming. In as much as these funds have not been justified. I cannot support this kind of "blank check" authorization.

The administration has itemized expenditures of $1 billion of this request

to restore a military balance of power in the Mideast. I have no quarrel with that expenditure. If additional equipment is seen to be required later, those supplies can be provided in the same way as previous aid, through the Foreign Military Sales Act. Congress would then have 120 days to consider this and approve additional loans and grants.

Mr. HUMPHREY. Mr. President, may we have third reading?

The PRESIDING OFFICER (Mr. DOMENICI). The bill is open to further amendment.

If there be no further amendment to be offered, the question is on the third reading of the bill.

The bill was ordered to a third reading, and was read the third time.

Mr. FULBRIGHT. Mr. President, I merely want to say a word or two in conclusion.

Paraphrasing the words of our new Attorney General, the Senator from Ohio (Mr. SAXBE), I do believe that the Senate has taken leave of its senses.

The threatening recession and the serious disruption of our economy are the price we are beginning to pay for 15 years of making extreme and unwise policies both foreign and domestic.

Our tragic intervention in Vietnam, our costly intervention in the Dominican Republic, our unwise policy of enormous expenditure of funds for foreign military bases, our unwise expenditure of huge amounts of money to go to the Moon, the huge outlay for the now abandoned ABM and the extravagant fantasy of the SST—these are but a few examples of the fact that we have become strangers to our own commonsense.

In the light of all of our problems, now to vote $2.2 billion for weapons of war on the pretense that this is the way to promote peace in the Middle East is to me the ultimate in irrationality.

Mr. HARRY F. BYRD, JR. Mr. President, this legislation which provides emergency assistance to Israel is one to which I have given a great deal of thought. The amount involved is substantial.

I have concluded that I shall vote for this authorization because the situation in the Middle East is so delicate and so dangerous that I am reluctant to deny the President and the Secretary of State a tool which seems necessary to bringing about a settlement.

As deeply concerned as I am about our Nation's financial situation, I am even more concerned over a possible explosion in the Middle East. The Russians have heavily armed the Arabs. A balance can be maintained only if the United States provides some assistance to Israel.

In voting for this authorization today, however, I want to make it clear that such a vote should not be construed as a precedent for supporting additional grants.

I believe it is imperative that the United States proceed with maximum caution in the Middle East.

As time goes by, both sides in the Middle East, it seems to me, must be willing to yield on some points. Continued intransigence can only mean continued tension—and, probably, further bloodshed.

With the situation in the Middle East being as delicate as it is at the moment, I feel that the best interest of our country would be served by the enactment of this authorizing legislation.

Mr. HARRY F. BYRD, JR. Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, the order is that the Senate vote on the bill at the conclusion of the Senator's speech.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD. On this vote I have a pair with the Senator from Nevada (Mr. CANNON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Utah (Mr. MOSS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 66, nays 9, as follows:

[No. 611 Leg.]

YEAS—66

Allen	Dole	Jackson
Baker	Domenici	Javits
Bartlett	Dominick	Johnston
Bayh	Eagleton	Kennedy
Beall	Goldwater	Long
Bentsen	Griffin	Magnuson
Bible	Gurney	Mathias
Biden	Hart	McClellan
Byrd, Harry F., Jr.	Hartke	McGee
Byrd, Robert C.	Haskell	McGovern
Case	Hathaway	McIntyre
Chiles	Hruska	Metcalf
Clark	Huddleston	Mondale
Cook	Hughes	Montoya
Cranston	Humphrey	Muskie
Nunn	Inouye	Nelson
Packwood	Schweiker	Symington
Pastore	Scott, Hugh	Thurmond
Pell	Sparkman	Tunney
Proxmire	Stafford	Williams
Randolph	Stennis	Young
Ribicoff	Stevens	
	Stevenson	

NAYS—9

Abourezk	Fulbright	Scott, William L.
Burdick	Hansen	
Curtis	Hatfield	
Fannin	Helms	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—24

Aiken	Cotton	Pearson
Bellmon	Eastland	Percy
Bennett	Ervin	Roth
Brock	Fong	Saxbe
Brooke	Gravel	Taft
Buckley	Hollings	Talmadge
Cannon	McClure	Tower
Church	Moss	Weicker

So the bill (H.R. 11088) was passed.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, 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.

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 amendments of the House to the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 8449) to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes, with an amendment in which it requested the concurrence of the Senate.

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 amendments of the Senate to the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 3, 26, 27, 62, and 78

to the bill and concurred therein; and that the House receded from its disagreement to the amendments of the Senate numbered 9, 15, 23, 34, 35, 36, 39, 44, 45, 49, 50, 51, 52, 55, 56, 58, 71, 75, and 79 to the bill, and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 14. An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes;

S. 2166. An act to authorize the disposal of opium from the national stockpile;

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile;

S. 2794. An act to amend chapter 36 of title 38, United States Code, to authorize the Administrator of Veteran's 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;

H.R. 5874. An act 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;

H.J. Res. 736. Joint resolution to provide for a feasibility study and to accept a gift from the United States Capitol Historical Society; and

H.J. Res. 865. Joint resolution authorizing the President to proclaim March 29, 1974, as "Vietnam Veterans Day".

The enrolled bills and joint resolutions were subsequently signed by the Vice President.

CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the calendar beginning with No. 626 and following, in sequence.

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

AMENDMENT OF USURY LAWS IN THE DISTRICT OF COLUMBIA

The bill (H.R. 6758) to amend chapter 33 of title 38 of the District of Columbia Code relating to usury, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF DISTRICT OF COLUMBIA MINIMUM WAGE ACT FOR AIRLINE EMPLOYEES

The bill (H.R. 10806) 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, was considered, ordered to a third reading, read the third time, and passed.

ADOPTION OF CHILDREN IN THE DISTRICT OF COLUMBIA

The Senate proceeded to consider the bill (H.R. 11238) 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.

Mr. BAYH. Mr. President, I was extremely pleased that the Senate today passed adoption subsidy legislation for the District of Columbia.

In June of this year, I introduced S. 1986, a bill to provide for an improved system of adoption for children in the District of Columbia. The bill approved by the Senate today is the House-passed version of this important legislation, and I fully support the slight modifications which were made during consideration of the legislation in the House of Representatives. This legislation will facilitate the procurement of permanent homes for neglected and dependent children who are now receiving foster or institutional care in the District.

Adoption subsidy plans, similar to that passed by the Senate, are currently in effect in 27 States. Over the past few years, total adoption placements in the District of Columbia have averaged approximately 100 children a year, an extremely low number considering the fact that there are currently between 2,500 and 2,700 children who are wards of the District of Columbia. These children receive various types of foster care, some living in traditional home settings and others in group arrangements. District of Columbia officials estimate that between 200 to 300 of these children could be placed in permanent families with the assistance of an adoption subsidy program. Approximately 150 such new placements could be expected within the first year after institution of a subsidy program.

Under the adoption subsidy bill passed by the Senate, any child who has not been adopted within 6 months after he is legally available for adoption would be considered a "child with special needs." This would include children who are difficult to place because of age, racial or ethnic background, physical or mental condition, or membership in a sibling group which should be placed together. This legislation will enable the District of Columbia Department of Human Resources to provide adoption subsidies for these children with special needs. The amount that could be spent for an adoption subsidy could not exceed the amount that the Department would be authorized to spend if the child were to continue in foster or institutional care. Payments would vary according to the special needs of the child, and would include such costs as medical, dental, and surgical expenses; expenses for psychiatric and psychological care; and other costs necessary for the well-being of the child.

Three types of subsidy agreements are specified in this legislation: Long-term subsidies, to help families whose incomes are limited and are likely to remain so; time-limited subsidies, to help families integrate into their budgets, during a specified period of time, the expenses for the care of the new child; and special service subsidies, to help families meet specific expenses of the adoption, such as medical procedures or legal costs.

Subsidized adoption plans have resulted in savings to the taxpayers in those States which have established this program. Many States have also reported that the publicity and specialized services made available under this plan have resulted in the adoption of children by families who did not need financial assistance, or who required such assistance for only a limited time.

The benefits of a permanent family and home to youngsters who are otherwise forced to live in institutions, hospitals, and foster care facilities cannot be measured in mere monetary terms. These children deserve the love and care that only a family can provide. This legislation will aid those children in the District of Columbia for whom the right to a family is not a reality.

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

Mr. MANSFIELD. Mr. President, the next measure to be considered is Calendar No. 630.

MANDATORY PRICE SUPPORT FOR TUNG NUTS

The bill (H.R. 2303) to continue mandatory price support for tung nuts only through the 1976 crop was considered, ordered to a third reading, read the third time, and passed.

ENERGY CONSERVATION FOR CERTAIN FEDERALLY FINANCED BUILDINGS

The Senate proceeded to consider the bill (H.R. 11565) to insure that certain buildings financed with Federal funds utilize the best practicable technology for the conservation and use of energy, which had been reported from the Committee on Public Works with amendments on page 1, in line 3, after "in", insert "sections 2 through 5 of".

On page 3, beginning with line 14, insert:

SEC. 6. (a) (1) The Congress hereby finds—

(A) that federally owned and federally assisted facilities have a significant impact on the Nation's consumption of energy;

(B) that energy conservation practices adopted for the design, construction, and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(C) that the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(D) that the cost of energy is significant and facility designs must be based on the lowest total life cycle cost, including (i) the initial construction cost, and (ii) the cost, over the economic life of the facility, of the energy consumed, and of operation and maintenance of the facility as it affects energy consumption.

(2) The Congress declares that it is the policy of the United States to insure that energy conservation practices are employed in the design of Federal and federally assisted facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each fa-

cility constructed or each major facility constructed or renovated, over its economic life, in addition to the initial construction for renovation cost.

(b) For purposes of this section:

(1) The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and includes the United States Postal Service.

(2) The term "facility" means any building on which construction is initiated six months or more after the date of enactment of this Act.

(3) The term "major facility" means any building of fifty thousand or more square feet of usable floor space on which construction or renovation is initiated six months or more after the date of enactment of this Act.

(4) The term "Federal facility" or "major Federal facility" means a facility constructed, or a major facility constucted or renovation, by a Federal agency.

(5) The term "federally assisted facility" or "major federally assisted facility" means a facility constructed, or major facility constructed or renovated, in whole or in part with Federal funds or with funds guaranteed or insured by a Federal agency.

(6) The term "initial cost" means the required cost necessary to construct a facility or construct or renovate a major facility.

(7) The term "economic life" means the projected or anticipated useful life of a facility.

(8) The term "life-cycle cost" means the cost of a facility including (i) its initial cost, and (ii) the cost, over the economic life of the facility, of the energy consumed and of operation and maintenance of the facility as it affects energy consumption.

(9) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on a facility by its occupants, equipment and components, and the external energy load imposed on the facility by climatic conditions.

(c) (1) The Congress authorizes and directs that Federal agencies shall carry out the construction of Federal facilities and the construction and renovation of major Federal facilities under their jurisdiction or programs for the construction of federally assisted facilities and the construction and renovation of major federally assisted facilities in such a manner as to further the policy declared in paragraph (a) (2) of this section, insuring that energy conservation practices are employed in new Federal and federally assisted facilities and in new or renovated major Federal and federally assisted facilities.

(2) Each Federal agency having jurisdiction over any Federal or federally assisted facilities construction program shall require the preparation of a complete life-cycle cost analysis for each major facility (exceeding fifty thousand square feet of usable floor space), for the expected life of the major facility.

(3) This life-cycle cost analysis shall include but not be limited to such elements as:

(A) the coordination and positioning of the major facility on its physical site;

(B) the amount and type of fenestration employed in the major facility;

(C) the amount of insulation incorporated into the facility design;

(D) the variable occupancy and operating conditions of the major facility, including illumination levels; and

(E) an energy consumption analysis of the major facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy-consuming systems. The energy consumption analysis of the operation of energy-consuming systems in the major facility should include but not be limited to:

(i) the comparison of two or more system alternatives;

(ii) the simulation of each system over the entire range of operation of the major facility for a year's operating period; and

(iii) the evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(4) The life-style cost analysis performed for each major facility shall provide but not be limited to the following information:

(A) the initial cost of each energy-consuming system being compared and evaluated;

(B) the annual cost of all utilities;

(C) the annual cost of maintaining each energy-consuming system; and

(D) the average replacement cost for each system expressed in annual terms for the economic life of the major facility.

(5) Selection of the optimum system or combination of systems to be incorporated into the design of the major facility shall be based on the life-cycle cost analysis of the economic life of the major facility.

(6) In the selection of locations for new Federal and federally assisted facilities consideration shall be given to proximity to existing or planned mass transit facilities.

(d) The life-cycle cost analysis and consideration of energy conservation practices required by subsection (c) of this section shall be included by the Administrator of the General Services Administration in any prospectus submitted to the Committees on Public Works of the Senate and the House of Representatives under section 7 of the Public Buildings Act of 1959, as amended.

(e) The Administrator of the General Services Administration shall prepare and submit biennial reports to the President and the Congress on the results of its program established pursuant to subsections (c) and (d) of this section. Such report shall include a description of equipment, methods of construction, and operating practices used to achieve energy conservation, including comparisons of energy consumption and costs for facilities in which such equipment, methods, or policies are and are not used.

(f) The Administrator of the General Services Administration is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement, except that the United States Postal Service shall have the responsibility to develop, publish, and implement energy conservation guidelines for all postal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(g) The provisions of subsection (c) and subsection (f) of this section shall apply to all the construction and procurement policies of the Department of Defense, except where the Secretary of Defense finds that combat needs require otherwise.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

COMMEMORATION MEDAL FOR 100TH ANNIVERSARY OF STATEHOOD OF COLORADO

The bill (H.R. 4738) to provide for the striking of medals in commemoration of the 100th anniversary of the Statehood of Colorado was considered, ordered to a third reading, read the third time, and passed.

COMMEMORATION MEDAL FOR THE INTERNATIONAL EXPOSITION ON ENVIRONMENT AT SPOKANE, WASH., IN 1974

The bill (H.R. 5760) to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974 was considered, ordered to a third reading, read the third time, and passed.

SPECIAL PAY STRUCTURE RELATING TO MEDICAL OFFICERS

The Senate proceeded to consider the bill (S. 2770) to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services which had been reported from the Committee on Armed Services with amendments on page 3, after line 19, strike out:

(3) Section 311 is amended by striking out in subsection (a) the words "in the Medical or Dental Corps, an officer of the Air Force who is designated as a medical officer or dental officer," and inserting in place thereof the words "in the Dental Corps, an officer of the Air Force who is designated as a dental officer,".

And, in lieu thereof, insert:

(3) That portion of the first sentence of section 311(a) preceding clause (1) is amended to read as follows:

"(a) Under regulations to be prescribed by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate, an officer of the Army or Navy in the Medical Corps above the pay grade of O–5, an officer of the Air Force who is designated as a medical officer and is above the pay grade of O–5, an officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a medical or dental officer of the Public Health Service who—".

On page 4, at the beginning of line 22, insert "(1) is below the pay grade of O–6;" at the beginning of line 23, strike out "(1)" and insert "(2)"; at the beginning of line 25, strike out "(2)" and insert "(3)"; on page 5, at the beginning of line 5, strike out "(3)" and insert "(4)"; and in line 12, after the word "exceed", strike out "$15,000" and insert "$10,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 5 of title 37, United States Code, is amended as follows:

(1) Section 302 is amended to read as follows and the item in the chapter analysis is amended to correspond with the revised catchline:

"§ 302. SPECIAL PAY: PHYSICIANS.

"An officer of the Army or Navy in the Medical Corps, an officer of the Air Force who is designated as a medical officer, or a medical officer of the Public Health Service, who is on active duty for a period of at least one year is entitled, in addition to any other pay or allowances to which he is entitled, to special pay at the following rates—

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of

an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.".

(2) The following new section is added after section 302a and a corresponding item is inserted in the chapter analysis:

"§ 302b. SPECIAL PAY: DENTISTS.

"An officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a dental officer of the Public Health Service, who is on active duty for a period of at least one year is entitled, in addition to any other pay or allowances to which he is entitled, to special pay at the following rates—

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in the Dental Corps or as a dental officer;

"(2) $150 a month for each month of active duty if he has completed at least two years of active duty in the Dental Corps or as a dental officer;

"(3) $250 a month for each month of active duty if he has completed at least six years of active duty in the Dental Corps or as a dental officer; or

"(4) $350 a month for each month of active duty if he has completed at least ten years of active duty in the Dental Corps or as a dental officer.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay.".

(3) That portion of the first sentence of section 311(a) preceding clause (1) is amended to read as follows:

"(a) Under regulations to be prescribed by the Secretary of Defense or by the Secretary of Health, Education, and Welfare, as appropriate, an officer of the Army or Navy in the Medical Corps above the pay grade of O–5, an officer of the Air Force who is designated as a medical officer and is above the pay grade of O–5, an officer of the Army or Navy in the Dental Corps, an officer of the Air Force who is designated as a dental officer, or a medical or dental officer of the Public Health Service who—".

(4) By adding the following new section after section 312a and by inserting a corresponding item in the chapter analysis:

"§ 313. SPECIAL PAY: MEDICAL OFFICERS WHO EXECUTE ACTIVE DUTY AGREEMENTS.

"(a) Under regulations prescribed by the Secretary of Defense and approved by the President, an officer of the Army or Navy in the Medical Corps, or an officer of the Air Force who is designated as a medical officer, who—

"(1) is below the pay grade of O–6;

"(2) is designated as being qualified in a critical specialty by the Secretary concerned;

"(3) is determined by a board composed of officers in the medical profession under criteria prescribed by the Secretary of Defense to be qualified to enter into any active duty agreement for a specified number of years; and

"(4) executes a written active duty agreement under which he will receive incentive pay for completing a specified number of years of continuous active duty subsequent to executing such an agreement;

may, upon acceptance of the written agreement by the Secretary concerned, or his designee, and in addition to any other pay or allowances to which he is entitled, be paid an amount not to exceed $10,000 for each year of the active duty agreement. Upon acceptance of the agreement by the Secretary concerned, or his designee, and subject to subsections (b) and (c) of this section, the total amount payable becomes fixed and may be paid in annual, semiannual, or monthly installments, or in a lump sum after completion of the period of active duty specified in the agreement, as prescribed by the Secretary concerned.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary concerned, or his designee, may terminate, at any time, an officer's entitlement to the special pay authorized by this section. In that event, the officer is entitled to be paid only for the fractional part of the period of active duty that he served, and he may be required to refund any amount he received in excess of that entitlement.

"(c) Under regulations prescribed by the Secretary of Defense, an officer who has received payment under this section and who voluntarily, or because of his misconduct, fails to complete the total number of years of active duty specified in the written agreement shall be required to refund the amount received that exceeds his entitlement under those regulations. If an officer has received less incentive pay than he is entitled to under those regulations at the time of his separation from active duty, he shall be entitled to receive the additional amount due him.

"(d) This section does not alter or modify any other service obligation of an officer. Completion of the agreed period of active duty, or other termination of an agreement, under this section does not entitle an officer to be separated from the service, if he has any other service obligation.

"(e) The Secretary of Defense shall submit a written report each year to the Committees on Armed Services of the Senate and House of Representatives regarding the operation of the special pay program authorized by this section. The report shall be on a fiscal year basis and shall contain—

"(1) a review of the program for the fiscal year in which the report is submitted; and

"(2) the plan for the program for the succeeding fiscal year.

This report shall be submitted not later than April 30 of each year, beginning in 1975.".

SEC. 2. The amendments made by this Act become effective on January 1, 1974. Except for the provisions of section 313 of title 37, United States Code, as added by section 1(4) of this Act, which will expire on June 30, 1976, the authority for the special pay provided by this Act shall, unless otherwise extended by Congress, expire on June 30, 1977.

Mr. STENNIS. Mr. President, I will address myself now to two calendar items, bills S. 2770, which would provide increases for certain medical officers of the armed services and S. 2771, which would revise the enlistment and reenlistment bonus structure for enlisted men in the armed services. The administration has indicated that these are high-priority items which are critical to the success of the all-volunteer force.

Mr. President, I am on record as saying that the all-volunteer force concept must be given every opportunity to succeed, and I intend to see that it does get every reasonable opportunity to succeed. That is why I consider it very important that the Senate take prompt action on bills S. 2770 and S. 2771.

S. 2770—INCREASES IN PAY FOR CERTAIN MILITARY PHYSICIANS

The principal features of S. 2770 are:

First, it provides an increase in monthly special pay for physicians—including Public Health Service officers—with 2 years' active service from $150 to $350.

Second, it terminates present continuation pay for physicians in grades below O–6, colonel, who currently receive 4 months' basic pay for each year that they agree to continue on active service.

Third, it provides a new bonus authority for up to $10,000 a year for physicians in pay grades below O–6, colonel, for each year they agree to continue active duty.

NET INCREASES IN PAY UNDER THE $10,000 BONUS

Mr. President, I think it very important to point out at this time that the $10,000 maximum bonus authorized by the bill for those medical officers below the grade of O–6, colonel, does not result in a net increase in pay of $10,000 for these personnel. Let me use an example. An O–4, major, with 7 years of service would receive the maximum $10,000 bonus under the bill, but would realize a net increase in pay resulting from the bonus of $4,954 because his current continuation pay of $5,046 would be terminated under the bill. In other words, the difference between the $10,000 bonus less the continuation pay of $5,046 results in a net increase from the bonus of $4,954. In addition, this O–4, major, would receive a $1,200 increase in monthly special pay for a total net increase under the bill of $6,154. I might note here, Mr. President, that the range in net increases under the bill are from approximately $7,700 to $2,300 for those below the grade of O–6, colonel, primarily O–4s, major, and O–5's, lieutenant colonel. I do not think the fact can be overemphasized that the $10,000 bonus authorized by the bill does not result in a net increase in pay of that amount.

SPECIAL INCENTIVES FOR MILITARY PHYSICIANS SINCE 1947

Mr. President, special incentives have been authorized for physicians in the armed services since 1947, primarily to reduce the gap between civilian and military physician incomes, in order to keep these personnel in the services. Under current law a special pay of up to $350 per month and a continuation pay is provided military physicians which their line counterparts do not receive.

CRITICAL PROBLEM OF RETAINING PHYSICIANS WITHOUT THE DRAFT

When the military services were operating under the draft they had no difficulty in obtaining sufficient numbers of physicians. Since the draft authority expired there have been increasingly greater shortfalls of physicians entering the services. A physician shortage of 815 is forecast for the end of fiscal year 1975, increasing to 1,812 by the end of fiscal year 1976 based on authorizations of 12,147 for fiscal year 1975–76. Not only are there increasing overall shortages, but there are increasing shortages in critical specialities such as pathology, aerospace medicine, radiology, and the like.

The primary reason for the shortfalls in the all-volunteer environment is the significant salaries that physicians can earn in the civilian economy with just a few short years of practice. For example, a young physician with just 4 years of practice can earn a median civilian income of $43,400 based on a survey made by the magazine Medical Economics. The same physician in the military, with 4

years of practice, currently earns $24,871 which includes all his pay and allowances plus monthly special pay and continuation pay. This example of a comparable military and civilian physician shows a net difference in salaries of almost $19,000 per year.

Unless something is done to close the gap in these earnings, and I emphasize for younger physicians, the military services will soon cease to have viable medical service corps.

THE CRITICALITY OF THE PROBLEM AT THE PRESENT TIME

Mr. President, I cannot overemphasize the criticality of the physician-manning problem in the services at the present time. In the summers of 1974 and 1975 approximately 7,000 young physicians will leave military service unless some action is taken to increase their compensation.

Currently, the services retain less than 1 percent of physicians who enter service for 2 years resulting from the draft. The services have testified that if they can retain approximately one-third of the 7,000 physicians who would otherwise leave, they can maintain a viable Medical Service Corps into the foreseeable future.

Mr. President, it is, therefore, important that action be taken on this bonus bill now because many of the 3,500 physicians who will leave next summer are making their decisions at this point whether to stay in service or not.

PAY INCREASES UNDER THE BILL

Mr. President, I would emphasize that the increases under the bill would only be for those physicians below the grade of O–6, colonel, where the retention problem is felt to be most critical and where the difference in earnings between civilian and military counterparts is the greatest.

Again, I would emphasize that the net increases for those in grades below that of O–6, colonel, that is O–5's, lieutenant colonel, and O–4's, major, would range from about $7,700 to $2,300 per year.

COST OF THE LEGISLATION

Enactment of S. 2770 would result in an increased budget cost of $37.2 million for fiscal year 1974, assuming a January 1, 1974, implementation date. This would increase to about $55 million per year for fiscal years 1975–79.

Mr. GOLDWATER. Mr. President, I would like to develop a bit of legislative history as we are about to pass S. 2770 relating to special and bonus pay for military physicians. It is important to note that while the legislation deals with physicians only, this is an area which I believe the Armed Services Committees should and will be considering relative to optometrists, dentists, and other health care professionals in the next session of Congress. It is my understanding that passage of this much needed bill today will not in any way be used as a reason for failing to act afterward on the pressing question of special pay and bonus authority improvements for the other health care personnel, and I wanted to make this fact plainly known today on the record.

Mr. THURMOND. Mr. President, I rise in support of S. 2770, a special pay bill providing salary increases to certain medical officers in the military service, and S. 2771, a bill revising enlistment and reenlistment bonuses for enlisted personnel in the military services.

The medical officer bill is limited to physicians as the Department of Defense advised the committee a critical shortage of physicians was approaching. The committee, therefore, agreed to go ahead and act in this one area of Special Pay and consider other groups, such as dentists, optometrists, and podiatrists, next year.

The physicians' bill has three main features. First, it terminates continuation pay. Second, it substitutes in place of continuation pay a $10,000 annual bonus authority which will result in pay hikes for captains with 3 years practice, and all majors and lieutenant colonels. The bill does not affect the pay of captains with 2 years or less practice, nor does it affect the pay of physicians who are colonels or general officers.

It should be noted that the rates approved by the committee are scaled below the $10,000 maximum, with the increases varying from $3,000 for a captain with 3 years practice to $7,674 for majors with 4 or 5 years practice.

Mr. President, the Defense Department recommended a maximum bonus of $15,000 but the committee adopted the more modest $10,000 schedule. This was done as the membership felt that rising personnel costs must be brought under control and the schedule adopted did provide increases to those military doctors whose pay was significantly below their civilian counterparts.

It should be pointed out that with the expiration of the doctor draft and conversion to an all-volunteer military force it will be most difficult to attract or retain physicians in uniform without better pay scales. This bill attempts to address that problem, although military physicians will still be drawing considerably less money than their civilian counterparts.

For instance, even with the increases provided in S. 2770, senior captains, all majors, and very junior lieutenant colonels will still be paid approximately $10,000 less than their counterparts in civilian life.

This bill, however, will increase costs for military physicians by approximately $55 million per year in the time frame for which it will be effective, fiscal year 1975 through fiscal year 1979. With reference to the enlistment and reenlistment bonus bill, S. 2771, it will accomplish two goals, restructuring of the reenlistment bonus and expansion of the enlistment bonus programs.

Under present law all those who reenlist are paid a $2,000 bonus. This bill would allow selective payment of the reenlistment bonus and eliminate the requirement to pay all who would reenlist. The result is that the services would have more flexibility in using the reenlistment bonus and could thus use it more effectively. In fact, this change will result in considerable annual savings. It is estimated that these savings could amount to as much as $77 million annually by fiscal year 1979.

The enlistment bonus allowed by present law applies only to men enlisting in the combat arms for 4 years. However, due to shortages in other critical skill areas the committee has approved expansion of this authority, provided the enlistee agrees to serve 4 years in the Army, or 6 years in the Air Force or Navy.

This bonus will result in additional costs, ranging from $12.9 million in fiscal year 1974 to $85.3 million in fiscal year 1976. However, by retaining these men for longer enlistments the Defense Department feels money will be saved because of reduced turnover resulting from shorter enlistments and hopefully these men will make the military a career.

Mr. President, I urge favorable consideration of both these bills.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 615 and 635.

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

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON GOVERNMENT OPERATIONS

The resolution (S. Res. 215) authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations by the Permanent Subcommittee on Investigations was considered and agreed to, as follows:

Resolved, That S. Res. 46, Ninety-third Congress, agreed to February 26, 1973, is amended as follows:

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

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

ARMED FORCES ENLISTED PERSONNEL BONUS REVISION ACT

The Senate proceeded to consider the bill (S. 2771) 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 which had been reported from the Committee on Armed Services with amendments on page 2, line 16, after the word "or", strike out "$15,000" and insert "$12,000"; on page 3, line 22, after the word "a" where it appears the first time, strike out "peirod" and insert "period"; in the same line, after the word "least", strike out "three" and insert "four"; and in line 24, after the word "least", strike out "three" and insert "four"; so as to make the bill read:

S. 2771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Enlisted Personnel Bonus Revision Act of 1974".

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

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

"§ 308. SPECIAL PAY: REENLISTMENT BONUS.

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

"(1) has completed at least twenty-one months of continuous active duty (other than for training) but not more than ten years of active duty;

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

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

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

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

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

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

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

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

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

"§ 308a. SPECIAL PAY: ENLISTMENT BONUS.

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

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

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

SEC. 3. Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on the day before the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308 (a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or from a combination of both.

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

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

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Maine (Mr. HATHAWAY) be recognized to offer an amendment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In 10 USC, in subsections 4342 (e) (4), 6954 (a) (1), 6954 (a) (8), 6954 (b) (1), 6954 (c), 9342 (e) (4) strike "sons" and insert in lieu thereof, "children". In subsections 4342 (h), 9342 (d), and 9342 (h), strike "son" and insert in lieu thereof, "child." In subsections 6956 (d) (1) and 6956 (d) (2), strike "men" and insert in lieu thereof, "members". In subsection 6964 (e) strike "men" and insert in lieu thereof, "persons". Insert the following as subsections 4346 (e), 9346 (e), and 6958 (d):

"A female candidate for admission who is qualified to be trained in a skill or profession in which individuals of her sex are permitted to serve as commissioned officers in the armed forces of the United States shall not be ineligible for admission on account of sex, nor shall sex be grounds for the refusal of admission to the Academy.

Mr. HATHAWAY. Mr. President, the thrust of the amendment is to allow female candidates for admission to the military academies to be admitted. I think the amendment is completely in accord with the purpose of the bill itself.

One of the problems we have had with our All-Volunteer Army is the fact that not enough people have enlisted. This bill will provide a bonus for reenlistment. It has been suggested by many that we also induce women to enter the military services. It is completely in keeping with that idea also to admit them to the military academies.

After all, there are many women today already serving as officers in the WAVES, WACS, and WAFS. If the military feels that women are qualified to receive commissions and to serve their country as members of a particular branch of service, then certainly women are entitled to the same excellent officer training as men. And, of course, the best training available takes place at the military academies.

Mr. MANSFIELD. Mr. President, if the Senator from Maine will yield, I should like to be a cosponsor of his amendment. I am a little bit burned up about the admissions policy of some of the service academies. I nominated two women this year. They passed the examinations. They are entitled to entrance, otherwise they should be barred from taking the examinations in the first place.

Mr. HATHAWAY. Mr. President, I am happy to have the majority leader as a cosponsor.

Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: Senators MANSFIELD, THURMOND, and JAVITS.

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

Mr. JAVITS. Mr. President, I appointed the first girl to the Naval Academy. The Naval Academy successfully frustrated that appointment up to now, which has been about 2 years ago. I am delighted that the Senator from Maine has acted. I congratulate him, and am glad to be a cosponsor of his amendment.

Mr. STENNIS. Mr. President, I think the amendment is relevant to the bill and the problem the bill seeks to remedy. I would like to see the matter tried out. So far as being the manager of the bill is concerned, I am willing to take it to conference and we will see what we can do with it. If necessary, we can hold some hearings by our committee, or the subcommittee, before the conference is held.

Mr. THURMOND. Mr. President, we have removed all vestiges of discrimination against women in almost every field. I, therefore, see no reason why we should not do it in the military field. Certainly there must be some women, somewhere in this land, who are very able and will make splendid military personnel. I am pleased to be a cosponsor of the amendment.

Mr. MANSFIELD. Mr. President, I have not given up on the appointment which I have made. This appointment was confirmed on the basis of high enough grades in taking the examination. It is about time this matter came to a head. If we believe in the equality of women, we should act that way. Women are entitled to entrance to the military academies if they desire to do so and if they qualify.

Mr. JAVITS. Mr. President, I am about to appoint—I have already interviewed her—another girl and will try another test of strength with the Naval Academy.

I have had extensive correspondence with the Naval Academy on what they claim was a proper legal basis for rejecting my nominee, a conclusion with which I thoroughly disagree. We are not trying to make girls line officers, but simply to give them the right to be admitted for duty with the Navy for which they are completely capable.

Mr. MANSFIELD. It is just not the Navy, but all the service academies.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. STENNIS. Mr. President, S. 2771 provides basically for a revision of existing reenlistment bonus authority, at considerable savings in future years, and an expansion of current enlistment bonus authority, currently used only for enlistments in the combat arms. Again, the Administration has indicated that this is a high-priority bill whose passage would help considerably in promoting the success of the All-Volunteer Force.

PRINCIPAL FEATURES OF S. 2771

Mr. President, the first major provision of S. 2771 provides for a restructuring of the services current reenlistment bonus authority.

Existing law provides a regular reenlistment bonus of $2,000 for all reenlistments regardless of skill areas and a variable reenlistment bonus of up to $8,000 for reenlistment in critical skill areas only. A maximum of $10,000 is allowed in reenlistment bonuses over a career.

The bill modifies existing law by allowing up to $12,000 in a selective reenlistment bonus for reenlistment in critical skills only and repeals the regular reenlistment bonus of $2,000 for new entrants.

CONSIDERABLE SAVINGS FROM RESTRUCTURING THE REENLISTMENT BONUS AUTHORITY

There are significant savings resulting from eliminating the use of the regular reenlistment bonus of $2,000. Current law requires it be paid to an individual when he reenlists whether he is in an over- or under-manned skill. The Department of Defense estimates that in fiscal year 1973 they paid $43.5 million in regular reenlistment bonuses in skill areas that could have been filled without use of the bonus.

In fact, elimination of the regular reenlistment bonus will result in an annual savings in fiscal year 1979 of $77.4 million.

NEW REENLISTMENT BONUS OF $12,000

The committee reduced the reenlistment bonus authority in the original bill from $15,000 down to $12,000. The current law provides a maximum bonus of $10,000 over a career. The committee felt it wise to increase the bonus authority to $12,000 to provide flexibility in administering the reenlistment bonus and also to allow for increases in inflation in future years.

In summary, Mr. President, this restructuring of the reenlistment bonus system makes much more efficient use of reenlistment dollars with considerable savings in future years.

THE EXPANSION OF THE ENLISTMENT BONUS AUTHORITY

The second major feature of S. 2771 provides for an expansion of the current enlistment bonus authority. Existing law grants authority to pay up to $3,000 for an enlistment of at least 3 years in the combat arms, that is, infantry, armor, and artillery in the Army and Marine Corps.

The bill would expand existing law to use the current enlistment bonus authority of up to $3,000 for an enlistment of 4 years in any critical skill in any service.

PROJECTED CRITICAL SKILL ENLISTMENT SHORTAGE

Currently the services are experiencing critical skill enlistment shortages in various areas such as electronic equipment repairman, mechanical repairman, communications, and intelligence specialists and the like. The services have estimated that without the expanded use of the enlisted bonus that they will fall critically short in these enlistment areas.

SUCCESS OF THE COMBAT ARMS ENLISTMENT BONUS

The Department of Defense has testified that the combat arms enlistment bonus has been an unqualified success. Currently the Department is using the combat arms enlistment bonus at the $2,500 level for a 4-year enlistment. Mr. President, I request unanimous consent at this time to have inserted in the RECORD a table which shows the activity of the combat arms enlisted bonus for comparable bonus and nonbonus periods.

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

EXPANDED ENLISTMENT BONUS TEST RESULTS VERSUS COMPARABLE NONBONUS PERIOD (ARMY ONLY)

Specialty	Enlisted for specialty (percent)	
	May–June 1972 [1]	May–June 1973 [2]
Radio teletype operator	30	60
Pershing missile crewman	7	56
Air defense artillery operations/intelligence specialist	7	107
Defense acquisition radar	10	59
Pershing electronics material specialist	25	87
Pershing guidance/control repairman	0	113
Hawk missile launcher repairman	3	105
Weapons support radar repairman	0	125
Ground control approach radar repairman	29	100
Wire guided missile system repairman	3	64
Shillelagh missile system repairman	0	92
Radio relay/carrier attendant	45	49
Special electronics device repairman	15	107
Tank turret repairman	48	108
Artillery repairman	3	75
Nuclear weapons maintenance specialist	3	106
Artillery surveyor	5	73

[1] No bonus authorized for this period.
[2] A bonus of $2,500 for a 4-year enlistment was authorized for this period.

Mr. STENNIS. For example, during May and June of 1972 the Army got 29 percent of their ground control approach radar repairmen and 100 percent during May and June 1973 when the bonus was in effect.

I think there is little question that judicious use of the bonus has had a significant effect on enlistments in critical skill areas. The enlistment bonus authority under the bill would expand the current combat arms enlistment bonus by providing a bonus of up to $3,000 for a 4-year enlistment in any critical skill area. The Department states that the initial bonus amount would be limited to $2,000, with the exception of $2,500 for the combat arms bonus, for terms of enlistment of 4 years in the Army and Marine Corps, at least 4 years in the Navy, and 6 years in the Air Force. The bonus will also be limited to those in mental categories I, II, and III—category IV is the lowest—on the Armed Forces qualification test, and for the most part to high school graduates.

COST OF THE ENLISTMENT BONUS

The committee report on S. 2771 provides examples of training cost savings resulting from use of the bonus. This comes about because the bonus requires longer enlistments than otherwise would be the case by spreading training costs over longer periods.

The additional cost of the enlistment bonus for fiscal year 1974, assuming a January 1, 1974 implementation date is $12.9 million increasing to $85.3 million in fiscal year 1976. These additional costs do not reflect, however, any training savings resulting from use of the bonus.

CLOSING

In summary, Mr. President, I urge prompt action on bills S. 2770 and S. 2771. I believe enactment of this legislation will provide significant help to the Department of Defense in making the all-volunteer force a success.

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

S. 2771

An act to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the armed forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled, That this Act may be cited as the "Armed Forces Enlisted Personnel Bonus Revision Act of 1974".

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

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

"§ 308. Special pay: reenlistment bonus

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

"(1) has completed at least twenty-one months of continuous active duty (other than for training) but not more than ten years of active duty;

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

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

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

may be paid a bonus, not to exceed six months of the basic pay to which he was en-

titled at the time of his discharge or release, multipled by the number of years, or the monthly fractions thereof, of additional obligated service, not to exceed six years, or $12,000, whichever is the lesser amount. Obligated service in excess of twelve years will not be used for bonus computation.

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

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

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

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

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

"§ 308a. Special pay: enlistment bonus

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

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

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

SEC. 3. Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308 (a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308 (a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or from a combination of both.

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

SEC. 5. In 10 U.S.C., in subsections 4342(e)(4), 6954(a)(1), 6954(a)(8), 6954(b)(1), 6954(c), 9342(e)(4) strike "sons" and insert in lieu thereof, "children". In subsections 4342(h), 9342(d), and 9342(h) strike "son" and insert in lieu thereof, "child". In subsections 6956(d)(1) and 6956(d)(2) strike "men" and insert in lieu thereof, "members". In subsection 6964(e) strike 'men" and insert in lieu thereof. "persons". Insert the following as subsections 4346(e), 9346(e), and 6958(d): "A female candidate for admission who is qualified to be trained in a skill or profession in which individuals of her sex are permitted to serve as commissioned officers in the armed forces of the United States shall not be ineligible for admission on account of sex, nor shall sex be grounds for the refusal of admission to the Academy".

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask consent that the Senate proceed to the consideration of Calendar Nos. 614 and 620.

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

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON COMMERCE

The resolution (S. Res. 216) authorizing supplemental expenditures by the Committee on Commerce for inquiries and investigations was considered and agreed to, as follows:

Resolved, That section 2 of S. Res. 45, Ninety-third Congress, agreed to March 15, 1973, as amended, is amended by striking out "$1,300,000" and inserting in lieu thereof "$1,375,000".

SUPPLEMENTAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

The resolution (S. Res. 214), authorizing supplemental expenditures by the Committee on Aging for inquiries and investigations was considered and agreed to as follows:

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

The title was amended, so as to read: "Resolution authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations".

HOUSE JOINT RESOLUTION 858—TO PROVIDE FOR THE ESTABLISHMENT OF THE LYNDON BAINES JOHNSON MEMORIAL GROVE ON THE POTOMAC

Mr. BENTSEN. Mr. President, the Committee on Rules and Administration has reported this morning Senate Joint Resolution 178 which provides for a Lyndon B. Johnson Memorial Grove on the Potomac and which I introduced along with Senators AIKEN, HUMPHREY and GOLDWATER on December 6.

The members of the Committee on Rules and Administration have agreed to report this measure before the Congress adjourns for this session and I know the proponents of the L.B.J. Memorial Grove are deeply grateful for the committee's speedy consideration of this measure.

The House has passed a companion measure with minor differences from the Senate bill and in order to avoid the necessity for a conference on the different versions I now ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Joint Resolution 858 and that the Senate proceed to its immediate consideration.

Mr. President, President Johnson had his bedrock in Texas, but a great deal of his life was spent here on the banks of the Potomac.

His work here spanned more than a generation, and he left his mark on the institutions of our Government, particularly this body which he loved so well.

The joint resolution we are considering today will not cost the public a cent, but it will give to the people a living memorial to a man who shared so much of their lives through his public work. It would be another addition to the beautification of the National Capital which was of such concern to his wife and which had his full support. The Johnson Memorial Grove would be located in the Lady Bird Johnson Park which borders the Potomac River and which offers a scenic view of the city. Plans for the grove call for an elevated area in the center of the grove, perhaps containing a statue or other memorial to the President and encompassed by a grove of trees which will provide a perfect natural setting for this simple tribute to our former President.

This project has been approved by Mrs. Johnson and will, no doubt, bear the tasteful influence of her personal involvement. The friends of the late President are all in accord in this proposed tribute, and I hope that the Senate will act with dispatch to clear the way for this living memorial to a man who gave us all so much.

In closing, let me thank the members of the Committee on Rules and Administration once again for their expeditious handling of this proposal.

Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of House Joint Resolution 858 and that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

H.J. Res. 858. A joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from Texas? The Chair hears none, and it is so ordered.

Accordingly, the joint resolution (H.J.

Res. 858) was considered, ordered to a third reading, read the third time, and passed.

Mr. BENTSEN. Mr. President, I ask unanimous consent that consideration of Senate Joint Resolution 178 be indefinitely postponed.

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

RECESS SCHEDULE

Mr. MANSFIELD. Mr. President, the distinguished Republican leader and I have been working on a recess schedule for next year, up to and including the Fourth of July recess. We have also met with the assistant leaders, and together the joint leadership—all four of us— are recommending to the Senate that the recess periods for next year be as follows:

First, when the Senate adjourns sine die this weekend, hopefully, we will not return until Monday, January 21.

In February, the Senate would recess at the close of business on Friday, February 8, to and including Sunday, February 17. The Senate would return at noon on Monday.

In March, the Senate would take off the 15th, 16th, 17th, and 18th, which would be at the conclusion of business on Thursday, the 14th of March. The Senate would return at noon on Tuesday, the 19th of March.

In April, the Senate would stand in recess from the conclusion of business on Friday, April 12, until noon on Monday, April 22.

In May, the Senate would stand in recess at the conclusion of business on Thursday, May 23, until noon on Tuesday, May 28.

In June and July, the Senate would stand in recess from the conclusion of business on Friday, June 28, up to and including Sunday, July 7. The Senate would return at 12 noon on Monday, July 8.

Mr. HUGH SCOTT. Mr. President, if the distinguished majority leader will yield, as he has stated, we have discussed this—the four of us—and we have received the benefit of the views of a large number of Members of the Senate regarding recess schedules generally from time to time. They have been discussed in our conferences, and the present recess schedule involves the addition of about 5 legislative days to the usual, normal recess schedule, the purpose being to provide a long weekend in certain months in which there are no recesses for holiday purposes, and in order that Senators may make plans to return to their districts and make speaking engagements without having to cancel them, since the average Senator cancels about as many engagements as he keeps, under the present situation.

Therefore, it seems to me a very wise expedient to provide certain specific days, in the sincere hope that Senators will do their best to be present on the days on which work is scheduled, so that we may more expeditiously accomplish the business.

With that in mind, I think the distinguished majority leader has a further report to make, as a result of his conference with his party, a report with which I am in accord.

Mr. MANSFIELD. May I say, before we get to the point of the Senator's question, that it would be the position of the joint leadership—all four of us—to get together sometimes in April or May to consider recesses for the remainder of the year. But until that time, this is the best the joint leadership can do in making this announcement to the Senate, and notices to this effect will be sent to all Members by the joint leadership.

When this question was raised in the Democratic policy committee yesterday, this proposal of the joint leadership carried by a very narrow majority—that is, in the beginning. In the end, it was agreed to unanimously by the policy committee.

However, the policy committee laid down certain stipulations; and in response to the question raised by the distinguished Republican leader, I should like to call upon the distinguished assistant majority leader at this time to state what those proposals were.

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

Before I state the proposals to which the distinguished majority leader has alluded, I ask unanimous consent to have printed at this point in the RECORD a table of the recesses, excluding Saturdays and Sundays that have been had this year.

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

RECESSES, EXCLUDING SATURDAYS AND SUNDAYS

Adjourn from—	
Thurs., Jan. 4–Sat., Jan. 6	1
Sat., Jan. 6–Tues., Jan. 9	1
Tues., Jan. 9–Thurs., Jan. 11	1
Fri., Jan. 12–Tues., Jan. 16	1
Tues., Jan. 16–Thurs., Jan. 18	1
Thurs., Jan. 18–Sat., Jan. 20	1
Sat., Jan. 20–Tues., Jan. 23	1
Wed., Jan. 24–Fri., Jan. 26	1
Mon., Jan. 29–Wed., Jan. 31	1
Lincoln's Birthday: Thurs., Feb. 8–Thurs., Feb. 15	3
Thurs., Feb. 15–Mon., Feb. 19	1
Thurs., Feb. 22–Mon., Feb. 26	1
Fri., Mar. 2–Tues., Mar. 6	1
Tues., Mar. 6–Thurs., Mar. 8	1
Thurs., Mar. 8–Mon., Mar. 12	1
Thurs., Mar. 15–Mon., Mar. 19	1
Tues., Mar. 20–Thurs., Mar. 22	1
Thurs., Mar. 22–Mon., Feb. 26	1
Thurs., Mar. 29–Mon., Apr. 2	1
Fri., Apr. 6–Tues., Apr. 10	1
Easter: Wed., Apr. 18–Mon., Apr. 30	7
Thurs., May 3–Mon., May 7	1
Thurs., May 10–Mon., May 14	1
Thurs., May 17–Mon., May 21	1
Memorial Day: Wed., May 23–Tues., May 29	2
Independence Day: Sat., June 30–Mon., July 9	4
Summer recess: Fri., Aug. 3–Wed., Sept. 5	21
Thurs., Sept. 13–Mon., Sept. 17	1
Thurs., Oct. 4–Mon., Oct. 8	1
Sat., Oct. 13–Tues., Oct. 16	1
Tues., Oct. 16–Thurs., Oct. 18	1
Veterans' Day: Thurs., Oct. 18–Tues., Oct. 23	1
Tues., Oct. 23–Fri., Oct. 26	2
Fri., Oct. 26–Tues., Oct. 30	1
Tues., Oct. 30–Fri., Nov. 2	2
Mon., Nov. 5–Wed., Nov. 7	1
Wed., Nov. 7–Fri., Nov. 9	1
Fri., Nov. 9–Tues., Nov. 13	1
Thanksgiving: Wed., Nov. 21–Mon., Nov. 26	1
Total days in recess (adjournment) *	73
Total for holiday recesses and summer recess	39
Total miscellaneous recesses	34

Saturdays worked (8): January 6; January 20; June 30; July 14; July 28; September 22; October 13; and December 1.

Sunday worked (1): December 2.

* Excluding Saturdays, Sundays, and national holidays.

Mr. ROBERT C. BYRD. This table would show, I believe, that the Senate this year has taken a recess of 1 week for the Lincoln birthday holiday, 1 week for the Easter recess, 1 week for the Independence Day recess, and 1 month for the August recess, and that there have been a total of 73 days during the year in which the Senate has been in recess, not counting the Saturdays and Sundays. For holiday recesses and the summer recess, there were 39 days. Total miscellaneous recesses numbered 34 days.

As to the proposals that were unanimously agreed to in the Senate Democratic policy committee, they are as follows:

One. Once a measure or nomination is placed on the Senate calendars, no "hold" will be honored for more than 3 days of session, unless it is a committee "hold." In other words, a "hold" placed by an individual or a group of individuals—not representing a committee position—will not be obligatory on the leadership for more than 3 days, once a measure or nomination is placed on the legislative or executive calendars.

Mr. HUGH SCOTT. Before the Senator continues, would the Senator rather finish, or shall I interrupt?

Mr. ROBERT C. BYRD. The Senator may interrupt.

Mr. HUGH SCOTT. I thank the distinguished Senator.

In this matter of "holds," committee "holds," for the purpose of clarifying it and to have some legislative history, it would be my understanding that a committee "hold" is distinguished from the individual member of the committee, in the first place.

Mr. ROBERT C. BYRD. Exactly.

Mr. HUGH SCOTT. Second, the committee "hold" should, according to custom, be a notice from either the chairman or the ranking minority member, so that it would be representative of the views of one side or the other or of the whole committee. Would that be correct?

Mr. ROBERT C. BYRD. In order to be representative of the views of the whole committee.

Mr. HUGH SCOTT. And not necessarily unanimously.

Mr. ROBERT C. BYRD. The thing I hope we could avoid is the bringing of pressure by committee members on the ranking minority member or committee chairman to place the "hold" for them, which "hold" would not otherwise lie, if lodged by an individual member for more than 3 days.

Mr. HUGH SCOTT. That is why I think it should represent the will of the committee or the substantial will of the

committee, rather than the intervention of a single Senator for the purpose of urging individual Senators to do what they might not prefer to do. We are trying to avoid having "holds" beyond 3 days. Is that the intent?

Mr. ROBERT C. BYRD. That it represents the viewpoint of at least a majority of the members of the committee.

Mr. HUGH SCOTT. The majority.

Mr. ROBERT C. BYRD. On occasion I have gone to a Senator to ask about a "hold" on a bill only to find that the Senator knew nothing about it; that, indeed, it was a staff member who had placed a "hold" on the bill on behalf of the Senator, and the Senator was entirely unaware of it.

Mr. HUGH SCOTT. Mr. President, will the Senator yield further?

Mr. ROBERT C. BYRD. I yield.

Mr. HUGH SCOTT. The individual Senator has the right under the rules, as I understand them, to request a "hold" for not more than 3 days, and all we are doing here is applying the rules of the Senate. It that the case?

Mr. ROBERT C. BYRD. No, there is no rule of the Senate on "holds," but there has been a practice of honoring them.

Mr. HUGH SCOTT. A practice in the Senate that "holds" will be honored for 3 days. But there is a statute that a 3-day notice on bills can only be waived by the majority leader and the minority leader. Is that correct?

Mr. ROBERT C. BYRD. That is correct, but that is entirely different from the situation involving a "hold." The leadership here is trying to get away from having to honor a "hold" on a bill, sometimes the "hold" being insisted upon for a week, 2 weeks, 3 weeks, a month, or 6 weeks; and in order to expedite the legislative process, it was thought by the policy committee, if we could have an understanding, that hereafter a "hold" placed by any individual or any group of Senators would not be recognized longer than 3 days, it would be helpful.

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

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. There is still one problem that is not dealt with, and that is the problem of the minority of a committee. The ranking member on our side has to think about that, and for this reason. If a minority of the committee wishes to make some determined opposition to action of the majority, it needs an opportunity to do that, and it cannot be rushed. This does not mean an inordinate time but an intermediate time. Therefore, I respectfully suggest to the leadership that they deal with that problem, perhaps not this minute or today, but it is a problem.

I say that as a ranking member of a number of committees where occasionally we get very hot issues. I would like to give an example. On the minimum wage bill a minority of the minority had its own bill and this presented quite a problem to the minority itself. So I would suggest a longer period.

As there is no specified period for a committee, suppose a majority of the committee wants to hold the bill for 4 months, 6 months, or a year. Obviously that is not what is contemplated. Finally, there should be an understanding of a minority that wants to be organized as a minority.

Mr. MANSFIELD. Mr. President, if the Senator will yield, some consideration should be given to the Senate and the leadership. If we are going to operate on the basis of this kind of recess schedule, we will have to tighten up the procedure under which we operate.

For example, the first bill on the calendar, Calendar No. 29, S. 22, was reported on February 15. It still has a hold on it. This is outrageous and the committee should not report a bill unless they intend to act on it. In other words, they should not report it out of committee just to help out a Member back home. If a committee reports a bill, it should be considered and not held up and delayed. As a general rule, we like this sort of procedure.

Mr. JAVITS. I thoroughly agree with the leader. I am suggesting that if we are trying to codify this situation, this is an added matter to which the leadership should give consideration.

Mr. ROBERT C. BYRD. The problem arises out of a definition of minority, and whether it is a minority of one, two, or three or more.

Mr. JAVITS. It means the minority of the committee. I gather that when the Senator says "committee hold," he means the committee that reported the bill, or another committee that says it has a direct interest. When I speak of minority I mean the minority on a legislative committee in toto, and the leadership will have to think through what that means, however they want to do it.

Mr. ROBERT C. BYRD. I am sure the leadership is going to be reasonable at all times but it is recognized we are going to have to have some standard around which we can rally in order to prevent a small minority—often only one Senator—from holding up a nomination or bill, thus frustrating the leadership and obstructing the legislative process.

Mr. JAVITS. I agree.

Mr. ROBERT C. BYRD. Of course, the minority always has the rules of the Senate for protection and they can rely on the rules which provide for extended debate.

Mr. JAVITS. When the Senator speaks of majority, I am enough of a lawyer to know that many people who holler are those whose ox is being gored. But the Democrats on a committee can also take the bit in their teeth. I only suggest that the other side of the point be considered, and that is the rights of the total minority of the committee.

Mr. MANSFIELD. The Senator has a good argument. I do not want to be unfair and we will not impinge in any way, shape, or form on the rights of the minority any more than we would expect them to impinge on our rights if we were the minority.

Mr. HUGH SCOTT. Mr. President, will the Senator yield to clarify another point?

Mr. ROBERT C. BYRD. I yield.

Mr. HUGH SCOTT. Under our precedents as written in the books we have long permitted a hold by a Senator or Senators from a State on positions, duties, or nominations, wherein duties of the office are confined entirely within the boundaries of the State. Those are holds most often from the Committee on the Judiciary. I assume that precedent will still obtain, which is known as congressional courtesy or something of the sort. In any event, we have sought to protect Senators in that regard.

Mr. ROBERT C. BYRD. The distinguished Republican leader is correct and that would be the intention of the leadership on this side of the aisle, speaking on behalf of the majority leader and myself—not to impinge on that rule of Senatorial courtesy.

Mr. MANSFIELD. Correct.

Mr. ROBERT C. BYRD. No. 2. The leadership is not to be under an obligation to avoid scheduling matters merely to accommodate a Senator or Senators who want to vote thereon or who have amendments or motions in relation thereto, but who cannot be present for the offering of such. Such amendments and motions can be offered by other Senators on behalf of the absent Member.

Mr. HUGH SCOTT. I think that is an excellent provision. We all know what occasions difficulties in scheduling legislation, and that is the engagements of Senators away from Washington.

I do not want to be partial about it, because we have all had occasion to be away from the Senate for manifold reasons, but, for example, if some Senator has taken on the commitment to make a speech for an honorarium 2,000 miles away or 500 miles away and an important measure is coming up in which he is interested, I think he has to make a choice between his personal desires to fulfill the engagement and his obligation as a Senator to be here and vote, or take the risk for not being here.

I am bringing up this point because, if we leave it too general, and if Senators do not read the RECORD, it may escape their attention the point we are making. But I think the leaders should maintain their position that, having enabled Senators to take this special recess, having enabled Senators to be solicited to make speeches, a Senator knows what days we are not going to be here and what days we are going to be here, and if he makes an engagement—indeed, I must apply this to myself—he will have received the choice of being impaled on the horns of a dilemma—personal desire or personal interest on one hand and Senate obligation on the other.

I think we ought to lay it on the line here that we are going to have to live up to what we undertake to do. If Senators want this recess to "hold," then Senators ought to be here, or take the burden that comes from not being here.

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

Mr. HUGH SCOTT. I yield.

Mr. PASTORE. I would hope we would not send the word abroad that this recess period is being used for the purposes of Senators making speeches for honorariums.

Mr. HUGH SCOTT. I think that is very rare as compared to other engagements.

Mr. PASTORE. The point I want to make is that we are living in very troubled times and we need to know what people back home feel and what their problems are. I think the time has come, if this is going to be a job around the calendar—and surely it is—that we ought to be given a respite once in a while, not a vacation, but merely an opportunity to go back and serve our constituents, to learn what is going on back home; that we use it for that purpose and to make speeches in our State. That was the discussion in the policy committee.

I would hope that this would not be interpreted as being a vacation, because some of us when we go home work much harder than when we are here. That is part of our job—to respond to many people. I get letters every day asking, "When are you going to be home, Mr. PASTORE? I want to see you. I want to talk over a problem with you." This will be useful for that purpose.

Mr. MANSFIELD. Mr. President, if the Senator will yield briefly, that was gone into quite extensively in the policy committee. The main purpose of these additional days was to give Senators a chance to go home and meet their own people. Some of us come from big States. Some of us find it hard to get there. I would say it is even harder for the joint leadership. This would give us a chance to go home, not as a vacation, because home is not a vacation land any more. The people want to see us. They want to talk to us. They want to get our views. They are going to find us one way or the other, which is all right. We want to give Senators a chance to schedule ahead so they can go home and meet their people.

Mr. HUGH SCOTT. It is my observation, if the Senator will yield, that Senators work much harder at home than they do here, because it is a day and night job. People will embrace you on the streets, in their homes, at their meetings where one goes, and one is not only operating as a service agency but he is also maintaining a sort of walking Gallup poll.

I think it was Anteas who found every time he touched the Earth, his strength. increased tenfold. When we touch the native soil, we find added strength.

Mr. MANSFIELD. I recall one time when I was down in the Big Hole Basin in Montana. I was about 50 miles from a phone, but some Montanans I know were looking for me to talk to me. They found me then on another occasion, I was in Carter County. I left Ekalaka to go across the road—75 miles—it was not much of a road—to Boyd, and there was a car behind me. I saw the dust all the way. I wondered why the car was going so fast and staying so close. When I stopped for gas—you could get gas in those days—this car stopped. They said:

We have been following you from Alzada to Ekalaka and down to Boyd. We've covered 175 miles trying to reach you. We want you to get some rural telephones for us.

I said:

If you have come this far and chased me that distance, if it's the last thing I do I will get the telephones.

They did, but it was 3 years later.

Mr. HUGH SCOTT. The Senator makes an interesting point.

Mr. ROBERT C. BYRD. May I say to the Republican leader that his interpretation of the intent of this proposal, as he explained it just prior to the interjection by the Senator from Rhode Island (Mr. PASTORE), precisely stated the intent of the proposal.

So often the leadership, in an attempt to get a unanimous-consent agreement, has been told that a Senator was away from the Senate for 2 or 3 days or the rest of the week on a speaking engagement, and he had an amendment to the bill. Consequently, we could not take that measure up. It is to avoid that kind of burden on the leadership, that the proposal is offered, so that in the future, if a Senator has amendments and he is away, he can get someone else to offer the amendments, and the leadership on both sides of the aisle cannot be thus prevented from expediting the legislative process, and will not be asked to wait for a Senator, who wants to vote on the bill or offer an amendment, to get back into town before the Senate can take up the matter and dispose of it.

Mr. HUGH SCOTT. Mr. President, if the Senator will yield further—and I will not detain him needlessly—we have often had meetings in the cloakroom with six or eight Senators in an attempt to fix a time limitation on a bill, and we may be delayed as much as 2 weeks in bringing the bill up because among the six or eight Senators, one will say, "I cannot be here Monday." One will say "Tuesday." And it runs the gamut until there is no day on which we can have a limitation.

Mr. ROBERT C. BYRD. Yes, and the third one is in Africa or Asia, and the fourth one has present a staff member who says the Senator is away.

Mr. HUGH SCOTT. Or, as the Senator from Rhode Island says, he is more apt to be home.

Mr. ROBERT C. BYRD. Yes.

Mr. NELSON subsequently said: Mr. President, may I ask two questions respecting the rules that were just being discussed? The distinguished Senator from West Virginia stated that a Member may file a "hold" for not to exceed 3 days. Once that happens by any Member, does that exhaust the right of all other 99 Members to file "holds," or can successive "holds" be filed for 3 days?

Then the second question——

Mr. ROBERT C. BYRD. If the Senator will withhold that, I think the intent of the rule is that the initial "hold" exhausts, as far as the leadership is concerned, the right of any other Member to place a further "hold" on the bill, because otherwise the intent of the proposal could be gotten around by a successive number of Senators placing successive holds on a measure.

Mr. NELSON. Mr. President, when the distinguished Senator refers to the right of a committee to file a hold, which I interpret to be indefinitely, does that apply only to legislation that came out of that respective committee, or does it apply to legislation that may come from any committee?

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the distinguished majority leader on this matter, because I want to know if he joins me in this feeling, I imagine that this is something that the leadership would have to determine based on each situation as it arises.

There are difficult jurisdictional problems that seem to be increasing around here. It may very well be that the leadership on both sides of the aisle, certainly if the committee of original jurisdiction had already released its hold on the bill, would want, depending upon the circumstances involved, to at least consider the request of another committee for a second "hold" if there were a serious jurisdictional question. Otherwise, it should only be legitimate if filed by the committee that reported the bill.

Mr. HUGH SCOTT. Mr. President, I would think that the intent here would be that the hold be placed by the committee having the bill. However, in the event of a jurisdictional dispute, it may come from a committee contesting jurisdiction or asking for coordinate or collateral jurisdiction for the purpose of considering the same bill.

Mr. MANSFIELD. Mr. President, I will agree with what the two leaders have just said. I can see things like that happening. Four committees here claim jurisdiction over environmental affairs. If a bill were reported out by a committee and another committee said that it had some jurisdictional authority over it, the leadership would give that committee's request fair consideration. We think that is the only way in which to do it.

Mr. NELSON. It would concern me if a committee could by majority action, or whatever the rule might be, put a hold on any kind of legislation unrelated to any jurisdiction it has.

Mr. MANSFIELD. No. There would have to be a relationship.

Mr. HUGH SCOTT. Mr. President, it reminds me of the words of a poem which go as follows:

Seven cities warred for Homer being dead;
Who living had no roofe to shroud his head.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 182) extending the dates for the transmission of the 1974 Economic Report and the report of the Joint Economic Committee.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 8529) to implement the shrimp-fishing agreement with Brazil.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 36, 37, 44, 48, and 51 to the bill and concurred

therein; and that the House receded from its disagreement to the amendments of the Senate numbered 15, 38, 53, and 54 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

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 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.

NATIONAL FLOOD INSURANCE PROGRAM

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate the message from the House on H.R. 8449.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 8449) entitled "An Act to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes", with the following amendment:

Strike out title III of the Senate engrossed amendment in the nature of a substitute.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate.

The motion was agreed to.

MANPOWER DEVELOPMENT AND TRAINING ACT OF 1973—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on S. 1559, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DOMENICI). 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 (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, 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 a majority of 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 18, 1973, at pp. 42206–42220.)

Mr. NELSON. Mr. President, the conference report on the Comprehensive Employment and Training Act of 1973 passed the House of Representatives today by a vote of 330 to 33.

The conferees for the House unanimously signed the conference report. The conferees for the Senate unanimously signed the conference report. So far as I know, there is no significant dispute on the adoption of this conference report.

Mr. President, the conference report on the Comprehensive Employment and Training Act of 1973 now before the Senate is the culmination of nearly 4½ years of effort on the part of both Houses of the Congress and of the administration to reach an agreement on comprehensive job training and employment legislation.

It has been a bipartisan effort to achieve responsible legislation for turning the basic responsibility for operating job training programs over to State and local governments. I believe that this is legislation of which we can be justifiably proud.

This comprehensive manpower legislation is a major step forward because it takes the Nation's job training programs out of the redtape of the Federal bureaucracy and turns these responsibilities over to State and local governments, which understand best how to meet the needs of their own people. With State and local governments that know their own situations best now in charge, manpower programs around the country are bound to improve.

On July 24, the Senate passed the job training legislation which is the basis of this conference agreement. In the Labor and Public Welfare Committee, we developed a bill which received broad support all over the Nation, in large part because it provided substantial roles for State and local governments. This support led to the action of the Senate passing the bill by an overwhelming vote of 88–5 without amendment.

In the past few months, there has been substantial consultation between the Congress and the executive branch on an acceptable bill. On the basis of those discussions, the House of Representatives passed its version of the manpower bill on November 28.

PUBLIC SERVICE EMPLOYMENT

One of the principal issues between Congress and the executive branch was public service employment. The Senate passed a separate piece of legislation extending the Emergency Employment Act of 1971, at the previous authorization level of $1,250,000,000. That bill, the Emergency Employment Amendments of 1971, passed the Senate on July 31 by a vote of 74 to 21. Under the nationwide program, some 200,000 jobs could be provided so long as the nationwide rate of unemployment remains above 4½ percent.

The House did not proceed to act on the Emergency Employment Amendments of 1973, because the administration opposed extending the nationwide public service employment program.

During the past few months, the House Education and Labor Committee—both Democrats and Republicans—developed a bipartisan compromise, merging into the comprehensive manpower bill—which was essentially similar to the manpower bill (S. 1559) the Senate had passed—that part of the public service employment program making jobs available for areas of substantial unemployment. The House bill and the pending conference report do not, however, include the nationwide public service employment program as distinct from the program for areas of substantial unemployment.

When the Senate agreed to go to confernce with the House, we did send to conference that part of the public service employment legislation dealing with areas of substantial unemployment.

In this connection, the Senate version authorized such sums as may be necessary for public service employment. The House bill reserved $250 million in this fiscal year and $500 million for fiscal year 1975 for public service employment in areas of substantial unemployment.

Under the compromise, there would be a reservation for public service employment in areas of substantial unemployment of not less than $250 million for this fiscal year and not less than $350 million for fiscal year 1975. In addition, the bill authorizes the appropriation of such sums as may be necessary for the public service employment title for each of fiscal years 1974 through 1977.

With respect to the definition of areas of substantial unemployment, the House bill had specified local areas with a 7-percent rate of unemployment, whereas the Senate bill retains the existing law's 6-percent rate for such definition.

The conference agreement compromises that difference by defining areas of substantial unemployment as those having a 6½-percent rate as eligible for the funds under the public employment program—title II of the conference agreement.

I should note that prime sponsors of manpower funds under title I of the bill—whether or not they serve areas of substantial unemployment—have the discretion to use general manpower funds for public service employment. That is specifically authorized by paragraph (11) of section 101 of the bill.

PRIME SPONSORSHIP

The conference agreement provides that prime sponsors of manpower programs shall include States, cities, and counties of 100,000 population, and combinations of units of general local government including a city or county of 100,000 population. In exceptional circumstances, the Secretary may designate as prime sponsors governmental units having a smaller population, as well as a limited number of concentrated employment program sponsors.

The conference agreement is similar to the Senate bill, except that the Senate bill had specified that counties would need to have a population of 150,000 to qualify for prime sponsorship. The conference committee accepted the House provision making counties of 100,000 as well as cities of 100,000 eligible to be prime sponsors.

PRIME SPONSORS' PLANNING COUNCILS

An important part of the conference agreement is the provision for prime sponsors to maintain planning councils.

The Senate bill, unlike the House bill that went into conference, required prime sponsors—both State and local—to maintain planning councils. The purpose of these councils is to assist the mayor or the Governor in his role as manpower prime sponsor by recommending program plans and basic goals and policies, as well as undertaking to coordinate the effectiveness of manpower programs. The conference agreement makes clear that the councils are advisory, that final decisions on its recommendations remain with the prime sponsor. The prime sponsor—that is, the Governor or mayor or county executive—appoints the membership of the council, designates the chairman, and provides the staff serving the council.

In appointing the membership of the council, the prime sponsor shall, to the extent practicable, appoint members who are representative of the client community and of community-based organizations, the employment service, education and training agencies and institutions, business, labor, and, where appropriate, agriculture. The Senate bill had specifically mentioned community action agencies for representation on the council.

The House conferees, however, insisted upon avoiding the naming of specific organizations for membership on the council. However, it is the understanding of the conferees that the descriptions "client community" and "community-based organizations" would cover those community action agencies which clearly represent the client community and are community based—which would be the case in many communities around the Nation. The term "community-based organizations" is defined in section 601 (a)(1) of the conference agreement as meaning: "organizations which are representative of communities or significant segments of the communities and which provide manpower services—for example, opportunities industrialization centers, Jobs for Progress, Mainstream and community action agencies." In some communities, there will be an opportunities industrialization center which would qualify as a community-based organization. In other communities, a Jobs for Progress—Operation SER—center would be representative of the community or a significant segment thereof. Mainstream would be appropriately represented on the prime sponsor's planning council in many areas.

STATE PLANNING ROLE

I am pleased that the legislation coming out of conference retains the significant role the Senate bill provided for State manpower planning efforts.

Special attention should be called to section 105(a)(3)(A) of the conference agreement. This provision is designed to emphasize that it is expected that prime sponsors will provide, wherever appropriate, for utilizing existing agencies, including the employment service, and vocational education, as well as community action agencies. Our hope and expectation is that, after giving due consideration to the effectiveness of existing services and facilities, local prime sponsors will use the expertise of those agencies which have had experience in providing employment and training services.

As a former Governor, I have seen firsthand the need for statewide coordination and planning—particularly with respect to Federal funds going into a State.

The Senate bill passed last July contained a set-aside of 15 percent of the manpower funds for State planning and model programs—including the services of State agencies, such as the State employment service and vocational education agencies.

On the State role, the conference agreement is a compromise which leans substantially in the Senate bill's direction. The Senate bill had provided a total of 15 percent for the State and the House bill up to 1 percent for staffing the State Manpower Services Council. The conference agreement provides 5 percent to the Governor for vocational education, 4 percent for other State planning and demonstration functions, and 1 percent for administrative expenses for the State Manpower Services Council—a total of 10 percent.

The conference agreement, at the insistence of the House conferees, gave the Secretary the function of providing financial assistance to encourage units of local governments to get together to form combinations for purposes of prime sponsorship. This function had been one for the States under the Senate bill. Accordingly, the 5 percent set-aside for the purpose of encouraging such combinations was transferred to the Secretary's account.

FUNDING AND ALLOCATIONS

The legislation's overall authorization of funds is such sums as may be necessary for all manpower programs under the act. As I have pointed out, the conference agreement does provide that for this fiscal year—fiscal year 1974—not less than $250 million is reserved for the public employment title and for next fiscal year—fiscal year 1975—not less than $350 million is reserved for public employment.

Aside from public service employment, $1,550,000,000 is expected to be appropriated for manpower programs.

Out of the total funds appropriated to carry out the legislation, 20 percent—$360 million at expected levels of funding—is set aside for the special Federal responsibilities of the Secretary including Job Corps and special programs for Indians—which would receive 4 percent of the allocations to prime sponsors—and migrants—which would receive 5 percent of the allocations to prime sponsors. The remaining 80 percent—expected to be about $1,190,000,000—is to be used for title I—Comprehensive Manpower Services. Out of the title I funding, 5 percent goes to the Governor for vocational education, 4 percent for the State's planning and special services, and 1 percent of the amount of the allocations to prime sponsors is available for the State Manpower Services Council. Up to 5 percent of the amounts available for title I of the legislation may be used by the Secretary of Labor to encourage combinations of units of general local government to join together as a single prime sponsor. Approximately 6 percent of title I funds remain for the Secretary's discretion.

The total available for allocations to prime sponsors under title I—at current levels—would be approximately $952 million. One of the most difficult items in the conference was the formula for allocating those funds.

The Senate bill would have allocated funds 50 percent on relative numbers of unemployed persons and 50 percent on relative numbers of persons below the family lower living standard budget of the Bureau of Labor Statistics. However, all prime sponsors would have been held harmless at 100 percent of their fiscal year 1973 allocations through fiscal year 1976. The hold harmless provision would have ceased to be effective beginning in fiscal year 1977.

The House bill had a formula for allocating funds using 50 percent unemployment and 50 percent the hold harmless funding level in the preceding year.

The compromise reached by the conference provides that 50 percent of the amounts allocated shall be based on the hold harmless funding level for the preceding year, 37½ percent on the basis of the relative number of unemployed persons, and 12½ percent on the lower income budget level of $7,000—which may be adjusted for cost of living increases. In addition, the Secretary of Labor shall utilize his discretionary funding to assure that no prime sponsor receives less than a hold harmless level at 90 percent of the preceding fiscal year's manpower funding.

Let me point out that, under section 3 of the conference agreement, the Secretary of Labor is expected to continue financial assistance with no lessening of manpower support while the new price sponsorship system is being set up. The legislation contemplates that the new price sponsorship system will be fully effective by July 1, 1974. Existing programs under the Manpower Development and Training Act and title I of the Economic Opportunity Act will continue through the end of fiscal year 1974, although some new starts may be expected to begin immediately where State and local governments are ready to go ahead under the new price sponsorship system.

BACKGROUND

It was in August of 1969, that the administration asked for legislation to decentralize control and planning of manpower training programs.

Congress agreed in principle, but insisted that public service employment jobs must be part of the comprehensive program.

In December of 1970 a well-designed piece of compromise legislation was vetoed. It was the fruit of months of hearings, markup and conference sessions, incorporating many difficult compromises concerning the complex interlocking of responsibilities for the great variety of training programs at the Federal, State, and local level. The veto was largely over the public service employment issue.

But then, in July of 1971, with the nationwide rate of unemployment reaching the high level of 6 percent, the Emer-

gency Employment Act was signed into law. The excellent administration of that public service employment program at the State and local level has convinced many, who were honestly skeptical, of the practicality and desirability of public service jobs programs as a significant component of the Nation's manpower policies.

Last January the administration did not include in its budget request an extension of the Emergency Employment Act.

IMPACT OF ENERGY CRISIS

However, with the predicted rise in unemployment during the coming year, the administration has now accepted an extension of public service employment for areas of substantial unemployment.

I note that according to the New York Times of December 12, 1973—the administration "is now supporting such a plan—public service employment—because of fear that the energy crisis will create a sharp rise in joblessness."

The number of public service employment jobs provided specifically in the bill agreed to by the conferees is modest.

With not less than $250 million reserved for this fiscal year and $350 million for fiscal year 1975 we are talking about 40,000 to 50,000 jobs when the energy crisis may cost the Nation millions of jobs.

Let me again point out, however, that the Senate provision for open-ended authorizations for public service employment was accepted in the conference. Therefore it is very much up to the discretion of Congress acting upon appropriations to determine how large a public service employment program is needed.

Estimates of the employment impact of the energy crisis are so varied at this point that estimating what we will need in the way of federally subsidized jobs is hazardous indeed.

Estimates of the rate of unemployment vary anywhere from our present 4.7 percent to 8 percent. Professor Henry Wallick of Yale University, usually considered a fairly conservative figure and a "senior consultant" to Treasury Secretary George Shultz, according to the Washington Star newspaper, is expecting a 1.9 percent decline in the Gross National Product in the first quarter of 1974, and unemployment rates next year as high as 6.3 percent.

Even more crucial than the rate of unemployment is understanding its impact on different industries, on different geographical areas, and on different economic groups in the Nation.

It has seemed to me over the past weeks that not nearly enough attention has been paid to the unemployment impact of the energy crisis and the human cost which joblessness entails.

It is one thing to ask people to sacrifice their pleasure and conveniences like pleasure driving and to wear heavier clothes in order to turn down the thermostat. Such sacrifices all Americans can and will make willingly.

It is another thing entirely to ask a man to give up his job.

America must not ask men and women to sacrifice their economic lives to ease the energy crisis.

Bearing a fair share of the general inconvenience is a citizen's duty, which nearly all will gladly perform.

Giving up jobs and economic self-sufficiency is quite another matter.

The first thing we need is adequate information. We need to know just how serious the crisis in jobs is going to be.

We need to know exactly which industries will be affected and to what extent.

We need to know exactly which region of the Nation will be hurt and to what extent.

We need to know how seriously the poor, who already lack job opportunities and decent pay, will be affected.

We need to know what impact Government allocation decisions will have on these questions.

We need to know what public job creation can do to meet the crisis—job creation through title II of the Comprehensive Employment and Training Act of 1973 and job creation under other legislation.

In order to seek answers to these and related questions, I intend to begin hearings in the near future before the Senate Subcommittee on Employment, Poverty, and Migratory Labor.

We will be asking well in advance for carefully prepared and documented testimony from Federal agency officials, State and local leaders, union and business representatives and experts from the academic community.

We will also attempt to provide a forum through which the voice of the ordinary American can reach those in a position to take action.

And upon the finding of those hearings we will make recommendations for congressional action to combat unemployment.

The Nation must not stand by and allow such unequal sacrifice as involuntary unemployment exacts.

Mr. President, the Senator from Rhode Island (Mr. PELL), who sponsored an important provision, which was included in the Job Training Act, as passed by the Senate, wishes to have some clarification about that provision.

Mr. PELL. Mr. President, the manpower bill as passed by the Senate included an amendment, which I offered, requiring that special consideration be given to job training programs for persons unemployed as the result of a closing of a Federal Government facility resulting in substantial increases in unemployment in that area.

Would the chairman of the Senate conferees tell me of the action taken on this provision—section 205(c)(6) of the Senate bill?

Mr. NELSON. Mr. President, the Senator from Rhode Island (Mr. PELL) has asked the question as to what happened in the manpower conference on a paragraph he had sponsored in the markup of the Senate Labor and Public Welfare Committee regarding defense facilities.

Senator PELL's provision provided that, among special responsibilities which the Senate bill required the Secretary to carry out, that he "give special consideration to job training programs serving individuals who are unemployed as a result of a closing of a facility or the substantial reduction of activities at a facility of the U.S. Government located in a labor market area in which the rate of unemployment for that labor market area has increased substantially due to the unemployment of such individuals." (Section 205(c)(6) of S. 1559, as passed by the Senate.)

Let me explain to the Senator from Rhode Island that, in the conference on the manpower bill—which involved 6 days in conference sessions—the House conferees were adamant against what they perceived to be categorical programs in the Senate bill.

Section 205(c) of the Senate bill was one of the parts of the Senate bill they most objected to. They insisted that the Senate conferees drop it because they interpreted it as requiring the Secretary to continue to provide financial assistance for categorical programs.

However, the conferees did agree that other provisions—phrased to cover situations more generally—would cover the provisions they deemed to be categorical.

The provision mentioned by Senator PELL is one of those. Senator PELL's amendment refers to the "closing of a facility or the substantial reduction of activities at a facility of the U.S. Government." A more general provision the Senate conferees were able to retain authorizes "special services, when required, for middle-aged and older men and women, including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality" (sec. 304(a)(6) of the conference agreement).

The provision I have just quoted clearly covers special services for a closing or large-scale reduction in the work force due to a Government facility closing, but it also covers other such closings or work force reductions in private industry.

In addition, let me point out that the Public Employment Program in title II of the bill will provide additional funding for areas of substantial unemployment—those areas having a 6½-percent rate of unemployment or greater.

Thus, public employment funds will be going to areas where the rate of unemployment has increased substantially due to the unemployment of individuals who had previously been employed in Government facilities such as defense plants.

So, I think I can unequivocally assure the distinguished Senator from Rhode Island that when section 205(c) was removed—the section which contained the provision authored by the Senator from Rhode Island—we intended and did fully cover authority provided for in the Senator's amendment within the language that I have read concerning special services for those who are "unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality."

So we have, in my judgment, retained language clearly meeting the intent of the amendment of the Senator from Rhode Island. Our action, I think, satisfactorily meets the problem which the

Senator from Rhode Island sought to meet.

Mr. PELL. Mr. President, I thank the Senator from Wisconsin for his articulate explanation and the assurances he gives me that the bill covers the situation involving those workers who, through no fault of their own, through the closing of a military base by the Federal Government, have been thrown out of work.

While obviously I wish that the original language had been retained, I understand the problems that the chairman of the conferees faced in conference. I appreciate very much his assurance that the intent of my amendment has been retained in the bill.

I cannot say that I am completely pleased with the actions of the conference on this provision. It seems as plain and clear as possible that the Federal Government does have a special responsibility for manpower programs when the Federal Government has caused substantial unemployment directly by closing the major source of jobs in a community. I wish that responsibility had been spelled out more clearly and unmistakably in the conference report. At this point in this session of Congress, however, I will not press the matter further, beyond expressing my expectation that the assurances given by the chairman of the Senate conferees and the language of the Joint Explanatory Statement appearing on page 62 of the conference report will guide the executive branch in its administration of the act.

My State has not yet felt the full impact, in unemployment, of the closing of the major military installations in the State. I would hope that the provisions of this bill will be administered so as to provide adequate adjustment assistance to workers who are cut off and left jobless by the Federal Government.

It may be in the future that circumstances will indicate additional special legislation is necessary, and if that should prove to be the case, I would ask the chairman of the Subcommittee on Employment, Manpower, and Poverty if he would be willing to give such legislation sympathetic consideration, and perhaps hold a hearing in that regard.

Mr. NELSON. We certainly would be willing to consider any need for further legislative action; and, in areas where the impact is most serious, the committee would be prepared to conduct field hearings in the State or States where the problems are most acute.

Mr. PELL. I thank the Senator from Wisconsin, and am most appreciative for that assurance.

Mr. JAVITS. Mr. President, first I strongly urge the adoption of the conference report.

Mr. President, the Senator from Wisconsin (Mr. NELSON) has not mentioned the legendary job which he did in chairing the conference insofar as the Senate is concerned. He did it with great skill, with great fidelity to the Senate bill, and with great success in preserving very essential aspects of the Senate bill, and I believe the Senate and the country should be grateful to him.

I would like to express also the appreciation of the minority for the work of Dick Johnson, the professional staff assistant for the majority, William Spring, until recently of the majority staff, and John Scales, our own professional assistant on the minority side, and Roger King of Senator TAFT's staff, all of whom were tremendously helpful in achieving this result.

Mr. President, I shall not detain the Senate, but the significance of this particular matter is that it is the first of the so-called special revenue-sharing bills which will be enacted into law. It is my information that if we succeed in passing the conference report in the Senate as it has already passed the other body, the President is likely to sign it as early as tomorrow.

When we remember, as Senator NELSON has said, that this represents over 4 years' work, we must pay tribute to the way in which it came about.

It came about, Mr. President, because in his second state of the union message on September 10, the President said that he would "seek workable compromises in a spirit of cooperation with the Congress."

Mr. President, this great measure will be the fruit of that kind of offer to the Congress, and I think it is very auspicious at a time when, in many ways, there is a very real confrontation between Presidential and congressional power, that our Government can function to produce great results when there is willingness to sit down in advance and endeavor to agree on the parameters within which the President and Congress may proceed, which will lead to a bill instead of a veto or a political issue.

Another point, Mr. President, that I wish to emphasize is the fact that it deals very intelligently with the issue of public service employment by establishing a system of State and local prime sponsors at a moment when the unemployment situation is in grave danger in many areas of the country. This bill makes local administration very practical and intelligent. Without severing anyone who really deserves the program, and without any diminution of opportunity, it accomplishes the following:

First, it sets a basic minimum of reservations for heavily impacted areas, that is, heavily impacted with unemployment, running to 6.5 percent, which is our definition, and provides a minimum of 40,000 jobs in the first fiscal year, and about 50,000 in the next fiscal year. Second, it enables the general "such sums" authorization under the act, which is now estimated at $1.55 billion, at the discretion of the State or local sponsor, to be reached into also for public service employment, so that, although the 40,000 and 50,000 figures I have mentioned would seem on the surface to compare unfavorably with the 170,000 public service jobs which are now in effect under the previous law, for all practical purposes there is no such restriction or inhibition. Third, it provides a separate "such sums" appropriation in each year for areas of substantial unemployment.

We mentioned, as it were, the basic minimum for the hard core unemployed areas, and we left the rest open to all concerned, if they wished to use their money that way and to the Congress in terms of additional appropriations.

Two other points: first, Neighborhood Youth Corps is in essence preserved by a unified authorization in the bill. I am very grateful for that support by the conference.

Second, there was a strong feeling about Opportunities Industrialization Centers. They are headed by the Reverend Leon Sullivan, of Philadelphia. We expect that when the bill becomes law there will be a continuance of that activity. That will leave the door open for others to try the same thing; but right now only the OIC and several other organizations are referred to in the act.

Finally, we have preserved the opportunity for community action agencies to be involved, as they should be.

Mr. President, with that background, I shall comment on particular elements.

MANPOWER REFORM

The major purpose of the conference report, as I indicated, is to accomplish a reform of our manpower training and employment programs—along the lines of "special revenue sharing."

The major elements of reform lie in decentralization, decategorization and consolidation of the current efforts. As President Nixon emphasized in his message to the Congress on March 4, 1971:

> But one of the great lessons of the dramatic Federal Government growth in the 1960's is that even a good idea like this can fall short of its promise if the way by which it is carried out, runs against the grain of the Federal system. By converting the Nation's manpower programs from categorical grants to Special Revenue Sharing, we can play to the strengths of the Federal partnership, teaming Federal dollars with State and local decision-making.

Mr. President, the actions of the conference reflect heavily a fidelity to those elements which the administration sought, and thus in the final bill that results therefrom.

First, with respect to decentralization, under the conference agreement, any State and any unit of general local government with a population of 100,000 or more may serve as a prime sponsor for manpower programs; the Senate bill had required 150,000 for counties, but the Senate receded so as to apply a uniform standard, one which will be very helpful to areas in many states including my own State of New York and Delaware; also to take into account special situations that exist in New York and elsewhere, the House adopted the Senate provision, with slight modification, sponsored by Senator TAFT and myself, under which communities below the population requirement could nevertheless qualify as prime sponsors under certain circumstances where they can demonstrate they have the capacity to carry out a program.

Accordingly, we have sought to decentralize to the maximum extent feasible in terms of managerial efficiency.

Mr. President, an important difference between our approach and the administration's original manpower revenue sharing proposal is that we have

included here, through the Secretary, a very strong Federal role.

This is reflected throughout the bill, but particularly in section 108(d)—at page 11—taken from a provision which I included in the Senate bill, requiring the Secretary to revoke the prime sponsor's plan if it is determined that the prime sponsor is maintaining a pattern or practice of discrimination, incurring unreasonable administrative costs, failing to give due consideration to continued funding of programs of demonstrated effectiveness, or otherwise materially failing to carry out the act.

We expect the Secretary diligently to exercise his responsibility under this section and other sections of the act, and thus to act as much more than a "payroll clerk" with respect to manpower efforts. I do not mean to suggest that the Secretary should intrude in the day-to-day decisionmaking; the purpose of decentralization is otherwise. But the basic Federal concern as to the use of funds in terms of the purposes of this act must not be abdicated.

Second, with respect to decategorization, in almost every instance the conferees opted for the very broadest description of activities to be conducted under the act, having in mind the need for flexibility on the State and local, as well as the Federal, level.

But again, fidelity to essentially Federal concerns dictated particular attention to certain program areas or "categories" of individuals under the bill.

This concern is reflected in section 301—at page 22—which requires the Secretary to use funds to provide additional manpower services for particular segments of the population having particular disadvantages in the labor market; by sections 302 and 303, which set aside funds for Indian and migrant programs, respectively; and section 304, which authorizes the Secretary to provide assistance to youth and other special programs.

In this connection, I am very pleased that the conference agreement includes in section 301(c) the elements of programs for offenders and a similar authority at the State level under section (5)(c)—at page 9—along the lines of those I had added to the Senate bill.

I am pleased also that section 304(a)(7)—at page 25—permits the Secretary to fund directly manpower programs conducted by "community-based organizations," which at the very least includes, by reason of the definition contained in section 601(a)—at page 42—Opportunities Industrialization Centers, Jobs for Progress (SER), Operation Mainstream, and Community Action agencies.

We fought very hard in conference to maintain the Senate provisions regarding OIC and other programs; the House conferees were very much opposed to specific references, not because they questioned the value of the programs, but because they were opposed to any categorization at all.

I consider the provision cited above—together with a number of other provisions providing for the participation of "community-based organizations" on the various councils and the "due consideration" provisions—to represent a reasonable compromise that should protect such organizations.

I am particularly gratified by the action of the conferees dealing in a number of ways with the special needs of economically disadvantaged youth for jobs during the summer months which has been a longstanding concern of mine.

This is reflected in a number of provisions of the conference agreement:

Section 304(a)(3)—at page 24—giving the Secretary authority to conduct a special summer job program directly from Federal funds;

Section 3(c)—at page 2—to which I contributed, containing a special transitional provision authorizing the Secretary to provide such opportunities in the coming summer from appropriations for fiscal year 1974, notwithstanding any other provision of the act—except for the reservation for public service employment—essentially in the same manner and on the same conditions as provided in the Neighborhood Youth Corps program under the previous authority. This provision will enable the funds to be made available without regard to the allocation, apportionment and other limiting provisions generally applicable under this act:

Section 605(c)—at page 47—from the Senate bill, requiring the Secretary to transmit a report to the Congress regarding summer opportunities, together with his recommendations, if any, for supplemental appropriations for the program. This report is to be due at the earliest appropriate date, but no later than March 1 of each year. March 1 is the approximate date by which the unemployment situation for the coming summer should be fairly clear, and still in time to act to augment programs, if necessary, to fulfill resulting needs in an administratively feasible way.

In this connection, it is important that we take note of the statements appearing at page 51 of the conference report, the first page of the joint explanatory statement of the committee of conference.

I hope very much that the Secretary will utilize this authority to provide for a program at at least last year's level, but to the extent that he does not, then those of us who feel strongly about the summer job program will seek the necessary funds under these provisions which authorize us to do so without limitation.

In that connection, I wish to note that the continuing appropriations bill, now in conference, would require expenditures at the $1.55 billion rate, which includes the funds for the summer job program which I noted.

It is important to note that the Secretary's direct funding authority is not limited to these or other specified programs, but that under section 301(a) he may provide additional manpower services as authorized under titles I and II to segments of the population in particular need, taking into account the need for continuing funding of programs of demonstrated effectiveness.

This provision grants authority to continue as a Federal program, such worthwhile efforts as the JOBS program, conducted by the National Alliance of Businessmen, which I understand the President has already indicated will receive continued funding.

Third, with respect to consolidation, the conference agreement reflects an amalgam of the strongest provisions of both bills governing coordination between manpower programs, both horizontally and vertically, at the State and local level. Moreover, to try as I have urged for some time to narrow the gap between manpower programs and vocational education programs, the conference agreement includes a 5 percent set-aside for that purpose. Furthermore, through the leadership of Congressman ESCH, we will have a new National Commission for Manpower Policy, incorporating provisions that I added from the Senate bill to insure an integrated policy.

TRANSITIONAL PUBLIC SERVICE EMPLOYMENT

Mr. President, Members will recall that the Senate has passed not only S. 1559, which included a discretionary authority for transitional public service employment, but S. 1560, also sponsored by Senator NELSON and myself to extend, as a separate program, the Emergency Employment Act of 1971, which expired this June.

The latter authority authorized $1.25 billion for this fiscal year and "such sums" for the next for such programs; in the case of this year $1 billion was authorized for the general program and $250 million for the special program going to areas of "substantial unemployment" defined in terms of 6-percent or above employment.

The House did not pass a separate bill, but included in H.R. 11010, both a general authority as an eligible activity, and a separate title for transitional public service employment in areas of substantial unemployment, defined at 7 percent or greater; for this the House bill reserved $250 million in fiscal year 1974 and $500 million in fiscal year 1975 "off the top" of all manpower funds.

To insure that the basic elements of the Senate approach—particularly in terms of the 6 percent local trigger were before the conference, we moved, prior to appointing conferees, to agree to the House amendment with an amendment; in the latter we included these provisions and S. 1559.

S. 1560 itself, remains as a bill passed by the Senate.

The conference agreement contains elements of both the House and Senate approaches.

The conference agreement, like both bills, authorizes transitional public service employment programs as eligible activities that may be carried out by State and local prime sponsors from their allocated funds.

It includes, like the House bill, a separate title for public service employment programs in areas of "substantial unemployment;" to qualify for such assistance an area must have 6½ percent or more unemployment for 3 consecutive months—thus midway between the Senate and House provisions.

For that title, title II, the conference agreement reserves "not less than" $250,000,000 in fiscal year 1974 and $350,000,000 in fiscal year 1975 "off the top" of manpower funds appropriated under the act, essentially the House approach although at a revised figure for fiscal year 1975.

But then we have rolled in also the Senate "such sums" approach by providing for each of the 4 years of the bill an additional open-ended appropriation for programs under title II.

This was a compromise that I helped to work out with the House with the future negative effects of the energy crisis on unemployment clearly in mind, if not, already at our door.

And I would point out, beyond that, that the bill as a whole contains "such sums' authorizations for each year which means that the appropriations process will be available, without limitation, to channel more money to prime sponsors under title I, whether or not they have the 6½ percent criteria, which they can use for public service employment.

We did not want the Congress or the executive to be helpless if "the bottom" falls out for that or any other reason.

Now already, this action is being misconstrued. An editorial in the New York Times of yesterday, citing the $250 million and the $350 million reservations, calls those sums "pitifully inadequate."

But, as I indicated, the reservations are only part of the picture.

Some may feel that we should have established very high ceilings for authorizations under the bill or under the separate title for public service employment.

Of course, we could have argued with or confronted the administration, on the basis of our worse fears of what might come, for that approach.

But we might very well have locked ourselves in should the situation become even worse than we might contemplate now, and in the process exploded the chances for agreement with the administration on reform.

One of the key elements of reform—establishment of a system of State and local prime sponsors to carry out programs—is also the key prerequisite, next to funds, for meeting any future crises.

We could just not mount an effective large scale public service employment program under the worn-out and paltry direct funding system we now have.

The conference report provides both a new delivery system and authority under which Congress can provide funds to meet any need, and for my own part, I shall take the earliest possible steps to do so.

COMMUNITY ACTION PROGRAMS

Mr. President, when Senator NELSON and I introduced S. 1559, on April 12, 1973, we included in that measure a separate title under which prime sponsors could, at their discretion, fund a wide range of community action efforts, essentially as under the "local initiative" sections of the Economic Opportunity Act and thus far beyond manpower programs themselves.

We did so because, as we prepared this legislation, the administration was in the process of attempting the dismantlement of those agencies, as it was of OEO itself and, although the U.S. District Court for the District of Columbia had just the day before introduction enjoined further dismantlement, the future of programs beyond this past June was unclear. Noting the court decision, I said at that time:

But this leaves open the question of funding after July 1 and if the Congress does not provide appropriations for these programs, then our bill would provide an interim compromise alternative with funds to make continuation of local initiative and community action agencies by State and local government possible in fact as well as in theory.

Since S. 1559, including the special title, was approved by the Senate, it has been patently clear that appropriations to continue OEO and community action agencies through this fiscal year—the term of the statutory authorization—would be made available; funds have been made available by continuing resolution and pledges were made to continue through the entire fiscal year if necessary. Just yesterday the President signed H.R. 8877, the HEW-Labor appropriations bill, which confirms coverage through the entire fiscal year.

Thus the program is secure through this fiscal year through appropriations, while under the earlier district court decision, must be made available.

The future of the antipoverty program beyond June 30 is a matter of extreme importance and one which I understand has already been the subject of considerable debate at the national convention of the Association of CAP Directors, held in San Francisco in November, where many different views were expressed as to how to proceed, ranging from straight extension of the program as it is now known to the kind of special revenue sharing format Senator NELSON and I put forward in the special title to S. 1559.

So as not to prejudice that consideration—as the views of the community action agencies and those in the program must be heard in this new more secure context—we receded on the special title as a part of this legislation and will pursue it or other measures early next year in terms of the future of the antipoverty program as a whole.

Of course, as I have noted, we intend community action agencies to be among the agencies heavily involved in conducting manpower training and related efforts under this legislation and to participate in the process at the State and local scene along with other "community-based organizations" under the provisions I referred to earlier.

Mr. President, for all of these reasons, I recommend that the conference agreement be adopted to accomplish what we should have done years ago, but for a stalemate between the Congress and the Executive which has now been broken.

But it should be clear that this bill—as crucial as it is—does not itself give us a "manpower policy;" it merely gives a manpower delivery system with which to implement a policy.

We have yet to formulate a "manpower policy," and beyond that, a "full employment policy;" and, perhaps the energy crisis will provide new impetus for that effort.

In that connection, I am pleased, as the author of S. 1693, the Full Employment and Job Development Act of 1973, which would establish a "full employment board," to note the following statement at page 65 in the joint explanatory statement of the Committee of Conference:

The Conferees note that there are proposals pending before the Congress to establish separate "full employment" boards or other mechanisms specifically designed to implement the policy of the Employment Act of 1946.

The conferees anticipate that the National Commission for Manpower Policy, although not itself specifically designed for that purpose, will in fulfilling its own charge serve as a forum for discussion of such proposals in the executive branch.

Mr. President, I ask unanimous consent that the statement of Senator TAFT, ranking minority member of the subcommittee, who contributed so much to this legislation, be printed in the RECORD, as he was unable to be here due to business in Ohio.

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

STATEMENT BY SENATOR 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 flexibility 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 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 spon-

sors 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.

Mr. JAVITS. Mr. President, in closing, one of the main men in respect to the broader element of public service employment was Dr. Russell Nixon, who was an associate professor of social policy at Columbia School of Social Work, and was chairman of the Committee for Public Service Employment. He was a man in an active role. Shortly before we actually consummated the conference report, he passed on and so has been unable to see what for him would be a very happy day. He was a relatively young man and it is both appropriate and deserving that we pay tribute to him at this time.

Mr. President, I ask unanimous consent that a New York Times obituary respecting Dr. Nixon be printed in the RECORD. I feel that he would wish to be remembered in connection with the work.

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

DR. RUSSELL A. NIXON DIES AT 60; COLUMBIA MANPOWER ECONOMIST

Dr. Russell Arthur Nixon, a leading manpower economist, died yesterday of a heart attack in St. Vincent's Hospital. He was 60 years old and lived in Brooklyn Heights.

Dr. Nixon was associate professor of social policy at the Columbia University School of Social Work and chairman of the community relations committee of the university Senate since 1969.

From 1966 to 1971 he worked with Congressmen and Congressional committees on manpower, anti-poverty, delinquency and rehabilitation legislation, including the comprehensive manpower and family assistance plan proposals in 1970.

PROFESSOR AT NYU

In 1968–69, Dr. Nixon was associate professor at the New York University Graduate School of Social Work and associate director of the Center for the Study of the Unemployed, where he directed its institutes and curriculum development.

In 1967–68 he gave manpower courses at the New School for Social Research, and earlier lectured at the Lewis M. Herrman Labor Education Center of Rutgers University.

From 1962 to 1965 he was manager of The National Guardian, a weekly newspaper that described itself as "progressive."

CONTEMPT CITATION

In 1964 Dr. Nixon was called to testify before the House Un-American Activities Committee after he and two members of the Women Strike for Peace Group, Dagmar Wilson, and Donna Allen, had urged in 1963 that State Department admit for a lecture tour the Japanese law school dean and pacifist Kaoru Yasui.

The three refused to appear before the committee, protesting that the closed sessions would violate their freedom of speech by depriving them of the opportunity to deny publicly any implication that they had been involved in subversive activities.

Dr. Nixon, Mrs. Wilson and Mrs. Allen were cited for contempt of Congress, but those citations were thrown out in 1966 by the Court of Appeals for the District of Columbia.

Dr. Nixon was Washington representative of the United Electrical, Radio and Machine Workers of America from 1941 to 1962, serving as liaison with many Federal agencies on union legislative and economic matters.

In World War II he served with the infantry in Europe. In 1945 he transferred to the American Military Government, and took an important part in the denazification process in Germany. He was deputy director and acting head of the division of investigation of cartels and external assets for the American Military Government in Berlin.

Dr. Nixon received the Bronze Star for participating in the Allied intelligence group that uncovered Nazi poison gas plans and facilities.

Before the war he was legislative representative of labor's Non-Partisan League, a Congress of Industrial Organizations legislative and political unit in Washington, and worked with John L. Lewis, the labor leader.

Dr. Nixon was born July 27, 1913, in St. Paul, graduated from the University of Southern California in 1934 and received a Ph.D. degree in economics from Harvard in 1940.

From 1937 to 1941 he was an instructor and tutor in economics at Harvard, where John F. Kennedy was among his students. In Theodore C. Sorensen's biography, "Kennedy," the late President is quoted as saying that he was not a professional economist "but [one] who knows a hell of a lot about it after taking Ec–A under Russ Nixon at Harvard."

Dr. Nixon also taught economics at Radcliffe College from 1939 to 1941 and earlier at the Massachusetts Institute of Technology.

CONSULTANT TO AGENCIES

He had been a consultant to the University Research Corporation, the Office of Education of the United States Department of Health, Education and Welfare, the Community Action Program of the Office of Economic Opportunity, and the Vocational Rehabilitation Program of the New York City A.F.L.–C.I.O. Central Labor Council.

In 1970–71 he worked with the Secretary of Labor of Puerto Rico in developing a program for public-service employment of unemployed youths.

Dr. Nixon was a member of the board of editors of Science and Society, a scholarly quarterly; chairman of the subcommittee on construction industry of the Employment Opportunities Committee, New York and a member of the Manpower Task Force, the New York Urban Coalition and of many professional societies.

Surviving are his widow, the former Florence Guild; his mother, Mrs. May Nixon, and a sister, Mrs. Lois Kratha.

A memorial service will be held later at Columbia University.

Mr. JAVITS. Mr. President, I ask that a copy of the New York Times editorial to which I referred, together with a letter dated January 31, 1973, from the President to the chairman of the National Alliance of Businessmen also be printed in the RECORD.

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

THE WHITE HOUSE,
Washington, D.C., January 31, 1973.

Mr. GORDON M. METCALF,
Chairman,
Mr. RICHARD C. GERSTENBERG,
Vice Chairman, National Alliance of Businessmen, Washington, D.C.

DEAR GORDON AND DICK: The National Alliance of Businessmen has performed a superb service to our nation by encouraging American business to provide job opportunities for Vietnam-era veterans, disadvantaged people, and needy youth. This fiscal year, the JOBS program has already placed 101,000 toward its goal of 150,000 Vietnam-era veterans, and you have achieved equally impressive results from your efforts on behalf of the disadvantaged and needy youth. This has been accomplished at a low cost to the government because of the contributions and skills of the American business community—an achievement which merits the gratitude of all our fellow citizens.

In view of its remarkable success to date, I would like the Alliance to consider continuing its efforts through June 30, 1976. To complement our goal of increasing efficiency in government, the business acumen represented in your organization should be directed toward streamlining the Alliance for a more concentrated focus on large and medium-sized employers in areas having substantial disadvantaged populations. In addition, I hope you will include among your priorities the following:

1. Developing jobs and training in the private sector for disadvantaged persons and place Vietnam-ear veterans, with special increased emphasis on handicapped veterans, disadvantaged veterans, and those who are members of minority groups or under 25 years of age.

2. Locate summer and part-time year-round jobs for needy youth.

3. Carry out programs designed to break the poverty cycle by encouraging minority and disadvantaged youth to complete their education and prepare for meaningful careers in industry.

4. Find jobs for ex-offenders.

5. Promote the hiring of public assistance recipients in the private sector and the use of the WIN tax credit.

6. Advise the private sector of the availability of government funds to defray the extraordinary costs of employing and training the disadvantaged.

I am deeply grateful for the outstanding leadership you and other chairmen have given the Alliance, and I look forward to continued success in your important work.

With my best wishes,

Sincerely,

RICHARD NIXON.

[From the New York Times, Dec. 19, 1973]

TOKEN JOB PROGRAM

The energy crisis and the threat of recession confront national economic policy with a double-edged problem. On one side, the fuel shortage is causing production cutbacks and manpower layoffs. The unemployment rate, which was 4.7 per cent last month, could reach 6.5 per cent or higher by next summer. The jobless rolls would then swell from four million to six million.

On the other side, the energy crisis is already intensifying inflationary pressures. Rising fuel costs are hitting both consumers and industry. In addition, an easier monetary policy designed to check recessionary forces is sure to keep spending high next year at a time of intense supply difficulties. And stagnating industrial productivity is likely to boost unit labor costs, putting extra pressure on the price structure.

To deal with this double danger of unemployment and inflation, specific manpower and wage-price policies are needed. House and Senate conferees have now reached a compromise with the Administration on manpower legislation; the compromise involves acceptance by Congress of a consolidation of manpower programs with state and local governments in exchange for acceptance by the Administration of an emergency public employment program.

But the public service jobs program calls for outlays of only $250 million in the current fiscal year that ends June 30, and $350 million in fiscal 1975. That program would permit creation of only about 40,000 jobs, limited to areas where the unemployment rate exceeded 6.5 per cent. But if the Arab oil embargo should last through most or all of next year, unemployment would be far greater—and the public service job outlays contained in the present manpower bill would be pitifully inadequate.

The Government should be planning for far larger public service jobs in areas of genuine need, such as health, sanitation, conservation, etc., instead of waiting for the emergency to worsen.

Mr. NELSON. Mr. President, I wish to join the Senator from New York in commending the excellent work of the members of the staff, which included John Scales, of the minority staff; Richard Johnson, majority counsel; as well as Bill Spring, until recently a member of the subcommittee staff who agreed to come down from Boston for 2 weeks to be present to assist the conferees.

Mr. President, I agree with the Senator from New York that the conference accomplished what we set out to do, which was to design a program that would place the administration of the program at the State and local level; to take the management of the program away from the Federal Government and place the management and control of programs at the State and local level where the problems are best understood and can best be met.

Mr. JAVITS. Mr. President, we are ready to vote.

Mr. WILLIAMS. Mr. President, in a few moments, the Senate will have an opportunity to ratify the conference report on S. 1559, the Comprehensive Employment and Training Act of 1973.

Earlier today, the House overwhelmingly expressed its approval. As chairman of the Labor and Public Welfare Committee, I would urge my colleagues to do likewise.

In 1962, with the passage of the Manpower Development and Training Act, Congress first recognized its responsibilities to those of our citizens who were not only without jobs, but were without skill, and perhaps worst of all, were without hope. Two years later, Congress followed with the Economic Opportunity Act.

To me, the results of these pioneering efforts have been most gratifying. Under the aegis of programs like that of OIC, the Job Corps, Neighborhood Youth Corps, and Community Action Agencies, to name but a few, countless thousands of persons have been transformed from among the unmotivated and unskilled to those who now function as self-supporting and productive citizens—both in an economic and social sense. But of course, satisfaction goes well beyond tangibles such as productivity and income. In many respects, what these programs have brought, no accountant's ledger will ever be able to measure. There is no price tag on pride, dignity, and self-respect.

As good as the programs were in the past, we in Congress would have been remiss if we did not strive to improve their delivery systems, or try to develop new ways to maximize the resources appropriated for such activities. In drafting the original version of S. 1559 this summer, and in recognition of this very point, the Labor and Public Welfare Committee said in its report:

> Manpower programs can best be planned and administered at the State and local level, but with financial support, technical assistance, and oversight of the Federal Government to ensure that programs are carried out in accordance with legislatively established National objectives . . . the framework for such decentralization must be worked out through the legislative process.

I believe that the bill before us today, as it has emerged from conference, embodies the philosophy as enunciated by the committee.

I think it particularly noteworthy that the agreed-upon bill includes a provision for continuing the highly successful and much-needed public employment program (PEP). By including this element in the comprehensive manpower bill, the conferees have recognized the merit and objectives of S. 1560, a Senate-passed bill which is designed to, among other things, extend the Emergency Employment Act through fiscal year 1975.

Without question, the public employment program has proved its worth many times over. A consulting team was commissioned by the Committee on Labor and Public Welfare to evaluate the first 18 months of the program. Their report stated unequivocally that:

> PEP has demonstrated its effectiveness as a countercyclical strategy. A permanent program should be created. . . .

During the past 2 years, over 280,000 persons have found employment with the program. In my own State of New Jersey alone, over 17,000 men and women have been placed in jobs which have provided additional government services to citizens throughout the State.

The biggest proponents of PEP—aside from the unemployed who have derived its benefits directly, have been the State's mayors and other local government officials.

To best illustrate this point, I would like to briefly quote excerpts from the testimony of two distinguished New Jersey mayors:

> Mayor Arthur J. Holland, of Trenton—The Public Employment Program (PEP) established by the Emergency Employment Act of 1971, has been the best program to come out of Washington in the last four years of those that were intended to meet the needs of the cities.
>
> This particular program is the greatest thing that has happened to our city in the last several years. It has enabled us to maintain essential services which otherwise would have to be sustained through additional taxation or be reduced. It has enabled the City of Trenton to maintain essential services for which funds were not available. Moreover, PEP proved to be a most effective manpower program, providing on-the-job training, as well as opportunity for educational advancement.
>
> Mayor Patricia Sheehan, of New Brunswick—Public employment, in the view of many economists, is the least inflationary way to expand the economy's employment opportunities . . . Public employment . . . produces nearly one dollar's worth of employment for each dollar expended . . . [A] second and strongest justification, from our point of view, is the desperate shortage of public goods and services which our cities face . . . [J]ob needs to excess of five times the present level of PEP have been identified.

These statements truly speak for themselves.

In an attempt to maintain continuity with existing manpower programs, the bill provides that each prime sponsor must, as a condition for receiving financial assistance, make appropriate arrangements with community based organizations serving the poverty community. It is hoped that a successful and mutually beneficial partnership can be developed between these existing groups and the sponsoring units of local government.

Although the bulk of the authorized funds will go directly to State and local sponsors, a significant portion will be retained by the Secretary of Labor so that supplemental manpower services can be provided to special groups which have historically demonstrated an extraordinary critical need for job training and allied services. Among the groups specifically enumerated as target recipients will be persons of limited English-speaking ability, older workers, youth, offenders, and veterans.

With regard to directing the Secretary to give special attention to youth programs, I am gratified by the decision of the conferees to note the valuable contribution made by summer programs for economically disadvantaged youth, especially in the area of recreation and related job opportunities.

The bill will mandate that specific sums be set aside for Indian and Alaskan Natives, as well as for seasonal and migrant farmworkers. As former chairman of the first Migratory Labor Subcommittee, I can personally attest to the needs of the group which has for too long been shortchanged in so many areas. I would hope that the Secretary takes note of the specific language of the bill which reserves to these farmworkers "not less than 5 percent of the amount allocated pursuant to section 103(a)(1)." This set aside is intended to be a floor, not a ceiling.

As one of the early supporters and proponents of the Job Corps, the decision to retain intact this program is one which I find most pleasing. I would hope that the Secretary would make every effort toward rebuilding the program so that it will once again be able to achieve its full vitality and capability.

And finally, I would like to draw my

colleagues' attention to a provision creating a National Commission for Manpower Policy. I believe its need is long overdue. In conjunction with the establishment of the Commission, the bill directs the Secretary to make an immediate study "of the impact of energy shortages, including fuel rationing, upon manpower needs." At this point, I might add that in the very near future, the Labor Committee will hold a series of hearings on the subject of "The Energy Crisis and Employment Dislocation."

Mr. SCHWEIKER. Mr. President, I am very pleased that we are at last taking final action on a comprehensive manpower training bill. This has been a critical national priority, and as a member of the Labor Subcommittee, I have had the opportunity of participating in this effort from start to finish. I would like to commend the leadership of the Labor Subcommittee, and of the full Senate Labor and Public Welfare Committee, for their determined and creative leadership on this bill. S. 1559 is a strong bipartisan effort, and the credit for this bill belongs on both sides of the Senate aisle.

In addition, I am particularly pleased that the opportunities industrialization centers program, which started in Philadelphia, is specifically included, by name, in this legislation. This is the first time since the Civil War that a national black program has been so honored in Federal legislation, and no group is more deserving of this honor than OIC, which has been so successful under the inspired leadership of Rev. Leon Sullivan.

Mr. President, Reverend Sullivan has sent me a letter, asking that I convey to all of my colleagues in the Senate his sincere appreciation for the special recognition accorded OIC. Although Reverend Sullivan has specifically thanked the Senate leadership, the Labor Committee, and the cosponsors of S. 136, the OIC bill, I know he is grateful to every Member of this body who played a part for the prompt action which has occurred on this bill. I ask that the full text of Reverend Sullivan's letter be inserted in the RECORD at this point, Mr. President, because I think this letter confirms the importance of the step we are taking in approving S. 1559 today.

Their being no objection, the letter was ordered to be printed in the RECORD, as follows.

OIC's OF AMERICA,
Philadelphia, Pa., December 19, 1973.

Senator RICHARD S. SCHWEIKER,
New Senate Office Bldg.,
Washington, D.C.

DEAR SENATOR SCHWEIKER: On behalf of hundreds of thousands of economically disadvantaged Americans living in the Black inner city ghettos, the Mexican-American barrios, the Appalachian hollows, and the Indian reservations where OIC is training men and women to take meaningful jobs, I want to thank you for your efforts.

You have worked diligently to make possible the inclusion of OIC in the 1973 legislation and because you were willing to take the initiative many months ago and introduce a Bill, S. 136, with your colleagues Senator Hugh Scott, Senator Edward Kennedy and Senator Jacob Javits, has led us to this day when we are a part of the nation's manpower delivery system by law. The fact that through your efforts you were able to enlist the co-sponsors of S. 136 by 28 additional senators is perhaps one of the most encouraging demonstrations of why poor people and minorities can continue to have faith in our democratic system of government. We are grateful from 110 cities and 41 states where we are now operating, to all 32 senators who co-sponsored S. 136 and made it possible for our inclusion in S. 1559 as a section of the Bill. Thanks therefore go to:

Senator Case (R) New Jersey.
Senator Williams (D) New Jersey.
Senator Brooke (R) Massachusetts.
Senator Kennedy (D) Massachusetts.
Senator Humphrey (D) Minnesota.
Senator Mondale (D) Minnesota.
Senator Bayh (D) Indiana.
Senator Hartke (D) Indiana.
Senator Pell (D) Rhode Island.
Senator Pastore (D) Rhode Island.
Senator Stevenson (D) Illinois.
Senator Tunney (D) California.
Senator Taft (R) Ohio.
Senator Bellmon (R) Oklahoma.
Senator Bentsen (D) Texas.
Senator Eagleton (D) Missouri.
Senator Dole (R) Kansas.
Senator Hatfield (R) Oregon.
Senator Baker (R) Tennessee.
Senator Fulbright (D) Arkansas.
Senator McGovern (D) South Dakota.
Senator Haskell (D) Colorado.
Senator Randolph (D) West Virginia.
Senator Gravel (D) Alaska.
Senator Muskie (D) Maine.
Senator Hathaway (D) Maine.
Senator Cooke (R) Kentucky.
Senator Javits (R) New York.
Senator Scott (R) Pennsylvania.

Beyond this, Senator Schweiker, we wish to extend our special appreciation to the Majority Leader, Senator Mansfield, and the Minority Leader, Senator Hugh Scott, who gave leadership during the passage of S. 1559 by a memorable 88 to 5 vote which doubtless influenced both the President and the House of Representatives to seriously consider the great potentiality for the passage of meaningful manpower legislation that could include both the concepts of decentralization and comprehensive planning and still retain much of the expert knowledge that we have learned over the past ten years in OIC and other training programs that have been effective.

It can truly be said, as in the words of Winston Churchill, "never have so many owed so much to so few". Countless millions who have been unemployed and underemployed because of conditions beyond their control in terms of socio-economic conditions and racial discrimination, now know that their government cares and has taken some concrete steps to do something about the problems. Additional millions who have been unemployed most recently due to technological change though they were not handicapped by economic disadvantage or minority status until the advent of an aerospace crisis or an energy crisis—these too, know that their government has established machinery to do something about creating jobs and retraining technologically unemployed Americans so that they can maintain their pride and solve their own economic problems by engaging in useful work.

OIC has already worked diligently to train almost 200,000 persons. Our goal is to train 100,000 per year for the next 10 years and to coordinate our efforts with those of the government and industry to carry out comprehensive plans that will help the nation reach the goal of economic superiority and equal opportunity for all our citizens. We thank you, Senator, for your efforts along with those of your colleagues to make this possible.

Sincerely,

Rev. LEON SULLIVAN,
Chairman of the Board.

THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973—S. 1559—CONFERENCE REPORT

Mr. CRANSTON. Mr. President, at the outset, I want to thank the distinguished Senate floor manager of the conference report (Mr. NELSON) and Senators JAVITS and TAFT, the minority leaders on the subcommittee and full committee, respectively, for their many courtesies to me and for their most sympathetic consideration of amendments which I offered during Senate consideration as well as their support of my efforts in conference. I would also like to take this opportunity to express my special appreciation to Senator HATHAWAY for his presentation of several areas of concern of mine during a period when I was unable to be present at the conference committee deliberations.

Mr. President, along with my colleagues on the Labor Committee, I have studied the measure before us in great detail. I believe it to be a most reasonable bill, and I urge the Senate to join with us in support of the conference report on S. 1559.

BACKGROUND

Mr. President, because I think the development of this legislation has been so important, I would like to discuss briefly the history of this measure.

Earlier this session, on July 24, the Senate passed S. 1559, then titled the "Job Training and Community Services Act of 1973." Subsequently, on July 31, the Senate passed S. 1560, "the Emergency Employment Amendments of 1973." On November 28, the House passed H.R. 11010, the "Comprehensive Manpower Act of 1973"—its version of comprehensive job training reform.

We were then faced with a situation where the Senate had passed two separate bills, S. 1559, dealing with job training programs, and S. 1560, extending and modifying the Emergency Act, and the House had one bill, H.R. 11010, which dealt with both manpower reform and public service employment.

I might add, however, that the House bill did not actually extend the EEA, but rather incorporated many of the provisions of the EEA with respect to section 6 of that act, adding a 7-percent area unemployment criterion for eligibility for public service job funds, rather than the 6-percent criterion in the EEA, for areas of high unemployment.

In light of a number of amendments to the EEA in the Senate bill and some important restriction of present EEA provisions carried over into title II of the House bill, I felt that it was imperative that the Senate amend S. 1559 to add those provisions of S. 1560 which had counterparts in the House bill. This would enable us, as Senate conferees, to be able to deal effectively with public service employment in the conference. Consequently, I discussed this concern of mine with the distinguished subcommittee chairman, and the ranking minority members of the full committee and the subcommittee. Senators NELSON, TAFT, and JAVITS agreed.

I would like to add, Mr. President, that

Senator HATHAWAY—a most knowledgeable and capable member of the subcommittee—was of great assistance in resolving this matter.

Senator NELSON, Senator TAFT, Senator JAVITS, and I, then met with Assistant Secretary of Labor Kolberg shortly after the House passed its bill and discussed this issue at some length. The administration raised no objection to our proposed procedure to amend S. 1559 to include the relevant provisions of S. 1560 in the conference on S. 1559.

Senator NELSON then worked out the procedural matters surrounding such a motion, and successfully offered an amendment to S. 1559 which was adopted, and enabled us to take the important Senate provisions of S. 1560 to conference.

PUBLIC SERVICE JOBS

Mr. President, I believe that our gaining such a modification of the Senate bill has resulted in a significantly improved title II—that title of S. 1559, as reported by the conferees, dealing with public service employment—in the measure now under consideration. One important benefit from our amendment putting the provisions of S. 1560 into conference is the 6.5 percent unemployment criterion which is now contained in title II of the conference report on S. 1559. Had we been unable to get the S. 1560 provisions—which retained the 6-percent criterion for section 6 of the EEA—into conference, the House 7-percent figure would very probably not have been able to be reduced in conference under the rules of the House.

Mr. President, the Department of Labor is as yet unable to provide us with a definite determination as to the areas affected by the compromise 6.5-percent unemployment criterion—but a look at this time last year—the time of the earliest data available right now—provides us with an indication of the effect of the five-tenths of 1 percent reduction in the unemployment rate elgiblity criterion for title II funds, we were able to obtain in conference. In my own State of California, Garden Grove, Huntington Beach, the city of Orange, Torrance, Los Angeles County, Oakland, Daly City, Solona County, and Yolo County all had unemployment rates between 6.5 percent and 7 percent in November of 1972 and thus were recipients of section 6 EEA moneys. Those communities would not have been eligible for title II public service jobs funds under the House bill if their unemployment rate had not risen to 7 percent—which seeems very unlikely in view of the reduction since then in the national rate. I am not yet certain of the national impact of this reduction, but I believe it will probably be at least as significant as we expect it to be in California.

Perhaps the most important result of our getting the relevant provisions of S. 1560 into conference, Mr. President, is seen in the authorization of appropriations for title II in the conference report. The original House appropriations authorization contained an earmarking for title II funds of $250 million of amounts appropriated under the single "such sums" authorization for appropriations for the whole bill for fiscal year 1974 and $500 million for fiscal year 1975. Because we were able to get the pertinent provisions of S. 1560 into the conference with an open-ended authorization of appropriations for all 4 years was fully negotiable carrying out the public service title, the title II authorization amount. And I think it is clear that we have made a significant improvement, plus an express authorization for appropriations through fiscal year 1977. Sections 4(d) and (e) of the conference report combine to reserve, from amounts appropriated under the act, not less than $250 million for fiscal year 1974 and not less than $350 million for fiscal year 1975 for public service employment programs under title II—plus "such additional sums as may be necessary" in those 2 fiscal years. I cannot stress too strongly to my colleagues—and to the Appropriations Committee—that the conferees regard this reservation as a minimum reservation from among amounts appropriated under the act. That is why the words "not less than" were added to the House reservation language, which legal counsel advised could well have been construed as a limitation on amounts expendable for title II.

Rather, Mr. President, we would hope, and I very strongly urge, that the Appropriations Committee utilize the express authorization of "such additional sums" for this and the next fiscal year to continue public service employment programs under the new title II at levels at least equal to the funding previously authorized under the Emergency Employment Act—$1.25 billion for fiscal year 1974.

I cannot predict what will be the unemployment situation in 1976 or 1977, Mr. President, but I believe that it is most likely that we will continue to find millions of unemployed and underemployed Americans looking for decent jobs—and that we will still find masses of unmet public service needs. One of the major problems during this entire year with regard to public service jobs has been the confusion which surrounded the whole EEA extension issue. It is our hope that the 4-year authorization of appropriations for public service jobs under title II that is contained in the conference report—with a fully open-ended authorization for these years—will enable the Appropriations Committees and the Congress to provide the funds to help to prevent that situation from reoccurring.

THE IMPERATIVE NEED FOR ENACTMENT OF S. 1559

BLEAK JOB SITUATION

Mr. President, this legislation will reach the President's desk at a particularly appropriate time, as our economy is struggling with the effects of the diminishing involvement in Indochina—and attempting to convert war industries to peaceful and constructive pursuits.

At a time when the working people of this country suffer the ever increasing ill-effects of this administration's economic policy failures.

At a time when the crushing 1971 employment figures of well over 6 percent are again threatening the American labor force as a result of the "energy crisis." Mr. President, even without the looming menace of energy-crisis-related layoffs, over 4 million Americans are out looking for work—nearly 400,000 of them in my home State of California. And the growing ranks of the poor are more than ever the last to get decent jobs and the first to lose them.

The fact is, Mr. President that the cost of living in this country rose 8 percent in the first 6 months of 1973.

Blacks, browns, Indians, orientals, women, teenagers and other groups traditionally told to stand at the end of the line continue to search for results after the promising beginnings of the sixties. Yet a recently released U.S. Bureau of the Census survey shows that the gap between black and white income remains as great as it was in 1967. The median income of black families is 59 percent of that for white families—veritably the same disparity that existed in 1967. This same survey reflects, that though some real progress was made in reducing the number of black Americans with incomes below the poverty line before 1969—dropping from 39 percent in 1967 to 32 percent in 1969—the 32 percent level has remained constant since 1969.

The black jobless rate is 10 percent—compared with just under 5 percent for the rest of the labor force.

The chicano jobless rate is 8.2 percent.

The jobless rate is near 5.9 percent for women.

The ghettos, barrios, and Indian reservations of America continue to reflect unemployment rates of way over 20 percent.

As an original cosponsor of the Emergency Employment Act during the last Congress, I was dismayed to see that the President's fiscal year 1974 budget recommendations requested no extension of EEA programs after the July 1 expiration date. At the time of the budget message, the President, the Department of Labor, and the Office of Management and Budget, were all saying we did not need EEA jobs.

Indeed, during the subcommittee hearings on S. 1560, Assistant Secretary of Labor Kolberg stated in response to a question I raised about the administration's failure to seek an extension of the EEA:

> However, despite the fact that the EEA program was mounted and run effectively within the constraints of time and statute, the projected economic and manpower milieu for fiscal year 1974 do not support the extension of this act. A number of factors argue for nonextension of this legislation. Since the program began, unemployment has declined, the number of private sector jobs has increased substantially, and the financial ability of State and local governments to meet the demand for public services has improved.

Apparently, the unemployment difficulties of 4 million Americans did not carry much weight with the White House.

But now, Mr. President, we hear no less an "authority" than the Chairman of the President's Council of Economic Advisers, Dr. Herbert Stein, telling the Joint Economic Committee last week that in his estimation an unemployment rate increase of 3 percent is "possible" and

that the administration is giving consideration to a public service jobs program as one "possibility" for dealing with unemployment that results from the fuel shortage.

Well, Mr. President, clearly, as we have learned all too sadly over the last many months, anything is "possible" in the Nixon administration. Today's "never" turns to tomorrow's "maybe" and next week's "always."

Mr. President, while I believe that the administration is unconscionably late in its agreement with the Congress about the absolutely essential extension of public service jobs programs, I welcome them to our view.

I believe that the impact of projected layoffs in energy-related industries can be lessened by public service jobs. Indeed, I believe it is quite possible that, within the funding available to individual prime sponsors under the new act, public service jobs can contribute to the conservation of energy in many ways. Such jobs as increasing the public awareness of the necessity for and ways of accomplishing energy conservation; transportation planning; traffic control; organization of car pools; the expected need for local level policing of fuel allocation programs; control of black-market activities which have already begun to surface—at the expense of those least able to pay; and fire protection services—especially important in my home State, and of growing importance timber, as a fuel and energy source, becomes more and more scarce and fires thereby become more and more of an energy threat. These would all be eligible public service job activities. Council of Economic Advisors said before the JEC, in discussing the impact of the energy shortage:

> We simply won't be able to protect everybody against pain, or to achieve everybody's idea of equity in the distribution of that pain.

The legislation before us today can, I believe, aid in making Mr. Stein's ominous prediction less painful—not only through the provision of jobs, but of needed public services.

At its most minimal level—utilizing only title II earmarked funds, S. 1559 as reported by the conferees, provides for 40,000 public service jobs for fiscal year 1974 and for 55,000 for fiscal year 1975 in activities I mentioned, as well as in the activities specified under the EEA.

Mr. President, I could go on and on about the vital need for enactment of this legislation—about the hundreds of witnesses who testified across the country on the need for manpower program reform, about continuation of EEA-type programs, about the many, many services provided under the EEA that will be ended if we do not succeed; about the many individuals and families who so depend on us responsibly to continue a commitment made to them years ago. But I do not think that is necessary today. We all have heard over and over again about the need for this bill. The difference is that this time I have no doubt that we will have a law—and not just a another futile, frustrating confrontation with the administration.

IMPACT OF CONFERENCE DECISIONS

Mr. President, during the development of the legislation now under consideration, I offered a number of amendments in subcommittee to both S. 1559 and S. 1560, as well as several floor amendments to S. 1560, and was fortunate to gain their inclusion in S. 1559 and S. 1560 as passed by the Senate. I would like now to discuss the disposition of several of these provisions by the conference committee.

VETERANS UNEMPLOYMENT

In S. 1560, we attempted to focus more directly on the long-term unemployed and the disadvantaged—particularly the employment problems of the Vietnam era veteran. S. 1560 as passed required that 50 percent of the EEA jobs be set aside for veterans of the Vietnam era. It also reserved the remaining jobs for the economically disadvantaged and those who had been seeking work unsuccessfully for 15 weeks or more.

I worked in subcommittee with Senator NELSON to develop the veterans' provision to provide a much sharper focus for the activities of local program agents under the EEA. Instead of "special consideration" as in existing law, S. 1560, as reported to the Senate, required each program sponsor to make commitments that by the end of fiscal year 1974 not less than 50 percent of the jobs supported with EEA funds would be filled by Vietnam era veterans or disabled veterans. Specific steps designed to meet that commitment were to be set forth in plans submitted to the Secretary. Moreover, these plans were to describe the types of jobs to be made available to veterans which should utilize the skills they acquired while in military service.

As chairman of the Health and Hospitals Subcommittee of the Veterans' Affairs Committee, and the past chairman of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee prior to the Legislative Reorganization Act of 1970, I have been a major participant in the efforts of the Congress over the last 4 years to give veterans employment programs a higher priority in the present administration.

I believe the compromise we were able to reach with House on this issue is acceptable.

I would like to call to the attention of the Senate the relevant section of the joint explanatory statement of the committee of conference on these two issues. It states:

> The House amendment requires that a person be unemployed for at least 30 days to qualify under the program. The Senate amendment limits eligibility to those who have been unemployed for 15 weeks and to those who are unemployed or underemployed and from economically disadvantaged backgrounds but these requirements may be waived in the case of persons unemployed as a result of certain closings of or cutbacks, in Defense Department facilities. The Senate recedes with the understanding that a person who has been unemployed for at least 30 days means a person who has been without work for 30 days or longer for reasons other than strike or lockout at his usual place of employment, and (i) has made specific efforts to find a job within the past 4 weeks, (ii) is not waiting to be called back to a job from which he has been laid off, or (iii) is not expecting to report to a new job other than a job funded under the Act, within the next 30 days.
>
> The Senate amendment retains the provisions of the Emergency Employment Act requiring that programs be, to the extent feasible, designed with a view to upward mobility and continued training. The House recedes.
>
> The House amendment requires that persons hired reside in the area of substantial unemployment and that the service provided be for the benefit of the residents of such areas. The Senate amendment has no comparable provision. The Senate recedes.
>
> The Senate amendment requires a plan which includes a commitment that by the end of fiscal year 1974, 50 percent of the jobs supported under the act be filled by disabled or Vietnam era veterans. The House amendment requires that special consideration in filing public service employment jobs be given to unemployed veterans (discharged under conditions other than dishonorable) who have served in Indochina or Korea. The Senate recedes with an amendment. Special consideration is to be given to veterans who have served in Indochina or Korea on or after August 5, 1964 other than those who have been dishonorably discharged and the applicant must describe the specific steps he will undertake to provide such special consideration.

Mr. President, the description of the specific steps the program agent must take with regard to providing the required special consideration for veterans in filling public service jobs is very similar to that contained in S. 1560 as passed by the Senate, and I would expect, as the author of both the Senate provision and the compromise language in the conference report, that the Secretary would scrutinize the plans of program agents to carry this out and to stress utilizing the military training and experience veterans and to notify veterans of these jobs most carefully in carrying out his duties under the act.

During the Senate consideration of S. 1560, I offered several amendments which were adopted and subsequently included in those provisions which were added to S. 1559 as it went to conference as the result of the Nelson floor amendment. Some were not specifically or fully retained in the conference report itself, which I would like to discuss now.

I offered a provision which altered section 14 of the EEA—the definition section of the act—to include in the definition of "public service jobs" work in "veterans outreach" program as well as a definition of "veterans outreach."

This latter definition would include the veterans outreach services program carried out under the provisions of sections 240 and 241 of title 38, United States Code, and provided for the "full utilization" in these VA outreach programs of veterans receiving GI bill assistance or participating in vocational rehabilitation programs under chapter 31 of title 38.

Mr. President, as the author of the veterans outreach services program established in the provisions of section 240 and section 241 in subchapter IV of title 38 of the United States Code, I sought through this amendment to enhance the effectiveness and relevance of the outreach services which can be provided

through the EEA—especially the "split jobs" concept. Under this title 38 program, outreach services are provided designed to assure that all veterans are aware of, and, hopefully, take advantage of the readjustment and other benefits to to which they are entitled.

Section 240 of title 38 directs the VA actively to seek out eligible veterans and their dependents—and personally contact those veterans who are disadvantaged—to insure that they have this information and to counsel them as to their various eligibilities.

Utilization of the proven split-jobs concept in veterans' outreach programs through the Emergency Employment Act is one step we can take to provide a fair chance to these men and women—especially GI bill trainees needing part-time jobs to meet their expenses in our overinflated economy—to become employed in productive public service work and not have to wage the misdirected war on inflation at home after the sacrifices we have already called upon them to make in Indochina.

Under the S. 1560 provision as inserted in S. 1559 for conference, Mr. President, we sought to double the help the EEA provides to returning and recently returned veterans by hiring vets in public service jobs to help other veterans learn about and make use of their GI bill assistance benefits and to help direct them toward productive job opportunities as well.

The 1971 Labor and Public Welfare Committee report on S. 31, the Senate EEA bill (Senate report No. 92-48), included language I proposed discussing the concept of "split-jobs" under the Emergency Employment Act for veterans. The report states:

. . .[T]he Committee believes that there is a great opportunity under this public service employment program to assist educationally and economically disadvantaged veterans enrolled in college under the GI bill and who are struggling to make ends meet. Many more of these men, who often are high school dropouts, could pursue college or junior college training if they had part-time jobs to supplement their GI bill educational assistance allowances.

The Committee is hopeful that the Secretary of Labor would give serious consideration to the great potential of such an allocation of public service jobs. Along the same lines the Committee feels that, to the extent practicable, he should also give special preferences to veterans disabled with service-connected conditions who are nevertheless employable.

While I would have preferred retention of the definition of "outreach services" in the conference report before us today, it was decided by the conference that such a definition was not absolutely necessary—since the Secretary has utilized the split-jobs concept in the past, since veterans outreach programs are stressed in title II in section 205(c)(5) of the bill, since the term "veterans outreach" was retained in the definition of "public service jobs," and since we were attempting to maintain as much secretarial flexibility as possible. I believe that the conference action on the first part of this amendment, coupled with the other provisions in S. 1559, as reported from conference, stressing special responsibilities of the Secretary for veterans employment, creates a very clear indication of the Congress understanding of what "veterans outreach" means in section 601(a)(7).

Additionally, Mr. President, the retention in the conference report of certain other provisions I authored—particularly those relating to chapters 41 and 42 of title 38, relating to the job counseling, training, and placement service for veterans, and the role of the Secretary of Labor with regard to that program, and the retention of special consideration for veterans with respect to title II jobs expresses the very strong feelings of the conferees to maximize public service job opportunities for Vietnam era veterans.

Mr. President, I felt very gratified by certain provisions retained in the conference report that I believe have a very direct bearing on the Secretary's responsibility to returning veterans and those with service-connected disabilities and congressional expectations in that regard, which build on sections 2003 and 2006 of chapter 41 and sections 2012 and 2013 of chapter 42 of title 38.

In the Senate version of S. 1559, the members of the committee added provisions, which I proposed, to build upon sections 2012 and 2013 and the AVER's section 2003 provisions.

First. The Secretary was given a special Federal responsibility to utilize in the nationwide computerized job bank and matching program the listing of all suitable employment openings in local employment service offices and the requirement that special emphasis in employing certain veterans be provided by all Federal contractors, and subcontractors—as required by section 2012(a) of title 38—this is retained in the conference report;

Second. The provision was retained in the conference report directing the Secretary to carry out fully and effectively his responsibilities for assigning the AVER's and, for providing the special emphasis in addition to job listing, and for his other duties under chapter 41 of title 38; and

Third. Each State is required under the conference report to set forth in its prime sponsorship plan submitted to the Secretary arrangements for assisting the Secretary in enforcing these Federal contractor and subcontractor listings as well as special emphasis requirements under section 2012(a) of title 38.

The joint explanatory statement states that:

The Senate amendment includes as a special responsibility of the Secretary the effective implementation of the veteran's employment representatives and certain other special employment emphasis provisions of title 38, U.S.C. and giving special consideration to job training programs for persons affected by the closing of a Government facility. The House amendment contains no comparable provisions. The House recedes, but the conferees expect the Secretary to use funds available under other statutes in carrying out his responsibilities under title 38, U.S.C.

It is contemplated that such "funds available under other statutes" as to the title 38 provisions, would include funds expressly made available to carry out veterans' employment programs under, for example, the Wagner-Peyser Act trust fund, and that funds available under S. 1559 as reported by the conferees would be used only where absolutely necessary in a supplemental fashion. This provision in section 301(d), as with both the job listing and special emphasis provisions in the State prime sponsor requirements and the job bank-matching provision, should make it clear to the Solicitor and the Secretary of Labor that the job listing and special emphasis requirements are clearly viewed by the Congress as two separate requirements—both of which must be canned out by the Secretary. I sincerely hope that after so long a struggle to make this point to the Department of Labor—we have finally done so in today's bill. And that the Secretary will proceed to require Federal contractors and subcontractors to report on what they are doing to carry out their responsibilities to give special emphasis to the employment of Vietnam era and service-connected disabled veterans.

PUBLIC SERVICE JOBS

MAINTENANCE OF EFFORTS

Additionally, Mr. President, with respect to title II of conference report, the conferees were able to work out compromise language with regard to the assurances that program sponsors would insure that EEA funds are not being used to fill a job opening created by the action of an EEA employer in laying off a regular employee, by rehiring that person with PSE Federal funds.

This is a provision I authored in the Senate bill, and I believe we have worked out an acceptable compromise between the two versions.

The joint explanatory statement language on this is very helpful in clarifying out intent. It says:

The House amendment requires special consideration for those who have been unemployed the longest and have the least prospect of finding regular employment, but such special consideration does not authorize the hiring of any person for a job from which another person is on lay-off. The Senate amendment prohibits the hiring of any person to fill a job vacant because of a lay-off. The conferees adopted both provisions with the understanding that the language in the Senate bill is not intended to preclude the re-hiring of persons who have been laid off for bona fide reasons nor is it intended to prevent the filling of jobs vacated because of bona fide layoffs. The intention of this provision is to prevent so-called "paper layoffs".

ARTIFICIAL BARRIERS TO EMPLOYMENT

Add other provisions I authored in the Senate bill regarding the removal of artificial barriers to public employment of disadvantaged persons, and a direction that the Secretary provide technical assistance in the development of programs designed to accomplish that were substantially retained in the conference report—specifically in sections 204(b)(19) and (21) of title II, and sections 311 and 315 of title III which provides for technical assistance activities for title II programs as well as the entire act, but no set-aside therefor as in my

original Senate amendment, under the special responsibilities of the Secretary.

WELFARE RECIPIENTS

Mr. President, I was pleased that we were able to reach agreement with the House on language in the joint explanatory statement with regard to special consideration for welfare recipients in filling EEA jobs. I had authored a provision on the Senate floor to the S. 1560, which provided for due consideration for welfare recipients in filling EEA jobs, but I believe the joint statement language adequately addresses my concern. It states:

The Senate amendment requires that due consideration be given to the employment of welfare recipients. The House amendment has no comparable provision. The Senate recedes, but in the understanding that welfare recipients are eligible for consideration for employment, and may be eligible for special consideration under paragraph 7 of section 205.

INFORMATION FOR BILINGUAL PERSONS

While a bilingual information provision I authored in S. 1560 as adopted by the Senate mandating the provision of information in appropriate areas regarding public service job availability for individuals of limited English-speaking ability in their primary language was not specifically retained in the conference report.

I believe several other provisions of the conference report express the intention of the Congress in that regard, particularly sections 105(a)(1)(D), 105(a)(2), 105(a)(3)(A), 107(a)(1)(A)(vi), 104, 305(b)(B), and, with particular direct impact for title II public service jobs programs, section 209(2) of the bill.

TITLE I—COMPREHENSIVE MANPOWER SERVICES

PRIME SPONSORS

Mr. President, both the House and Senate bills recognized the overwhelming argument for decentralization of manpower programs. Throughout the last several years that I have worked on this legislation, I have heard inumerable witnesses urge that local communities be free to design and operate their own manpower programs within a decentralized manpower system. There are presently over 10,000 separate contracts which are administered by the Department of Labor under the Economic Opportunity Act of 1964 and the Manpower Development and Training Act of 1962. Local officials were adamant that this new legislation not make them subordinate to a system operated, basically, by the 50 Governors. I believe the conference report has fully and successfully reconciled all these concerns.

In the Senate version of S. 1559, I authored a provision—identical to one I authored in 1970 and which was retained in the vetoed bill sent to the President that year—which provided, that, when two units of general purpose government both qualified with regard to population as prime sponsors, such as a city within a county in which both the city and the county qualified by population, the Secretary was directed to designate to serve as prime sponsor for the common area, the unit which could more effectively carry out the responsibilities of a prime sponsor under the act. I saw this as a mechanism to limit unnecessary and duplicative program administrators—thereby enabling more Federal dollars to go into jobs and job training—and a way of maximizing the use of experienced program sponsors.

Unfortunately, this time the House conferees were unwilling to accept any such provision, nor would they accept a modification I offered to provide that in limited exceptional circumstances, where the larger unit of government containing a smaller unit—both with an eligible population—manifested a "clearly superior" capability for carrying out the purposes of the act, the Secretary could designate the large unit as the prime sponsor.

I believe that this modification would have resulted in more effective program administration. However, I am hopeful that the Secretary will fully utilize his authority under section 103(b)—the provision which reserves not more than 5 percent of the appropriated funds to the Secretary to encourage voluntary combinations of units of government as described in section 102(3)—to urge such combinations. And I urge Governors to make recommendations for such combinations to the Secretary inappropriate situations as they are entitled to do under the conference provision.

It should be stressed, Mr. President, that this provision is applicable not only to contiguous cities or counties, but to cities and counties in situations such as I just described. I would, thus, very strongly urge the Secretary to urge combinations in such situations before designating as prime sponsor the smaller unit submitting or approvable comprehensive manpower plan, because I sincerely believe that such combinations can result, in many instances, in more effective, economical, and efficient programs.

An example of the type of situation where I think the Secretary could effectively foster such a combination is in Alameda County, Calif.

In Alameda County, there are several communities which will qualify as prime sponsors under the 100,000 population requirements of the conference report—Berkeley, Oakland, and Hayward, for example. The county, in this instance, has had a long history of program responsibility in the manpower area, and up until very recently, administered the manpower programs for all the cities in the county. It would be foolish, I think, to now turn around and designate four prime sponsors where there previously had been only one—necessitating expenditures for four separate program administrations and so forth.

I would hope, Mr. President, that in areas such as this, the Secretary would use his 103(b) incentive money to encourage cities and counties to form a combination prime sponsorship—thereby eliminating unnecessary duplication and waste.

LINKS TO REAL JOBS

Mr. President, the biggest single failing of adult manpower training programs in the past has been the failure, with the obvious exception of Emergency Employment Act programs—to provide strong linkages to real jobs. For too often manpower trainees have been funneled from one "training" program to another.

Because I was so concerned about this, I offered two amendments to the Senate bill—adopted in committee and included in the Senate version of S. 1559 that went to conference, first, providing priority in funding for training programs in which strong job commitments had been obtained by the prime sponsors, and, second, requiring the prime sponsor to follow up on such commitments by conditioning future funding on the ability of the sponsor to demonstrate that it had done everything possible to place the successful trainee in such employment or itself to employ the trainee.

After much discussion, Mr. President, I believe we were able to work out a minimally acceptable compromise requiring that training and OJT programs, wherever possible, lead to meaningful jobs at decent wages. I hope the Secretary will implement this provision in a most aggressive fashion. The joint explanator statement clearly reflects the very strong concern of the conferees in this regard. It states:

The Senate amendment requires the establishment of program goals, a description of employment and training needs and that priority be given to programs where public and private employers make employment commitments to prospective participants. The House amendment also requires that prime sponsors receiving funds under title II, as well as this title, integrate their title II programs with activities financed under title I. The conference compromise adopts the provisions of the House amendment, as well as the provisions of the Senate amendment on establishing goals and a provision requiring, wherever possible, that training lead to employment providing economic self-sufficiency.

LABOR MARKET INFORMATION AND COMPUTER JOB BANK

Mr. President, I was very pleased that the conference report retained the provisions in the Senate bill with respect to the development of more adequate labor market information. This provision derives from a provision I originally authored in S. 3311 in the 92d Congress, which I have reintroduced again this year as S. 793, the proposed "Public Service Employment Act of 1973." In order to assure implementation of this important provision, I had added in committee a provision mandating a set-aside of funds to begin the difficult and detailed task outlined in the Senate provision. This set-aside was retained in section 312 of the conference report.

Also contained in section 312 of the conference bill, is a provision directing the Secretary to establish a computerized job bank and matching system—utilizing the job listing requirements of section 2012(a) of title 38 of the United States Code, which I described earlier in my remarks—and the title 38 linkup part which I had authored in the Senate bill.

BILINGUAL MANPOWER PROGRAMS

Mr. President, I would like to express my appreciation for the able assistance of Congressman BADILLO in helping me effect a good compromise between the two bills with regard to the required components of manpower and employment programs for limited English-speaking

people under the new act. The Congressman had authored a provision in the House bill similar in intent to a provision I had authored in the Senate bill, specifying the components of such bilingual-type programs.

The joint explanatory statement discusses this provision as follows:

The Senate amendment requires the Secretary to establish procedures to insure that programs for persons of limited English speaking ability provide such training and supportive services as will increase employment and training opportunities for them. These procedures shall also provide that programs for such people emphasize occupations that do not require proficiency in English, emphasize technical English vocabulary necessary for specific occupations, train bilingual instructors and otherwise establish, maintain and operate programs to increase employment and advancement opportunities for persons of limited English speaking ability. The House amendment provides that in carrying out his special responsibilities the Secretary shall establish procedures to insure that programs for such persons will increase their employment and training opportunities. The Senate receded in light of the agreement in section 301(b).

Basically, what the conference provision represents in 301(b) are the crucial components of the Senate provision—including, provision of job training services at alternative times, so that presently employed individual would have an opportunity to learn new skills; programs designed to increase the promotional opportunities of limited English-speaking people; programs teaching skills which do not require a high proficiency in English; programs teaching specific English technical vocabulary necessary to the performance of certain occupations; and the conduct in the primary language of participants of programs themselves, and the provision of information about jobs and job training programs, including conduct of outreach programs to enroll those needing such programs, using the participants' primary language.

Mr. President, I think we have a good provision here, and I would hope that the Secretary will carry out his responsibilities under it very vigorously, and promote new and innovative bilingual manpower and employment programs both as national emphasis programs, and to be carried out by title I prime sponsors and title II eligible applicants.

COMMUNITY-BASED GROUPS AND LOCAL MANPOWER COUNCILS

Mr. President, in our haste to decentralize the manpower program bureaucracy, I felt it was imperative that we ensure a continuing role for programs and groups which have already demonstrated their effectiveness, and insure that the poverty community had a real voice in program decisionmaking.

I was, consequently, very gratified that we retained in the conference bill provision to require that the Secretary terminate financial assistance to prime sponsors, after full opportunity for a hearing, "failing to serve equitably the significant segments of the population" or "failing to give due consideration to funding programs of demonstrated effectiveness."

We were also able to agree on a definition of "community-based organizations" which includes an exemplification of several programs which I believe are "of demonstrated effectiveness"—including jobs for progress—SER—a program which I believe should be retained in the many communities it has so effectively served, and opportunities industrialization centers and community action actions, also of long experience in carrying out manpower and training programs.

Finally, in this same connection, after long debate the House conferees accepted a compromise between versions which I and Congressman STEIGER offered to continue the Senate bill requirement of mandatory local manpower advisory councils appropriately representative of local poverty, community-based, labor and business groups, and other appropriate groups and interests. The Senate bill included provisions I authored specifically including representatives of veterans on the local councils, as well as on the State councils to be established under section 107(a)(1), and on the National Manpower Policy Commission, established under section 105(a)(1), of the conference report. The exclusion of this specification was in no way intended to discourage such veterans representation on these councils, which would obviously be appropriate given the great stress placed on the employment and training needs of veterans throughout the conference report, which I discussed earlier.

CONCLUSION

Mr. President, we have a bill. We have a good bill. It is one which has been carefully scrutinized. I urge my colleagues to support the conference report—so that we may get on with this so desperately needed manpower program reform.

Mr. HATHAWAY. Mr. President, I want to commend the Senator from Wisconsin (Mr. NELSON) and the Senator from New York (Mr. JAVITS), the chairman and ranking minority members of the Manpower Subcommittee of the Committee on Labor and Public Welfare on which I serve for the excellent job they have done on this very important legislation. I have had the privilege of working with them from the inception of the bill in subcommittee through conference and know firsthand of the tremendous effort and leadership they have shown in producing a bill which will go a long way toward helping the unemployed and underemployed in our Nation.

Mr. ROTH. Mr. President, I previously wrote the distinguished senior Senator from New York, asking for his support and assistance in resolving the language of the Comprehensive Manpower Act of 1973 in conference so that a local general government such as Wilmington, with a population of less than 100,000, may qualify as a prime sponsor for comprehensive manpower programs. Senator JAVITS has been most gracious and helpful in this regard. I thank him for his efforts.

Mr. HARTKE. Mr. President, I am particularly concerned with section 3 of the Comprehensive Employment and Training Act of 1973 as reported by the conference committee. This section deals with the transition from existing manpower programs under the Manpower Development and Training Act and the Economic Opportunity Act to those under the proposed Comprehensive Employment and Training Act.

I interpret section 3 of the bill as reported by the conference to mean that there will be no lessening of manpower training efforts as we phase from the old program authority into the new comprehensive program. I take section 3 to mean that under the authority existing prior to June 30, 1973, programs may continue to be funded up to midnight June 30, 1974, and that they may thereafter run their full and formal course. I also assume that with the language of section 3, my colleagues on the conference committee mean to protect the Federal investment made in programs under the old manpower authority by assuring that there will be adequate staff in appropriate agencies—the State departments of education, for example—to assure that ongoing programs will be adequately monitored and that there will be sufficient program staff to insure the efficient phase-down in programs under the old authority into that of the new.

Fortunately through the past 10 years of program operations under the MDTA, Indiana has developed a fine manpower capability. This resource will, I am sure, be invaluable as we phase into and then get the new comprehensive program going. At the present time the State Board of Vocational and Technical Education is responsible for institutional manpower training. The board is overseeing some $3.2 million in manpower training programs including millions of dollars in valuable training equipment.

My purpose in seeking clarification of section 3 is simply this: In Indiana and throughout the Nation we have a sizable investment of federally funded resources which were generated under MDTA and EOA. These resources are currently being used to provide manpower training services. I seek reassurance that it is the intent of the conferees that these resources will be fully used, with no fallback from fiscal year 1974 training plans, up to July 1, 1974. I further seek reassurance from the conferees that there will be no decrease in the manpower training effort during the time required for phasing into the new program under the Comprehensive Employment and Training Act of 1974.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

DEPARTMENT OF DEFENSE APPROPRIATION BILL—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 11575, 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 Senate to the bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year end-

ing June 30, 1974, 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 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 19, 1973, at pp. 42538–42540.)

Mr. McCLELLAN. Mr. President, on Tuesday, December 18, the conferees on the Department of Defense appropriation bill for fiscal year 1974, after 7 hours of deliberation, reached agreement on the differences between the two Houses.

The total amount agreed to was $73,714,930,000. This is $3,535,793,000 under the budget. If transfers are excluded, the net reduction is $3,032,493,000 under the budget.

This is the goal we sought earlier this year when the Defense Subcommittee set a tentative target figure for defense at $3 billion under the budget. I believe that we have achieved this ceiling without harm to either the ongoing operations of the military services or detriment to future preparedness.

The conference agreement figure is $386,379,000 under the House bill and $450,303,000 over the Senate bill. It is $1,669,643,000 under the appropriation for fiscal year 1973.

The conference was completely free with every difference carefully considered and some issues vigorously contested. Since there are hundreds of individual items involved, I believe the conferees on the part of the House and of the Senate acted with proper expedition and good judgment.

The following are some of the major items which were agreed to in conference:

MILITARY ASSISTANCE SERVICE FUNDED SUPPORT TO LAOS AND SOUTH VIETNAM

The House bill included $1,008,500,000 while the Senate bill provided $650,000,000. The conferees agreed on a figure of $900,000,000 for military support to the two countries. Under the provisions of the continuing resolution there have been obligations of $470 million through December 14. If the Senate figure of $650 million were provided, the assistance would have terminated prior to the end of February 1974, assuming obligation of funds at the same rate as has occurred since the beginning of the fiscal year. The conference agreement of $900 million will result in some reduction of assistance to Laos and Vietnam during the remainder of the fiscal year yet permit the program to continue.

AIRCRAFT PROCUREMENT, NAVY

The conferees agreed to the Senate reduction of $10.5 million in the A–4M Skyhawk aircraft program which buys 20 aircraft instead of the 24 funded in the House bill. The conference agreed to a Senate reduction of $11 million in the A–6E Intruder aircraft program, which reduces the fiscal year 1974 buy from 15 to 13 aircraft. The conference agreed to the Senate reduction of $22 million in the A–7E Corsair II aircraft program, reducing the number of aircraft to be procured from 42 to 30. The conferees also agreed to provide the full amount of the budget request, $401,400,000, to procure 45 S–3A Viking aircraft. This is an increase of $66 million over the Senate allowance, which provided funds to purchase 36 aircraft.

WEAPONS PROCUREMENT, NAVY

The Senate had restored the House reduction of $14.1 million for advance procurement of the Harpoon missile. The conference agreed to restore the funds to the "Research, Development, Test, and Evaluation, Navy" appropriation. The conferees agreed to the House denial of $12.4 million for the AGM–83A Bulldog missile. The House provided $26.6 million for the fleet satellite communications system, while the Senate included $44.1 million for the program. The conference agreed on $36.6 million for this communications system.

SEA CONTROL SHIP

The conference agreed to provide $29.3 million in advance procurement funding for the sea control ship as proposed by the Senate. The House had provided no funds. The conferees further agreed that no funds are to be obligated for the program pending completion of a designated study and until specific written approval has been granted by each Appropriations Committee.

AIRCRAFT PROCUREMENT, AIR FORCE

The conference agreed to provide $70.1 million for the procurement of 24 A–7D Corsair II aircraft as proposed by the Senate and $151.6 million for 12 F–111F aircraft as proposed by the House. The House provided $764 million for 68 F–15 aircraft while the Senate included $714 million for 60 aircraft. The conference agreed to provide $736 million to procure 62 F–15 aircraft. The conference agreed to provide $7.6 million for the E–3A airborne warning and control system aircraft program. The House had provided no funds while the Senate had included $11.7 million. The conference agreed to provide $32.3 million for a fourth E–4A advanced airborne national command post aircraft as proposed by the Senate. The House had included no funds. The conferees agreed that no further 747 aircraft are to be included in budget requests for the program until the command-control-communications electronics package has been completely developed and thoroughly tested.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The conferees agreed to delete the $26.2 million requested for the submarine launched ballistic missile phased array radar program.

The conference also agreed to provide $110 million for the site defense program. The House had provided no funds, while the Senate figure was $135 million.

The conference restored $22.6 million, which the Senate had deleted, for the SAM–D missile program, thus providing the full amount of the budget request of $193.8 million.

The House provided no funds for Project Sanguine, whereas the Senate bill included the full budget request of $16.6 million. The conference agreement provides $8.3 million with a statutory provision that one of the funds shall be used for full-scale development.

The House bill did not include funds for the advanced medium short take off and landing transport aircraft. The Senate provided the full budget request of $65.2 million. The conference agreement provides $25 million.

The Senate deleted $10 million from the A–10 close air support aircraft program. The conference agreement restored the $10 million and provides the full authorization of $107.4 million.

The Senate bill included a general provision limiting the supply of petroleum products to Southeast Asia. The conference amended the language to read:

None of the funds contained in this Act shall be used to furnish petroleum fuels produced in the Continental United States to Southeast Asia for use by non-United States nationals.

I ask unanimous consent that a tabulation summarizing the action of the House, Senate, and conference be printed in the RECORD.

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

DEPARTMENT OF DEFENSE APPROPRIATION, 1974, BILL (H.R. 11575)

Appropriations (by functional title)	Revised fiscal year 1974 budget request	House allowance	Senate allowance	Conference agreement	Conference compared with— Budget estimate	House allowance	Senate allowance
TITLE I—MILITARY PERSONNEL							
Military personnel, Army	7,211,400,000	7,131,437,000	7,098,050,000	7,109,950,000	−101,450,000	−21,487,000	+11,900,000
Military personnel, Navy	5,355,600,000	5,281,995,000	5,271,350,000	5,271,350,000	−84,250,000	−10,645,000	
Military personnel, Marine Corps	1,555,800,000	1,549,452,000	1,547,000,000	1,547,000,000	−8,800,000	−2,452,000	
Military personnel, Air Force	6,932,500,000	6,886,411,000	6,863,350,000	6,863,350,000	−69,150,000	−23,061,000	
Reserve personnel, Army	463,700,000	452,408,000	452,408,000	452,408,000	−11,292,100		
Reserve personnel, Navy	212,100,000	209,403,000	209,403,000	209,403,000	−2,697,000		
Reserve personnel, Marine Corps	67,500,000	61,173,000	61,173,000	61,173,000	−6,327,000		
Reserve personnel, Air Force	139,300,000	126,962,000	126,962,000	126,962,000	−12,338,000		
National Guard personnel, Army	587,100,000	555,900,000	555,900,000	555,900,000	−31,200,000		
National Guard personnel, Air Force	181,500,000	177,500,000	177,500,000	177,500,000	−4,000,000		
Total, title I—Military personnel	22,706,500,000	22,432,641,000	22,363,096,000	22,374,996,000	−331,504,000	−57,645,000	+11,900,000

DEPARTMENT OF DEFENSE, APPROPRIATION 1974, BILL (H.R. 11575)—Continued

Appropriations (by functional title)	Revised fiscal year 1974 budget request	House allowance	Senate allowance	Conference agreement	Conference compared with— Budget estimate	House allowance	Senate allowance
TITLE II—RETIRED MILITARY PERSONNEL							
Retired pay, defense	4,705,900,000	4,681,900,000	4,681,900,000	4,681,900,000	−24,000,000		
TITLE III—OPERATION AND MAINTENANCE							
Operation and maintenance, Army	6,401,700,000	6,133,747,000	6,153,747,000	6,214,697,000	−187,003,000	+80,950,000	+60,950,000
Operation and maintenance, Navy	6,156,700,000	6,023,200,000	6,013,683,000	6,004,950,000	−151,750,000	−18,250,000	−8,733,000
Operation and maintenance, Marine Corps	417,000,000	411,645,000	410,645,000	410,645,000	−6,355,000	−1,000,000	
Operation and maintenance, Air Force	6,717,100,000	6,532,100,000	6,458,241,000	6,504,294,000	−212,806,000	−27,806,000	+46,053,000
Operation and maintenance, Defense agencies	1,478,400,000	1,650,408,000	1,456,198,000	1,454,898,000	−23,502,000	−195,510,000	−1,300,000
Operation and maintenance, Army Reserve	260,400,000	255,000,000	253,900,000	253,900,000	−6,500,000	−1,100,000	
Operation and maintenance, Navy Reserve	175,400,000	172,000,000	170,750,000	170,750,000	−4,650,000	−1,250,000	
Operation and maintenance, Marine Corps Reserve	11,400,000	11,000,000	11,000,000	11,000,000	−400,000		
Operation and maintenance, Air Force Reserve	227,600,000	223,000,000	222,800,000	221,900,000	−5,700,000	−1,100,000	−900,000
Operation and maintenance, Army National Guard	540,000,000	524,000,000	523,839,000	524,400,000	−15,600,000	+400,000	+561,000
Operation and maintenance, Air National Guard	524,500,000	518,000,000	510,500,000	514,250,000	−10,250,000	−3,750,000	+3,750,000
National Board for the promotion of Rifle Practice	159,000	159,000	159,000	159,000			
Claims, Defense	49,100,000	49,100,000	49,100,000	49,100,000			
Contingencies, Defense	5,000,000		5,000,000	5,000,000		+5,000,000	
Court of Military Appeals	864,000	864,000	864,000	864,000			
Total, title III—Operation and maintenance	22,965,323,000	22,504,223,000	22,240,426,000	22,340,807,0000	−624,516,000	−163,416,000	+100,381,000
TITLE IV—PROCUREMENT							
Aircraft procurement, Army	181,000,000	139,400,000	138,400,000	138,400,000	−42,600,000	−1,000,000	
Transfer from other accounts		(21,400,000)	(21,400,000)	(21,400,000)	(+21,400,000)		
Missile procurement, Army	569,500,000	514,600,000	525,100,000	525,100,000	−44,400,000	+10,500,000	
Transfer from other accounts		(22,000,000)	(22,000,000)	(22,000,000)	(+22,000,000)		
Procurement of weapons and tracked combat vehicles, Army	238,000,000	224,300,000	224,300,000	224,300,000	−13,700,000		
Procurement of ammunition, Army	1,138,900,000	931,300,000	676,100,000	784,300,000	−354,600,000	−147,000,000	+108,200,000
Transfer from other accounts		(46,100,000)	(146,100,000)	(146,100,000)	(+146,100,000)	(+100,000,000)	
Other procurement, Army	551,900,000	502,290,000	460,590,000	461,690,000	−90,210,000	−40,600,000	+1,100,000
Transfer from other accounts		(27,000,000)	(39,500,000)	(39,500,000)	(+39,500,000)	(+12,500,000)	
Aircraft procurement, Navy	2,927,500,000	2,785,200,000	2,646,700,000	2,722,700,000	−204,800,000	−62,500,000	+76,000,000
Transfer from other accounts		(106,800,000)	(106,800,000)	(106,800,000)	(+106,800,000)		
Weapons procurement, Navy	933,400,000	790,700,000	834,700,000	800,700,000	−132,700,000	+10,000,000	−34,000,000
Shipbuilding and conversion, Navy	3,754,100,000	3,453,800,000	3,468,100,000	3,468,100,000	−286,000,000	+14,300,000	
Other procurement, Navy	1,393,800,000	1,261,000,000	1,202,300,000	1,204,200,000	−189,600,000	−56,800,000	+1,900,000
Transfer from other accounts		(45,000,000)	(45,000,000)	(45,000,000)	(+45,000,000)		
Procurement, Marine Corps	180,000,000	173,932,000	173,932,000	173,932,000	−6,068,000		
Transfer from other accounts		(5,000,000)	(5,000,000)	(5,000,000)	(+5,000,000)		
Aircraft procurement, Air Force	2,906,800,000	2,693,800,000	2,470,900,000	2,720,400,000	−186,400,000	+26,600,000	+249,500,000
Transfer from other accounts		(54,000,000)	(54,000,000)	(54,000,000)	(+54,000,000)		
Missile procurement, Air Force	1,519,600,000	1,371,500,000	1,395,800,000	1,393,300,000	−126,300,000	+21,800,000	−2,500,000
Transfer from other accounts		(30,000,000)	(30,000,000)	(30,000,000)	(+30,000,000)		
Other procurement, Air Force	2,004,900,000	1,605,600,000	1,589,300,000	1,542,700,000	−462,200,000	−62,900,000	−46,600,000
Transfer from other accounts		(30,000,000)	(30,000,000)	(30,000,000)	(+30,000,000)		
Procurement, Defense agencies	70,700,000	66,000,000	66,280,000	66,000,000	−4,700,000		−280,000
Transfer from other accounts							
Total, title IV—Procurement	18,370,100,000	16,513,422,000	15,872,502,000	16,225,822,000	−2,144,278,000	−287,600,000	+353,320,000
Transfer from other accounts		(387,300,000)	(499,800,000)	(499,800,000)	(+499,800,000)	(+112,500,000)	
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION							
Research, development, test, and evaluation, Army	2,095,200,000	1,866,458,000	1,915,908,000	1,912,100,000	−183,100,000	+45,642,000	−3,808,000
Transfer from other accounts			(3,500,000)	(3,500,000)	(+3,500,000)	(+3,500,000)	
Research, development, test, and evaluation, Navy	2,709,100,000	2,616,065,000	2,647,945,000	2,651,805,000	−57,295,000	+35,740,000	+3,860,000
Research, development, test, and evaluation, Air Force	3,192,000,000	2,998,000,000	3,057,000,000	3,042,000,000	−150,000,000	+44,000,000	−15,000,000
Research, development, test, and evaluation, Defense agencies	479,940,000	461,400,000	457,900,000	457,900,000	−21,500,000	−3,500,000	
Director of Test and Evaluation, Defense	24,600,000	24,600,000	24,600,000	24,600,000			
Total, title V—Research, development, test, and evaluation	8,500,300,000	7,966,523,000	8,103,353,000	8,088,405,000	−411,895,000	+121,882,000	−14,948,000
Transfer from other accounts			(3,500,000)	(3,500,000)	(+3,500,000)	(+3,500,000)	
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM	2,600,000	2,600,000	2,600,000	2,600,000			
TITLE VII—GENERAL PROVISIONS							
Additional transfer authority, sec. 735	(1,000,000,000)	(500,000,000)	(750,000,000)	(625,000,000)	(−375,000,000)	(+125,000,000)	(−125,000,000)
TITLE VIII—RELATED AGENCY							
Defense Manpower Commission			750,000	400,000	+400,000	+400,000	−350,000
New obligational authority	77,250,723,000	74,101,309,000	73,264,627,000	73,714,930,000	−3,535,793,000	−386,379,000	+450,303,000
Transfers from other accounts		(387,300,000)	(503,300,000)	(503,300,000)	(+503,300,000)	(+116,000,000)	
Total, funding available	77,250,723,000	74,488,609,000	73,767,927,000	74,218,230,000	−3,032,493,000	−270,379,000	+450,303,000
Transfer authority	(1,000,000,000)	(500,000,000)	(750,000,000)	(625,000,000)	(−375,000,000)	(+125,000,000)	(−125,000,000)

Mr. YOUNG. Mr. President, this represents the best possible compromise between the defense appropriation bill passed by the Senate and that of the House. There was some hard bargaining and many compromises, but I believe that even when a cut as deep as $3.5 billion below the budget is made for the Defense Department, it can live with it, and that the research, development and production of the very necessary new, modern weapons can go forward, I support the position taken by the distinguished Senator from Arkansas (Mr. McCLELLAN).

Mr. JAVITS. Mr. President, I thank the distinguished Senators McCLELLAN and YOUNG for receding in the conference to allow the full amount for research and development, in respect to the A–10 plane which is of great importance both in a defense sense and to the manufacturer, Fairchild, in my State, as it relates to employment, to remain in the conference report as the House had it.

Although the amount was relatively small, to the total appropriation, about $100 million, that roughly 10 percent made a great difference according to the analysis and the submittal of the contract which I submitted to the conferees with the support of the local Congressman from that particular area.

It is most gratifying that though the amount is small they were willing to entertain consideration of the matter as an element in the negotiations with the House.

Also I wish to thank the committee for an item which was not in conference but very important to the area. I refer to keeping open the St. Alban's Hospital in Queens which involves tens of thousands of veterans being served there, which was in danger of immediate closing. Now we have a chance to save it by getting

the VA to take it over, or in some other proper way.

I wish again to express my appreciation to the committee with respect to Fairchild and the A–10 program. I wish to name Representative RONCALLO from that area who worked with me in the effort to get favorable consideration in the conference.

Mr. McCLELLAN. I thank the distinguished Senator from New York for his comments.

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. JAVITS. 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. STENNIS. Mr. President, I direct the attention of the Senator from Arkansas to page 18 of the printed conference report, near the bottom, the paragraph which reads:

> With respect to the fiscal year 1973 procurement of U–X utility aircraft by the Army and CX–X utility aircraft by the Air Force, the conferees agreed that the funds already appropriated be held in abeyance until this program is rejustified to Congress.

My question is, is it the understanding of the Senator from Arkansas, regarding the action by the conferees, that it does strike out the money and calls on the Department of Defense, if it sees fit to come back and prove its request, if it has one, for an authorization first, by the authorization committee?

Mr. McCLELLAN. Well, Mr. President, the money for that was appropriated in 1973. They were prohibited from spending it. This provides that until the program is rejustified, the Congress—I would assume that means the present authorization—I do not know how Congress can demonstrate its justification except by authorization. I know of no other way to do it.

Mr. STENNIS. I thank the Senator very much. That is the answer I thought he would give me, even though we have not had a conference about this.

Mr. McCLELLAN. I do not know of any other way Congress can authorize spending money except by legislation.

Mr. STENNIS. It was suggested to me that a possible interpretation was it could be rejustified by us merely by going before a committee or something of that kind, which I do not think is possible.

Mr. McCLELLAN. I would assume those interested in the program, when the military defense bill authorization is up in the next session of Congress, if they were interested in renewing the program, would go before the Defense Authorization Committees and justify it, that it be included in a further authorization in the bill, so that the authorization would be restored.

Mr. STENNIS. Either restored or rejected.

Mr. McCLELLAN. Yes. If Congress felt it justified, they would restore it.

Mr. STENNIS. I thank the Senator very much and compliment him as well as the Senator from North Dakota (Mr. YOUNG) for the extraordinary amount of fine work they have done, day and night, during this whole year. I know they started working on this bill last December. I have observed some of it. I have not been making my contribution to it, but I know what they have done and the amazing amount of work they have done. We are all indebted to them—and so is the country.

Mr. McCLELLAN. I may say to the distinguished Senator from Mississippi that the very thorough and efficient work of the Armed Services Committee was a great aid to those of us on the Appropriations Committee, which made it much easier for us to determine many of these requests on their merits. We also have the benefit of the counsel of the distinguished Senator from Mississippi (Mr. STENNIS) as we considered the appropriations. We were very fortunate in that. While he did not get to contribute as much and be present in the Appropriations Committee deliberations this year as much as he normally would, he was very valuable to us in the conference just ended, and we appreciate his contributions there.

Mr. YOUNG. Mr. President, I also wish to thank the distinguished Senator from Mississippi for his competence and for his real contribution in helping develop this bill. Although he was not able to be here much of the year, we did consult with him often, and he was very helpful in the conference, especially on the more involved subjects.

Mr. STENNIS. It is a privilege to work with the Senator from North Dakota and the Senator from Arkansas.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 20, 1973, he presented to the President of the United States the following enrolled bills:

S. 1435. An act 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 the 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;

S. 1529. An act to authorize the Secretary of the Interior to enter into agreements with non-Federal agencies for the replacement of the existing American Falls Dam, Minidoka project, Idaho, and for other purposes;

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; and

S. 2493. An act to authorize the disposal of silicon carbide from the national stockpile and the supplemental stockpile.

THE REPUBLICAN REPORT

Mr. HUGH SCOTT. Mr. President, it is customary for the Republican leader at the end of each session of Congress to submit to his colleagues a report on what has happened during the year. Today I submit such a report and ask unanimous consent that it be printed in the RECORD at the conclusion of my brief remarks.

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

Mr. HUGH SCOTT. Mr. President, I also ask unanimous consent that this Republican report, entitled "Congress Rediscovers Itself" be printed as a Senate document, and that the staff of the Minority Policy Committee be authorized to make revisions in the tabulated midportion as of the time the Senate adjourns sine die.

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

CONGRESS REDISCOVERS ITSELF

INTRODUCTION

Mr. President, at the outset of this Report I must admit that my job has been made possible only by virtue of the fine relationship I have enjoyed with the distinguished Majority Leader, the Senator from Montana (Mr. MANSFIELD). Our friendship is of long standing, and our close working relationship started the very first day I was elected Republican Leader. I owe him much, the Senate owes him much, the Nation owes him much.

I wish also to commend the vigorous and balanced way the Majority Whip, my good friend from West Virginia (Mr. ROBERT C. BYRD), has handled the difficult assignment of keeping the Senate moving ahead on the Nation's business.

On my side of the aisle I am, of course, deeply indebted to the untiring efforts of the Assistant Republican Leader, the fine and distinguished Senator from Michigan (Mr. GRIFFIN). His help has been enormous, his energy boundless and his sagacity great. The rest of the Republican leadership, the energetic and thoughtful Conference Secretary (Mr. BENNETT), and our distinguished Conference Chairman, the Senator from New Hampshire (Mr. COTTON), have likewise been of inestimable assistance. At this point I must interject my own feeling of sorrow that Senator BENNETT and Senator COTTON have determined not to seek reelection next year. Their strong voices of reason and their remarks, always sense-making, will be sorely missed in this chamber. Great thanks must also be given to the Chairman of the Republican Policy Committee (Mr. TOWER), for the capable and vigorous way he has directed the affairs of that committee and the contributions he has made to the orderly process of legislation.

It has been an honor to serve my Republican colleagues as their floor leader. Their fine cooperation and their willingness to help on all occasions have made it possible for me to carry on my job.

I

The year 1973 brings to an end ten tumultuous years in American history. At least, we can hope it all moderates with 1973. To go on as we have been is more than even our strong country ought to be asked to bear.

The 1860's and the 1940's may have been bloodier—the 1890's may have had more labor-management violence—

But nothing quite matches the wild variety of shocks to which the American people have been subjected during the decade just past: assassinations of our leaders; head-on confrontations and racial violence in the civil rights struggle; riotous upsurges of student

radicalism; ivory towers toppling in the groves of academe; increasing cost in blood and treasure for an undeclared war 10,000 miles away; resort to violent protest against that conflict; attempts to smash the orderly proceedings of major political parties nominating presidential candidates; vast swings in public opinion, from overwhelming Democratic victory in 1964 to the second-closest election in history in 1968 to overwhelming Republican victory in 1972; pell-mell increases in public expenditures for social welfare programs, together with growing disillusionment as to the efficacy of such programs; sudden and far-reaching changes in moral codes for families, for public entertainment, for personal conduct; luxuriant growth in personal spending habits for "youth" as well as adults; great revolutions in American foreign policy with respect to China and Russia; and finally the drop from the 1972 heights of political popularity of the Nixon Administration as a result of revelations and investigations in 1973.

How will history treat this time? Certainly there will be a more vivid record of it than was available for any historians of earlier times.

Perhaps our instant, minute-by-minute media techniques of reporting everything virtually as it happens have helped make this decade seem so wild, undisciplined, even mindless.

Every crime, every act of violence, every tragic accident, every confrontation of any magnitude throughout the United States (in itself more like an entire continent than a mere country), and the entire world, comes smashing into our living rooms each evening, arouses us in the morning, accompanies us in our work all day.

With it comes a demand for instant solution, immediate reparation, or at the very least, total public investigation.

This ceaseless dramatization of human travail becomes the inspiration for page after page of proposed legislation in the CONGRESSIONAL RECORD.

It leads to the feeling that everything is collapsing all around us. We forget that solid foundations of civility, human kindness and community assistance still exist. We ignore the thickets of laws and ordinances so long grown to protect family and friend from these terrible blasts of human irrationality.

The one place this should not be forgotten—at least one would so think—is Washington, D.C. And yet I sometimes feel the dramatization of humanity's predicaments has become so concentrated in this District of Columbia enclave as to cause Congress to twitch and jerk in never-ending response. We in Congress were elected not just to reflect and represent: we were elected to distinguish between fool's gold and the real thing, to filter the best thoughts, the most honorable wishes, the finest hopes from the great wash of human utterance and outcry of 210 million people.

Instead, the reverse seems to be true. Beyond the Potomac there is not the same preoccupation with politics and government. That is perhaps to be expected. For beyond the Potomac there is also a calmer, more restrained, more objective attitude toward the Washington dramas of personality and power.

II

We live in an age that is hard cheese on tradition and precedent. Last year the Senate in its majesty cast 532 record votes, thereby breaking a 184 year-old mark.

Unfortunately for this new record, the Senate this year has voted on so many subjects, and at such a furious pace as to run far beyond 1972. In fact, it could well come close to the 600 mark, which to us, may be considered as something like the magic 1,000 Dow-Jones market average. This means that if the Senate should lapse into somnolence next year—or exert a bit more discipline—and produce a mere 450 votes (which would of itself been a record only a few years ago) it will nevertheless set an all-time record vote total for a two-year Congress, breaking a mark that stood in solitary "splendor" for 90 years.

What then did the Senate vote on, and why so often?

The entanglement of education, health and welfare programs, of foreign policies and military preparedness, of environment, energy, agriculture, and election campaign reform all stimulated the legislative glands. To this must be added a unique relation in our political history: the Majority Party in Congress has faced a President of the opposite Party since 1969.

Perhaps we should start with this political factor. When the 1st Session of the 93d Congress began in January, 1973, Senate Democrats had an explanation for the contradictions of the 1972 election: they announced that the continuation of the Democrats as majority party in House and Senate, alongside the overwhelming victory of Republican President Nixon, proved the American people did not want "one-party" government.

Perhaps they are right; perhaps not; we may never return to those bad old days between 1933 and 1953, and again in between 1961 and 1969, when the Nation groaned under "one-party" Democrat government.

In any event, the clash between Executive and the Congressional Majority has been a great constant in the 1st session of the 93d Congress. It began, and it will end, with the gut issue of Executive Budget versus Legislative Appropriations. But in addition to the President's efforts to curtail inflationary spending, this historic conflict has flared over such matters as "executive privilege" versus the investigatory powers of Congress; the power to appoint versus the power to confirm; the "war powers" of President and Congress.

III

Disagreement between President and Congress over dimension and content of the budget is an annual affair. Indeed, it would be cause for real alarm if Congress supinely accepted the budget as trundled down from the Executive Office.

The debate was sharper and more disagreeable in 1973 because of inflation. What President Nixon proposed this year is closely related to what Senate and House failed to do last year, and the year before: set limits on Federal spending and root out programs which either were duplicatory, or no longer justifiable.

Some of the proposed program terminations or revisions had been advocated earlier by President Nixon, and President Johnson as well. Congress' response has heretofore been to refuse to impose an overall budget limit, and to shy away from hard decisions on terminating programs. In October, 1972, the task of curbing spending to check inflation was, in effect, thrown to the President by House and Senate. His response in January, 1973, was to propose that the FY 1974 Budget level be held at $268 billion. To make sure this was a ceiling and not a take-off pad, he ordered the withholding of funds and/or phasing out of programs sufficient to cut current spending by about $9 billion.

The President justified this anti-spending, anti-inflationary program in broad terms. He argued that he had to execute all laws faithfully; that he was bound as much by laws aimed at fighting inflation, requiring the public debt limit not be exceeded, or determining the environmental impact of programs, as he might be by specific program authorizations and appropriations.

And he could point to "impounding" or "reserving" of funds appropriated by Congress by Presidents from Jefferson to Lyndon Johnson.

As far as can be determined, most such actions by previous Presidents were not challenged in court. Some of the more recent refusals to spend, involved considerable moneys for specific defense programs. Perhaps it would only be fair to point out that one would hardly expect the Department of Defense to attempt to litigate the matter as against the Commander in Chief.

This time the situation was different. Not only was Congress' authority challenged, but large numbers of private groups, of city, county and State agencies, were cut off from funds for which Acts of Congress had made them eligible. Thus when the legal battles began, the cast of litigants and the law in question differed in each case. President Nixon was not the defendant; rather it was the particular Federal official obligated to administer the particular law under which funds were distributed. And that particular law—not a broad constitutional theory—was the determinant as to whether funds were properly withheld or not. In almost all such litigation, the courts have held the funds were withheld improperly, that Congress had made clear why and how such funds were to be obligated and allocated, and had left no discretion to President or Federal official charged with administering the law.

It might then be argued that the Executive has lost the "impoundment" or "reservation" of funds battle; that the powers of Congress have been refurbished and clarified.

On the other hand, early this year Congress seemed on the verge of placing a ceiling on spending for FY 1974. First the Senate and then the House passed legislation to that effect. However, the respective versions differed both as to exact total, and provisions on impoundment controls. The bill died outside the conference doors. Even more important, because more far-reaching, committees in House and Senate, after lengthy hearings, have reported out separate bills to improve procedures by which Congress first considers the entire budget and only thereafter authorizes and appropriates.

The whole question of reserving appropriated funds or curtailing programs has proven more complicated than either Executive or Congress realized when battle was joined last January. One measure of this is that although numerous so-called anti-impoundment bills were proposed, and differing versions of one bill were passed by Senate and House, final consideration of this question has been postponed until next year. These reforms are long past due.

Finally, we move back to Square-One: the fight against inflation fed by Federal spending. For this has also been the primary justification offered by President Nixon in most of his vetoes of legislation enacted by Congress this year and last. And despite the solid Democratic majorities in Congress, all but the last of his nine vetoes—that of the War Powers Act—were sustained either by House or Senate. Insofar as the taxpayer is concerned, the veto is the last handle available to turn off the money faucet, whether it be a reckless flow or a ceaseless drip.

The sustaining of Presidential vetoes on money matters is a tribute to the cohesiveness of Senate and House Republicans, and their allies in the all-important battle to save the taxpayers' purse.

THE POWERS OF CONGRESS

Congress, because it is such a living reflection of America with all our strengths and weaknesses, seems to be subject to continuous disparagement. Our home-grown critics overlook what foreign observers consider most remarkable: that it is still a highly viable lawmaking body. There are few legislatures or parliaments in the free world that can still initiate laws, as well as amend or refuse laws suggested by the executive.

A few years ago—particularly during those long dark expensive nights of "one-party" government when Democrats controlled both Congress and the Presidency—Congress was continually lectured by its critics to give the Executive the powers he needed. The

point was made with special emphasis in matters of foreign policy.

It is only of late that Democratic court historians have spun out treatises on the "Imperial Presidency," stamping the bar sinister on their own progeny with stern self-righteousness. This is a trait of those who helped to make the history they later interpret to justify their deeds or bury their errors. Nevertheless, Congress this year, particularly the Senate, has made strong—in many instances constructive—efforts to clarify its powers. The War Powers Act—which I supported in its final form—reflects dissatisfaction with the practices which have developed in the use of our military forces without a declaration of war. Supporters, of course, used the Vietnam conflict as a prime example. President Nixon inherited that one, and pursued an orderly withdrawal policy with admirable tenacity. A majority in Congress voted for the War Powers Act, and overrode the Nixon veto, out of concern for the powers of Congress, rather than any personal animus against the President.

Another issue, "executive privilege" versus the investigative powers of Congress, which has been long festering, came to a head this year. The need of any President for confidentiality with respect to communications and discussions with his advisers has generally been recognized. There must be, as well, a ceaseless flow of information from executive agencies to Congress. The pinch comes when a congressional committee needs information from which to judge the propriety of administrative actions, or as a basis for proposed corrective legislation.

Congress is right in insisting that executive privilege be invoked by the President only when confidentiality or national security or foreign negotiation in the true and restricted sense are actually involved. Congress can best make its argument here when its demand for information from the Executive are in terms of its real needs, rather than for partisan purposes.

The issue, of course, came to its sharpest focus in the investigations of Watergate and its aftermath. Here it would seem proper to point out that Republican Senators and Representatives performed admirably. There is no question that this scandal will hurt the Republican Party, even though it was largely the work of political illiterates operating outside our Party channels and organization. Republicans are no more to blame than Democrats for neither party was a part of these actions. Nor did Republicans in Congress condone or attempt to cover up. They insisted on, and participated in, the fullest airing of the affair. I think their performance is in great contrast to the rather pitiful manner in which the Bobby Baker scandal was investigated in 1963 and 1964, with its blatant coverup and careful limitation to Baker alone.

Senate Republicans played a strong and constructive part in drafting the amendments passed by the Senate this year to prevent similar abuses in soliciting and disbursing campaign contributions such as occurred in 1972.

At the beginning of this year, the issues attracting the most attention centered around the separation of powers between Congress and the Executive under our Constitutional arrangement of government. Almost every Committee could find this argument affecting its legislative proposals. The issue still remains—in fact, it will always exercise our departments of government. It was so intended by the Founding Fathers.

But by December 1973 a new strand was being woven into almost every piece of legislation and floor speech: The "Energy Crisis." Given the gravity and complexity of this problem it will no doubt occupy our attention for a long time.

Just so in our foreign policy. At the beginning of the year we were moving away from our intense preoccupation with Southeast Asia. The Cold War constants had been modified as a result of President Nixon's diplomacy vis-a-vis China and the Soviet Union. A tenuous cease fire was negotiated between Saigon and Hanoi.

Thus this was to be the year in which the United States and our NATO allies could reexamine and restructure our alliance. But the renewal of war in the Near East and the resulting oil embargo on the part of producing Arab States has caused strains and stresses far beyond expectations. The quest for a solution of the Arab-Israeli conflict now assumes over-riding importance.

Once more our character and fortitude are being tested. Perhaps we have already forgotten the shining event of 1973. After long, terrible years of privation and torture, American prisoners of war came back to the land and people for whom they had sacrificed so much. The press of events, the preoccupation with self, the lust for recognition are always with us. I would hope to God that if ever we despair of our country, we remember these men. In their darkest hours they never gave up.

IV. STATUS OF MAJOR LEGISLATION

In many instances, bills which have passed either Senate or House are not necessarily identical with those submitted by the Administration but cover, generally, the same areas of interest. Bill numbers appearing immediately after the title or program are Administration bills. Where numbers have been changed during committee action, the new numbers are given in the "Status" section.

SUMMARY

Of the 59 major Presidential programs: The House has passed 30. The Senate has passed 33. Sixteen have become public law. Thus, 27 percent of the President's program has been enacted into law.

Information on these programs is as of midnight December 19, 1973.

SUMMARY OF LEGISLATIVE ACTIVITY

AGRICULTURE

Farm bill, S. 1888.

Status: House—passed S. 1888 7–18. Senate—passed S. 1888 6–18. President signed the bill 8–10; P.L. 93–86.

COMMERCE

Export Administration Act, S. 2053, H.R. 8547.

Status: House—(H. Res. 484) passed House 9–6; referred to Senate Banking 9–7; reported out of Committee 12–7; No. 93–607; Senate—referred to Banking; S. 2053 has been tabled.

International Voluntary Standards Cooperation Act, S. 1761, H.R. 7506.

Status: House—referred to Commerce; no action. Senate—referred to Commerce; no action.

Metric Conversion, H.R. 5749.

Status: House—referred to Science and Astronautics; clean bill H.R. 10576 was reported to full Committee; Committee ordered a second clean bill reported with its amendments; H.R. 11035 reported out of Committee on 10–23 and placed on Union Calendar No. 261. Senate—S. 100, similar to House bill was ordered reported out of Committee on 10–9; has been temporarily postponed until next session.

Trade Reform Act of 1973, H.R. 6767.

Status: House—referred to Ways and Means; clean bill H.R. 10710 reported out 10–10; passed House, 12–11; referred to Senate Finance, 12–12.

ENVIRONMENTAL PROTECTION AGENCY

Safe Drinking Water Act, H.R. 5368, S. 1735.

Status: House—referred to Commerce; clean bill H.R. 7926 approved 7–18 by Subcommittee; Committee ordered that a second clean bill be reported out of Subcommittee: full Committee has not yet begun consideration of second clean bill H.R. 10955. Senate—passed S. 433, 6–22.

Toxic Substances, S. 888, H.R. 5087.

Status: House—passed clean bill H.R. 5356 7–23; tabled; passed S. 426 in lieu; Senate requested a conference 7–24; House agreed to a conference 8–1. Senate—passed a clean bill S. 426, 7–18; now in conference.

GENERAL SERVICES ADMINISTRATION

Stockpile Disposal Act, S. 1849, H.R. 7153.

Status: House—referred to Armed Services; not yet assigned to Subcommittee. Senate—referred to Armed Services; not yet assigned to Subcommittee.

However, pieces of S. 1849 have been extracted and passed as separate bills, several of which have since passed the House.

HEALTH, EDUCATION, AND WELFARE

Better Schools Act, S. 1319, H.R. 5823.

Status: House—Subcommittee on Education has reported H.R. 69 as an extension of the present law, the Elementary Education Act; full Committee markup in progress. Senate—S. 1319 referred to Labor and Public Welfare, 7–31; clean bill S. 1539 reported out of Subcommittee to full Committee 12–19.

Health Maintenance Organization Act, S. 972, H.R. 4871.

Status: House—reported H.R. 7974 from Commerce 8–10; passed House 9–12; tabled; passed S. 14 as amended, 9–12; Senate requested a conference 9–13; House agreed to a conference, 9–25; report filed in House, 12–12; report filed in Senate, 12–13; House agreed to conference report, 12–18; Senate agreed to conference report 12–19. Senate—passed S. 14, 5–5; sent to House Commerce 5–17.

Vocational Rehabilitation Act Amendments, S. 1413, H.R. 4814.

Status: House—passed clean bill H.R. 7423 7–17; tabled; passed S. 1413, 7–17. Senate—passed S. 1413, 6–15; passed House 7–17. President signed the bill, 7–30; Public Law 93–76.

Rehabilitation Act of 1973 (second), no administration bill.

Status: House—passed H.R. 8070, 6–5; sent to Senate. Senate—passed H.R. 8070, S. 1875, 7–18. President signed the bill, 9–26; Public Law 93–112.

Social Security Amendments, H.R. 7445.

Status: House—passed House, 5–9. Senate—passed Senate, 6–30. President signed the bill, 7–9; Public Law 93–66.

HOUSING AND URBAN DEVELOPMENT

Better Communities Act, S. 1743, H.R. 7277.

Status: House—referred to Banking; hearings completed 11–1; no further action. Senate—referred to Banking; markup has begun; likely that a clean bill will be reported out.

Disaster Preparedness and Assistance Act, S. 1840, H.R. 7755.

Status: House—referred to Public Works; no action; clean bill H.R. 7690 hearings have been completed; ordered reported to full Committee. Senate—referred to Banking; no further action.

Flood Disaster Protection Act of 1973, S. 1495, H.R. 6091.

Status: House—clean bill H.R. 8449 passed House 9–5; referred to Senate Banking 9–6. Senate—S. 1495; referred to Senate Banking; H. 8449 passed Senate, amended, 12–1; proceedings vacated and ordered placed on Calendar, 12–1; passed Senate amended 12–18.

FHA Mortgage Insurance no administration bill.

Status: House—passed H.J. Res. 719, 9–17. Senate—passed H.J. Res. 719, 10–1. President signed the bill 10–2; Public Law 93–117.

INTERIOR

Alaska Pipeline, S. 1040, H.R. 5442.

Status: House—passed clean bill H.R.

9130, 8–2; tabled; passed S. 1081 in lieu 8–2. Senate—passed clean bill S. 1081, 7–17. President signed the bill 11–16; Public Law 93–153.

Deep Water Ports. S. 1751, H.R. 7501.

Status: House—referred to House Interior; hearings began 10–1; now ready for markup. Senate—hearings have been completed in Senate Interior.

Land Use, S. 924, H.R. 4862.

Status: House—clean bill H.R. 10294 including provisions of H.R. 4862 reported out of Subcommittee; full Committee markup in progress. Senate—passed clean bill S. 268, 6–21 with provisions of S. 924 included; sent to House Interior; being considered along with House bills.

Natural gas supply, S. 2048, H.R. 7507.

Status: House—referred to Commerce; hearings in progress. Senate—referred to Commerce; hearings have been held; probably will be taken up second session.

Electric Facilities Siting Act, S. 935, H.R. 4874.

Status: House—pending in Commerce; no action. Senate—pending in Interior; no action.

Santa Barbara Energy Reserve, S. 1951, H.R. 7500.

Status: House—field hearings held 11–17 on H.R. 7500 in Interior. Senate—S. 1951 referred to Interior; hearings have begun on clean bill S. 2339; Administration bill has been withdrawn (S. 1951).

Surface Mining, S. 923, H.R. 4863.

Status: House—clean bill H.R. 11500 reported out of Subcommittee to full Interior Committee, but will not be considered until second session. Senate—passed S. 425 in lieu of administration bill 10–9; referred to House Interior 10–11.

Department of Energy and Natural Resources, S. 2135, H.R. 9090.

Status: House—H.R. 9090 referred to Government Operations, Subcommittee on Legislation and Military Operations; hearings have been held but will not be considered further until second session. Senate—S. 2135 hearings have been held in Government Operations.

Indian Economic Development Financing, S. 1341, H.R. 6371.

Status: House—referred to Interior; approved for full Committee action 12–12; S. 1341 referred to House Interior. Senate—S. 1341 passed Senate, 7–28; referred to House Interior.

Additional Assistant Secretary of the Interior, H.R. 6373, S. 1345.

Status: House—referred to Interior; clean bill H.R. 620, passed the House, 10–1; sent to Senate Interior, 10–2. Senate—referred S. 1345 to Interior; pending before Subcommittee; H.R. 620 reported out of Subcommittee 12–13; H.R. 620 passed Senate, 12–14; House disagreed to Senate amendments; Senate requested a conference, 12–19.

Reduction of Petroleum Consumption, no administration bill.

Status: House—H.R. 11450, National Emergency Act, reported from House Interstate; passed House 12–14. Senate—S. 2589 reported out of Interior; passed Senate 11–19; passed House 12–15; House requested a conference 12–15 (Legislative Day December 14); Senate agreed to a conference 12–17, Conference report filed in House 12–19.

Emergency Petroleum Allocation Act, no administration bill.

Status: House passed S. 1570, 10–17, amended. Senate—passed S. 1570, 6–5. President signed the bill 11–27; PL 93–159.

Reorganization of the Federal Administration, S. 2776, H.R. 11793.

Status: House—H.R. 11793 ready for full Committee action in Government Operations; H.R. 11793 ordered reported out of Committee to House 12–19. Senate—reported S. 2776 out of Government Operations 12–14; passed Senate, 12–19.

JUSTICE

Capital Punishment (death penalty), S. 1401, H.R. 6028.

Status: House—referred to Judiciary; Subcommittee on Courts; no action. Senate—referred to Judiciary; hearings completed and now pending before full Committee.

Federal Criminal Code Reform, S. 1400, H.R. 6046.

Status: House—referred to Subcommittee on Criminal Justice of the Judiciary Committee; no action. Senate—referred to Subcommittee on Criminal Laws of the Judiciary Committee; some hearings have been held.

Federal Election Reform Commission, S.J. Res. 110, H.J. Res. 559.

Status: House—S.J. Res. 110 and H.J. Res. 559 are both in House Administration; they are being considered together with S. 372 in general hearings. Senate—passed S.J. Res. 110, 7–30; sent to House Administration; also S. 372, the Federal Election Campaign Act Amendments, passed 7–30; sent to House Administration.

Heroin Trafficking Act, S. 1300, H.R. 5946.

Status: House—referred to Subcommittee on Public Health and the Environment of the House Commerce Committee; no further action. Senate—S. 1300 being held in full Judiciary Committee.

Busing: Issue of Forced, no administration bill.

Status: House—referred H.J. Res. 286 to Judiciary; Subcommittee on Bankruptcy and Civil Rights; no action scheduled; likely that administration position will be included in H.R. 69. Senate—S.J. Res. 161 placed directly on Senate Calendar 10–10; No. 430.

LABOR

Job Security Assistance Act, H.R. 8600.

Status: House—referred to Ways and Means; nothing scheduled. Senate—no comparable bill.

Manpower Training and Development Act, S. 1514, H.R. 7489.

Status: House—clean bill H.R. 7950, similar to S. 1559, placed on Union Calendar 6–18, No. 126; two new bills introduced and sent to Education Committee were H.R. 11011 and H.R. 11010; H.R. 11010 passed the House, 11–28; tabled; S. 1559 passed in lieu, 11–28; H.R. 11011 died in Committee; House requested a conference on S. 1559, 11–28; Senate agreed to House amendments with Senate amendments, 12–5; Senate requested a conference, 12–5; House agreed to a conference, 12–6. Senate—passed S. 1559, Job Training and Community Services Act, 7–24; passed S. 1560, Emergency Employment Amendments of 1973, 7–31; both referred to House Education and Labor; possible that S. 1560 will go to conference with S. 1559; conference report filed in House, 12–18.

Pensions, S. 1557, H.R. 6900.

Status: House—referred to House Education; H.R. 2, with similar content to Senate-passed amendment to H.R. 4200, placed on Union Calendar 10–2, No. 234; H.R. 10470, identical to Senate-passed amendments to H.R. 4200, is in markup in Ways and Means. Senate—referred to Labor and Public Welfare; S. 4 reported in lieu thereof by Labor and Public Welfare; S. 1179 also reported by Finance; combined on Senate floor and added as amendments to H.R. 4200, a House-passed bill, 9–19, (see "Retirement Benefits Tax Act).

OFFICE OF MANAGEMENT AND BUDGET

Bicentennial Reorganization, H.R. 3695.

Status: House—passed H.R. 7446, 6–7 in lieu of administration bill. Senate—passed H.R. 7446, 10–10. President signed the bill 12–11; PL 93–179.

Council on International Economic Policy Authority, S. 1636, H.R. 8548.

Status: House—passed H.R. 8548, 6–28; tabled; passed S. 1636 in lieu. Senate—passed S. 1636, 6–22, President signed the bill 10–4; Public Law 93–121.

Extension of Authority to Submit Reorganization Plans, S. 2003, H.R. 7882.

Status: House—referred to Government Operations; no action. Senate—referred to Government Operations; no action.

Legal Services Corporation, S. 1815, H.R. 7824.

Status: House—passed H.R. 7824, 6–21; being held at Desk in Senate. Senate—referred to Labor and Public Welfare; ordered reported out of Committee, 10–10; clean bill S. 2686 reported out of Committee, 11–9; floor consideration scheduled for second session.

STATE

Asian Development Bank, S. 2666, H.R. 11666, S. 2193.

Status: House—combined provisions similar to S. 2193 (July request) with provisions similar to S. 2666 (November request) into H.R. 11666; H.R. 11666 ordered reported out of House Banking 12–14. Senate—S. 2666 referred to Foreign Relations; hearings were begun 11–19 and recessed subject to call.

International Development Association Bank, S. 2665, H.R. 11354.

Status: House—H.R. 11354 ordered reported to House 12–14. Senate—hearings begun in Foreign Relations on S. 2665; adjourned subject to call.

USIA Authorizations, no administration bill.

Status: House—passed H.R. 11424, 11–14; tabled; S. 2681 as amended passed in lieu, 11–14. Senate—passed S. 2681, 11–13. President signed the bill, 11–29; Public Law 93–168.

Foreign Aid, S. 1711, H.R. 7484.

Status: House—referred to Foreign Affairs; clean bill, H.R. 9360 (both military and economic) passed the House, 7–26; tabled; passed S. 1443 (military) with full text of H.R. 9360 included, 7–26; S. 2335 (economic) also passed the House with full text of H.R. 9360 included, 10–2; sent to conference 10–10. Senate—S. 1711 referred to Foreign Relations; S. 1443 (military) passed Senate, 6–26; sent to House Foreign Affairs; S. 2335 (economic) passed the Senate, 10–2 and sent to House Foreign Affairs; conference report filed as S. 1443 (both military and economic); report agreed to in House, 12–4; report agreed to in Senate, 12–5. President signed the bill, 12–17; Public Law 93–189.

TRANSPORTATION

Northeast Railroad Act, S. 1893, H.R. 8526 and Railroad Reorganization Act no administration bill.

Status: House—H.R. 8526 and H.R. 9142 (Railroad Reorganization) were referred to House Commerce along with S. 2060; H.R. 9142 passed the House, 11–8; referred to Senate Commerce, 11–13; H.R. 8526 has been dropped by the Subcommittee; conference report filed in House, 12–19. Senate—passed S. 2060 7–27 and referred to House Interstate; Senate Commerce received H.R. 9142; passed Senate, 12–11, amended with language of S. 2767; H.R. 9142 now in conference.

Urban Mass Transportation Act, S. 1139, H.R. 5919.

Status: House—House Banking reported H.R. 6452 in lieu of administration bill; passed the House, 10–3; tabled; S. 386 passed in lieu. Senate—S. 1139 referred to Senate Banking; S. 386 passed in lieu 9–10; Senate requested a conference, 10–16; House agreed to a conference, 10–25; still in conference.

TREASURY

Par Value Modification Act, S. 929, H.R. 6912.

Status: House—Passed H.R. 6912, 5–29; passed the Senate, 5–30. Senate—Passed S. 929, 4–5; passed H.R. 6912, 5–30. President signed the bill, 9–21; Public Law 93–110.

POW Tax Relief, H.R. 8214.

Status: House—Passed H.R. 8214, 8–3; referred to Senate Finance. Senate—H.R. 8214, reported out of Senate Finance 11–27.

Tax Reform, no administration bill.

Retirement Benefits Tax Act, H.R. 7157, S. 1631.

Status: House—Provisions of H.R. 7157 are being drafted into a clean pension bill in Ways and Means; no date of completion known. Senate—after hearings in Finance, no further action on S. 1631. However, S. 1179 reported, combined with S.4, and added as an amendment to House-passed H.R. 4200, 9–19; H.R. 4200 now in conference (see "Pensions").

MISCELLANEOUS

Action, S. 1338, H.R. 7625.

Status: House—Education and Labor reported H.R. 7265, 7–26; passed S. 1148 in lieu of H.R. 7265, 9–17. Senate—passed S. 1148 in lieu of administration bill, 7–18. President signed the bill, 10–1; Public Law 93–113.

District of Columbia Home Rule, S. 1435, H.R. 9682.

Status: House—passed H.R. 9682, 10–10; tabled; passed S. 1435 amended, 10–10. Senate—passed S. 1435, 7–10; Senate requested a conference, 10–16; House agreed to a conference, 10–17; conference report filed in House, 12–6; House agreed to conference report, 12–17; Senate agreed to conference report, 12–19.

Truth in Lending, S. 2101.

Status: House—referred to Banking 6–24; oversight hearings are in progress on Consumer Protection Agency but nothing specific on S. 2101. Senate—passed S. 2101, 6–23.

Consumer Protection Agency, no administration bill.

Status: House—hearings in progress on H.R. 14, H.R. 21 and H.R. 564.

Veterans Medical Benefits no administration bill.

Status: House—passed S. 59 7–17. Senate—passed S. 593–6. President signed the bill 8–2; PL 93–82.

Veterans Pensions, no administration bill.

Status: House—passed H.R. 9474 7–30. Senate—S. 275 indefinitely postponed as of 8–2; passed H.R. 9474 8–2. President signed the bill 12–6; PL 93–177.

Arts and Humanities Endowments, S. 916, H.R. 4288.

Status: House—reported clean bill H.R. 3926; passed the House 6–14; tabled; S. 795 in lieu. Senate—passed S. 795 in lieu of administration bill 5–2; passed the House 6–14. President signed the bill 10–19; PL 93–133.

V. THE ECONOMY

The promise of peace with the Soviet Union and China, the return of American prisoners of war from Indochina, domestic politics and the Mideast oil embargo all served to mute an economic miracle of sorts in 1973.

Consider, for example:

Employment

Almost three million new jobs have been created in the past year, and by October unemployment had dropped to its lowest level since March, 1970. According to CEA (Council of Economic Advisers) Chairman Herbert Stein, the unemployment rate among adult men was the lowest it had ever been in peacetime. And the proportion of the civilian working-age population employed was the highest it has been in the quarter-century since World War II ended.

Agriculture

Farm income is at an all-time high, with corn harvests forecast to be up 4 percent from last year, soybeans up 24 percent, and wheat up 12 percent. With the exception of cotton, farmers are producing such quantities of grain and soybeans that farmers' net income this year is estimated to total $25 billion, up more than $5 billion from 1972, itself a record year. And exports of U.S. agricultural products in the current fiscal year ending next June 30, 1974, are expected to total nearly $19 billion, about $6 billion above the precious record of $12.9 billion reported last fiscal year.

Balance of payments

A record balance of payments surplus was posted for the third quarter of 1973, the first quarterly surplus since the fourth quarter of 1969 and the biggest surplus ever since the government began keeping figures on the so-called "basic balance index" in 1960. The U.S. has never had a payment surplus according to the basic balance index, although it has had trade surpluses until recent years. The big third quarter surplus put the country's payments accounts in the black by $1 billion for the first nine months of 1973.

Gross national product

Real gross national product—real in the sense that it is measured in non-inflated dollars—increased at an annual rate of 3.6 percent for the third quarter of 1973. This is within the range generally expected to provide the "soft landing" to sustainable growth rate without recession.

True, 1973 has been a year of inflation. We here in the United States, with an inflation rate of over 7 percent, have not suffered as severely as the Japanese (22 percent inflation), or the Common Market nations (as high as 14 percent inflation), but supply-induced inflation has been sufficient to call into question our entire range of responses to scarcity.

Inflation

Since we are at the end of an era of cheap food, fuel, minerals, timber and textiles (so the argument goes), strong and previously unacceptable policies are called for: government regulation of production and distribution, rather than unacceptable price rises.

We are indebted to Dr. W. Philip Gramm in this connection for his research into the economics of scarcity as it has affected America in the past. Dr. Gramm notes, not without accuracy, that we are currently experiencing the *second* major energy crisis in American history: from the colonization period until the Civil War, the major source of artificial lighting in the entire Western World was whale and sperm oil.

"Sperm oil rose from 43 cents per gallon in 1823 to $2.55 a gallon in 1866," notes Dr. Gramm. "Whale oil rose from a low of 23 cents in 1832 to $1.45 a gallon in 1865. As prices rose, gas distilled from coal became an economically feasible substitute causing whale oil demand to fall off sharply in Europe. . . .

"The high prices for whale and sperm oil between 1849 and 1867, provided a growing profit incentive to develop an efficient refining process for crude petroleum. Thus they induced the investment required for the production of kerosene. Beginning in 1867, kerosene broke the sperm and whale oil market, and prices tumbled. By 1896, sperm oil was cheaper than it had been in any recorded period—40 cents a gallon—but whale oil lamps were no more than relics for succeeding generations."

Thus market mechanism (a) provided incentives for development of alternatives, (b) caused consumers to economize out of self-interest, (c) gave inducements for producers to (1) increase output through increases in investment, (2) make improvements in technology and (3) increase labor input (rise in prices from 1820 to 1847 induced a rise in tonnage of whaling vessels of almost 600 percent—and the reverse, at the turn of the century, brought a comparable reduction in the whaling industry).

"Had government possessed the power and volition to ration whale and sperm oil to hold its price down, or to levy a tax on oil to reap the gains from the price rise, the shortage would have been catastrophic," says Dr. Gramm, "and the advent of kerosene and other petroleum products might have been delayed for decades."

Clearly, to say we owe the benefits and comforts of the present era entirely to free enterprise and the scarcity of whales is to say a bit much, but the fact remains that technology *is not frozen*. Nor are the options to consumers and producers. An intelligent government response which recognizes these facts is infinitely preferable to rigid, permanent, controls which may serve to freeze market mechanisms in their present, unsatisfactory dimensions.

Mr. William E. Simon, the White House energy administrator, emphasizes that the Administration is cutting back on gasoline production with emphasis on fuel oil production for one very basic reason. "Our aim is to save jobs," he says. And the responsibility shown by Congress in attempting to provide legislative foundations for future problems caused by the energy shortage is praiseworthy.

With the oil crisis, the U.S. has moved into—as Fortune describes it—a "siege economy" but without the disciplines that are feasible in wartime. "Efforts to assess the economic effects of fuel scarcity in a peacetime high-consumption economy run up against the fact that there is no experience to go on," says Fortune. "What's more, some of the important variables are political rather than economic. How long, for example, will the Arab embargo last? The answer obviously matters a great deal to the U.S. economy, but the question lies beyond the reach of economic analysis."

The following chart gives the farthest reach of twenty economic forecasts of next year's (1) GNP in non-inflated dollars, (2) inflation rate, (3) consumer durable purchases in 1974 dollars, (4) pre-tax corporate profits, (5) GNP in 1974 dollars, and (6) unemployment rate, as reported by The Washington Post.

1974: THE ARAB OIL EMBARGO LOWERS MOST REAL GROWTH FORECASTS AND RAISES INFLATION

	Percent change 1974 from 1973					
	Constant dollars, GNP	GNP deflator	Current dollars, consumer durables	Pretax corporate profits	1974, current dollars (millions)	1974, unemployment rate (percent)
The Fair Model	[1] 3.5	[2] 4.7	[1] 6	NA	$1,394	[2] 4.8
United States Trust	2.5	6.0	2	−5	1,400	5.3
Argus Research	2.3	5.9	1	[1] 3	1,395	5.3
Harris Trust	2.0	5.6	0	−4	1,387	5.3
RCA	1.9	6.3	3	0	1,394	5.6
Dean Witter	1.8	5.7	1	−2	1,381	5.7
Data Resource	1.6	6.2	1	−4	1,390	5.5
Drexel Burnham	1.6	5.6	−2	−4	1,381	5.5
A. G. Becker	1.5	6.3	−2	−4	1,389	4.3
Equitable Life	1.5	6.3	2	−6	1,385	5.6

Footnotes at end of table.

1974: THE ARAB OIL EMBARGO LOWERS MOST REAL GROWTH FORECASTS AND RAISES INFLATION—Continued

	Percent change 1974 from 1973					
	Constant dollars, GNP	GNP deflator	Current dollars, consumer durables	Pretax corporate profits	1974, current dollars (millions)	1974, unemployment rate (percent)
Mellon Bank	1.5	5.5	[2] −3	[2] −10	$1,374	5.5
Bankers Trust	1.3	6.0	2	−6	1,381	5.3
First National City Bank	1.3	5.3	[3] NA	[3] NA	1,372	5.6
Manufacturers Hanover Trust	1.2	5.7	2	−6	1,375	5.6
E. I. du Pont de Nemours	1.0	5.5	−2	−6	1,375	5.5
Council of Economic Advisers	1.0	[3] NA	[3] NA	[3] NA	[3] NA	([5])
Chase Econometrics	.8	5.6	0	−1	[1] 1,371	5.7
The Wharton Model	[2] .6	[1] 7.6	1	1	1,393	[1] 5.8
Scudder, Stevens and Clark	[2] .6	7.0	0	−6	1,386	5.6
Lionel D. Edie	[2] .6	6.2	[2] −3	[2] −10	1,374	5.6
November Mean	1.5	5.9	1	−4	1,384	5.4
October Table Mean	2.5	5.0	1	−2	1,385	5.2

[1] Highest forecast in column.
[2] Lowest forecast in column.
[3] Not available.
[4] Mellon Bank sample not used in calculating table mean.
[5] Not more than 6 percent.

Note: Of the 18 forecasts tabulated last time, 15 revised real growth down, none up; 15 revised price inflation up, none down; 15 revised the unemployment rate up, none down.

Source: Published forecasts and personal communication. RCA forecast: RCA Economic Forecasting Model.

Conclusion

Towards the end of "The New Industrial State," John Kenneth Galbraith observes that were economic goals of central importance, economists, always assuming competence, would be a safe guide to social action.

But, "as economic goals have diminished in relative importance, they have become, progressively, a less safe guide. Allowing for numerous exceptions, (economists) will be prone to identify economic goals with all of life. They are not, accordingly, the best proponents of the public aesthetic and intellectual priorities on which the quality and safety of life depend."

Who then shall be our guide? A philosopher? Statesman? Soldier? Priest?

Better the divinity in us all.

The Founding Fathers framed a document to allow that divinity the freedom to choose, to create, to nourish in concert our own goals. The economists may brood over a bleak tomorrow and in part, they may be correct.

For I think we must all recognize that a problem of new dimensions, perhaps one which has not faced our Nation before in its history, has now unfolded—and we are seized with it. It is not as though we had not seen it coming, for the Cassandras of our society were clear and explicit in their warnings. But Cassandras are seldom popular and even more seldom are they listened to. It is possible the full realization of our situation might have been delayed yet another year or two had it not been for unlooked-for events beyond our shores which have brought it suddenly to a head—and now it cannot be denied.

America has never faced the lack of capability to do all the things that are within us to do. Now we realize that on-rushing civilization in our planet has suddenly, perceptively before our eyes and within the past few years, caused it to shrink enormously.

But our country has faced many problems in its short life, and has found equitable solutions to them. Today's is a problem different in dimensions, scope and acceptable solutions, from any other. More than mere faith in our country impels me to prophesize victory in this arena also, but the element of faith undeniably is there. Our people have not yet failed any challenge. The vitality of our strength is inherent and will come out. So has it been for 350 years and so shall it continue, we pray, long after our present predicted difficulties have been overcome, and the present players gone from the scene.

This is not to seek, by words alone, to diminish the problems we see before us. In all probability, during the next few months or years we shall have to pay the piper for past decades of rich living, refusal to understand there may be a finite limit to some of our resources, our inability to comprehend that spaceship earth is an indivisible unity whose bonds are ever growing more interconnected, more complex, and stronger.

But, at the risk of trying to say much in an elliptical and even a laconic way, as Mehitabel sang to Archie, "There's a dance in the old dame yet."

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1974—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11575) "making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes."

Mr. ALLEN. Mr. President, first I want to commend the distinguished Chairman of the Senate Appropriations Committee, the Senator from Arkansas (Mr. McCLELLAN), and the entire committee for their leadership in the Defense appropriation bill, for the hard work that they have done in resolving the many questions that have presented themselves in the deliberations and in the hearings, and in the studies that they have carried on with respect to this bill.

It is the desire of the distinguished Senator from Arkansas (Mr. McCLELLAN) to see that an adequate national defense is provided for our country, at the same time taking into account the ability of our Nation to provide the necessary funds to implement that program. I feel that a great appropriation bill has been agreed upon, a fine conference report is being submitted, and certainly I will support the conference report because I believe an outstanding job has been done.

During the deliberations of the committee and here on the Senate floor while the matter was in conference, my distinguished senior colleague (Mr. SPARKMAN) and I have pointed out to the chairman and to the committee the needs of two particular programs in our national defense program that deserve the support of the Nation, and I make particular reference to the site defense antiballistic missile system and the ABMDA program.

These items are shown in the conference report starting in the last paragraph of page 23.

The conference report provides for $110 million for continued development of the site defense antiballistic missile system instead of $135 million proposed by the Senate. So the conference was required, in order to come to an agreement, to cut that back to $110 million. The two programs, then, added together, amounted to $23.9 million for exploratory ballistic missile defense as proposed by the Senate and $37.7 million for advanced ballistic missile defense as proposed by the Senate.

They were grouped together under what is called ABMDA.

The legislative history with regard to these appropriations is as follows: With respect to the budget request for a site defense program, I might say that $110 million will be inadequate to carry on the program because already some $70 million has been expended under continuing resolutions and we have not yet used up quite half of the year.

The budget request for site defense was $170 million. The authorization bill cut that amount to $135 million, which is the amount that the Senate actually appropriated.

The ABMDA budget request was for $100 million. The authorization was for $86.7 million.

So the conference ended up with $110 million for site defense and $61.6 million for ABMDA.

Recapitulating, the budget request for site defense was $170 million. Authorization by the Congress was $135 million. The appropriation as agreed to by the conference was $110 million. It first went down by $35 million, and then by another $25 million.

ABMDA requested $100 million. They were authorized $86.7 million. They ended up with $61.6 million.

Mr. President, I feel, despite the fact that the committee tried—and certainly on the part of the Senate and the distinguished chairman of the committee—to agree on an appropriation that was nearer the authorization than the conference ended up with, they did an excellent job.

The purpose of my remarks at this time is to call attention to the fact that these appropriations will be inadequate to carry out the program that needs to be carried out. I am hopeful that at a later time during the current fiscal year we will be able to come back and present our case to the committees and justify supplemental appropriations in this regard.

The present and proposed R. & D. activities in BMD are consistent with the letter and the spirit of our treaty on the limitation of antiballistic missile systems. Failure to vigorously pursue R. & D. investigations and prototype developments would place the United States in a vulnerable position if first, the treaty were abrogated by the U.S.S.R. or mu-

tually modified at some future time or second, the emergence of a third country ballistic missile capability threatens either the United States or the U.S.S.R.

The site defense system is the nation's only approach to the defense of our strategic ICBM force. The SD program is in the design stages, leading to a prototype demonstration at Kwajalein. The current development schedule has been matched to the projected threat evolution allowed under the interim agreement on strategic offensive arms.

In recognition of a congressional desire to reduce military expenditures, the Army reduced the SD program from a planned $247 million fiscal year 1974 budget level to $170 million. These reductions have already resulted in a stretchout of the program. Since the fiscal year 1973 funding of $80 million was for only the last six months' effort, the program is currently continuing at a level of approximately $160 million per year. The apparent reason for the additional proposed reduction by the Senate committee was to maintain the same level of effort as the previous year. The committee, in proposing the annual figure of $100 million, must have overlooked the fact that fiscal year 1973 funding was for only the final 6 months' activities. The fact that the program is already well into the new fiscal year at the annual spending level of about $160 million, as well as the fact that SD is at the stage of committing funds for major equipment during the fiscal year, would mean that adoption of the proposed budget by the Senate committee could be nothing less than catastrophic.

From its inception, the site defense program has been planned as a very austere program with maximum deferral of nonessential tasks for demonstration of the system. Further, the program has used the approach of developing hardware and software which could be deployed in nearly the same configuration as demonstrated if a deployment were needed. This management approach was chosen because it allows early demonstration of critical components at minimum cost and minimizes the likelihood of a costly redesign if Congress determines that a deployment is needed in future years.

Congress has severely criticized the Department of Defense for cost overruns on weapon system developments. However, if the funding is reduced for this already austere site defense project, the impact would be increasing costs due to program stretchouts, disruptions, inefficient phasing, and replanning. Further reduction in the funding of programs planned in accordance with congressional guidance will, in essence, be discouraging the DOD from proposing austere project budgets.

Recent disclosures of successful Soviet tests of multiple warheads for strategic missiles further demonstrate the importance of an effective site defense program. It can logically be argued that if the United States does not pursue R. & D. to counter the Russian MIRV advances, we may very well be accepting the assured vulnerability of our Minuteman force.

ADVANCED TECHNOLOGY

Advanced technology programs, under the management of the advanced ballistic missile defense agency, have been conducted for the past few years at the level of approximately $100 million per year and provide the broad technology base upon which future defense application decisions can be made.

The technical continuity which has been established through these programs is threatened by the Senate committee's proposed $42.4 million reduction in the Army's $100 million request. Advanced technology, terminal defense, and light area defense. The House voted to recommend authorization of the entire $100 million request but the Senate committee recommended elimination of the light defense portion of the budget.

This program should be reconsidered because the LAD context in which that portion of the AMBDA budget was presented tended to obscure its true technology content and led to the conclusion that it might conflict with the spirit of the ABM treaty. The program actually centers on a class of advanced R. & D. that forms a broad technology base upon which future defense application decisions may be made. It is not solely applicable to LAD and indeed is applicable to the ABM treaty.

LAD system concepts were used in the testimony to illustrate system relevance. However, the technology involves advanced optical sensors which show great promise for a multiplicity of BMD and other defense applications. For example, they have great potential as an adjunct to a conventional terminal defense system such as site defense. In this role, the optical sensors show promise for alleviating some of the more serious technical problems and for providing a complementary defense-in-depth.

Optical sensors are central to the most promising BMD concepts to emerge in a decade, and they merit the expenditure of the advanced R. & D. budget requested. These sensors are in the same family as those used in the familiar Sidewinder and Redeye missiles. However, they are much more complex and are designed to operate above the Earth's atmosphere—sensors so sensitive that they can detect invisible heat signals as faint as those that emanate from a human body 1,000 miles away. Because of their inherent guidance accuracy, a relatively small warhead, perhaps even nonnuclear, may be used.

The proposed program is a continuation of effort which has been underway in the Army for the past 3 to 4 years. It is still in the very early phases of R. & D. and at least 5 years away from any engineering development decision. Recently, extremely valuable experimental data has been obtained on a number of target objects and penetration aids lofted into the exoatmosphere by Atlas boosters. Although these data, coupled with other laboratory and analytical data, only scratch the surface of the BMD optics technology, results to date are encouraging. The evidence so far is that optical BMD sensors are feasible.

Further implications of the proposed program are as follows:

It represents a breakthrough opportunity to extend BMD from the terminal, or "last ditch," regime to the midcourse regime. This means that the battle would be waged far away from the targets being defended.

Such promising technology may prove beneficial to SALT II by strengthening our bargaining position and providing an opportunity for further bilateral ABM agreements.

Our strategic offensive forces benefit by such pioneering defensive R. & D. The data base established by this program will be invaluable to ABRES and other strategic offensive R. & D. programs.

It provides protection against technological surprise.

The midcourse optics technology will be pursued only under the proposed advanced R. & D. program. If the budget is cut, the R. & D. will not get done somewhere else and the most promising new BMD technology on the horizon today will be dropped.

Mr. SPARKMAN. Mr. President, will the distinguished Senator yield to me?

Mr. ALLEN. I am glad to yield to my distinguished senior colleague.

Mr. SPARKMAN. Mr. President, I am very glad my colleague brought up these facts, because these are important parts of our national defense program.

I want to join the Senator in the expression of commendation that he has extended to the chairman of the committee, who is always cooperative with us.

We knew that he had a hard job in trying to get a practical budget insofar as he could.

While these amounts are not adequate to allow the carrying out of the operations for the full year, because they have been operating under a continuing resolution that provided for a higher level of expenditures, I was pleased that we were able to get as much as we did.

Mr. ALLEN. I certainly agree with my distinguished senior colleague.

Mr. SPARKMAN. I certainly extend my thanks to the distinguished chairman of the committee and to the distinguished Senator from North Dakota, the ranking minority member of the committee, who was most helpful. We may recall that when the bill was considered on the floor of the Senate, it was the Senator from North Dakota who offered the amendment to restore the funds to a certain level.

We are indeed grateful to these two good friends of ours for the excellent work that they have done.

Mr. ALLEN. I want to thank my senior colleague. I, too, want to compliment the distinguished Senator from North Dakota (Mr. YOUNG) for his understanding of our problem and for his introduction of the amendment that would have raised the appropriation $25 million, which the conference committee did not go along with.

We are deeply grateful and our people are deeply grateful to the Senator from North Dakota.

Mr. McCLELLAN. Mr. President, we are very grateful to the distinguished

Senators from Alabama for their complimentary references to our efforts in this particular field and with respect to this particular appropriation. We are also grateful to them for their work on the Appropriations Committee.

I may say to our friends that I thought at the time really, and in retrospect I can say that I still feel, that we were really fortunate in getting anything at all. The House was adamant on this and on one other item in the bill. They were apparently told not to yield.

I share the concern of the Senators from Alabama with respect to these matters. We really thought it should go to the $135 million that was authorized after we had heard the comments on the floor of the Senate.

I wanted the Senators to know that the Senate conferees did not yield too easily on this matter. We really fought for it. However, we have had this situation before. We were in the closing days of the session. Everyone wanted to get out of here by this weekend. The Senators wished to do so also.

In the length of time which we had to work on this amendment, I think that we came out pretty well overall on the appropriations bill.

Mr. YOUNG. Mr. President, I, also, want to thank both of the Senators from Alabama for their comments concerning the additional $25 million that was added to the bill on the floor. We were aware that the Senators from Alabama had a deep interest in this matter. However, this is one item on which the House was very adamant.

It was hard to understand the House position because the Department of Defense placed the highest priority in their appeal on Site Defense.

The House conferees just would not give on this item. I think that we did the best we could in getting $110 million when they had nothing in their bill.

Mr. ALLEN. I thank the distinguished Senator from North Dakota.

Mr. McCLELLAN. Mr. President, I yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, this bill, the Defense Appropriations bill, is one of the most important that could possibly pass Congress in this session. It is only exceeded in amount by the HEW Appropriations bill.

I want to take this opportunity to commend the able and distinguished Senator from Arkansas for the magnificent work he did on this bill. I also want to thank the able and distinguished Senator from North Dakota for the magnificent work that he did on the bill. I also thank the other conferees.

The bill is not everything that everybody wants. There are some items in the bill that I think should have carried a larger appropriation. However, the bill as a whole is an excellent bill. And I think that the Defense Department can get by with it.

I commend those who served on the conference for the fine job they did.

Mr. DOLE. Mr. President, I am pleased to note that the defense appropriations bill allocates a total of $39.8 million for the program to extend the service life of the B–52D bomber. This modification program, which will be done at the Boeing maintenance facility in Wichita, Kans., will enable this outstanding aircraft, which played such a vital role in ending the war in Southeast Asia, to remain the conventional strategic workhorse of the U.S. Air Force beyond the mid-1970's.

Equally as important, this allocation has precluded a costly and wasteful interruption of a program vital to America's defenses. It will enable a highly trained and experienced staff of over 130 enginers and 30 additional support personnel to remain intact and generate several thousand additional jobs in the Kansas aerospace industry at the peak of the program in mid-1975.

As one who has maintained an abiding concern for the individuals employed in the aerospace industry—particularly in Wichita where the effects of defense spending changes have been severe—and as an American who believes our defense forces must be kept at the maximum state of readiness and capability, I am very pleased that the Appropriations Committee has agreed to this vital location.

THE U.S. ARMED FORCES INSTITUTE

Mr. PROXMIRE. Mr. President, I have noted with great dismay that the conferees on the Department of Defense Appropriations bill have accepted the House position with regard to the U.S. Armed Forces Institute and now agree that it should be disbanded by May 31, 1974.

The Senate Appropriations Committee concurred with the House reduction of $530,000 but recommended that the Institute be continued during the remainder of fiscal year 1974. Particular note was made of the Institute's commitment to guidance counseling in an effort to make military life attractive and with the hope of raising educational standards. I wholeheartedly agreed with this view.

The new All-Volunteer Army poses problems which cannot be met without a concerted plan of action. Education is a primary concern at the present time as well as professional guidance counseling. Both of these military problems are being worked on by USAFI. With the Institute disbanded, the individual Services will have to initiate their own programs in this area and there is every reason to suspect that the resulting lack of coordination and increasing costs will soon make it apparent that the USAFI concept was not only sound but a necessary ingredient for the modern army.

Mr. President, I know that conferees engage in tough bargaining and there is always some give and take. However, I am convinced that the Senate position on this issue was the only proper view and I regret that the House view prevailed. We will miss USAFI more than is apparent now. Education is the keystone to the modern army.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 39 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$2,304,868,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$1,542,700,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: "$2.651.805.000".

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House of Representatives to the Senate amendments Nos. 39, 75, 78, and 79.

The motion was agreed to.

SOCIAL SECURITY AMENDMENT (H.R. 11333) PLACED ON CALENDAR

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 11333 and that the bill be placed on the calendar and that it be in order for the Senate to proceed to consider it today.

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

FOREIGN ASSISTANCE ACT APPROPRIATIONS, 1974—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 11771 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DOMINICI). 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 Senate to the bill (H.R. 11771) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, 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 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 House at pages H11683 and H11684.)

Mr. INOUYE. Mr. President, I am pleased to present the conference report on H.R. 11771 making appropriations for foreign assistance and related programs for fiscal year 1974.

Like all conferences, neither the Senate nor the House obtained everything desired, but I believe the end result was

a fair and equitable compromise of the major items in disagreement.

The conference report is available and I shall, therefore, not attempt to speak to each of the items covered. I would, however, like to mention a few matters of general concern and major impact.

In the new functional categories into which development assistance is divided, a total of $585,000,000 is provided of which $300 million will be loans and $285 million will be grants. In the future, all selected development problems and countries or organizations will be submitted and approved on a line-item basis.

For voluntary contributions to international organizations the conferees accepted $125,000,000 of the $127,822,000 provided in the Senate bill. It was not possible, however, to increase the amount for UNRWA above the total of $16,300,000 without severely reducing other United Nations programs. However, the statement of the managers promises careful and sympathetic consideration for future budget requests to make up UNRWA's current deficit.

For American schools and hospitals abroad, $19 million is allowed; however, not more than six new previously approved projects should be started during the current fiscal year with not more than two in any one country.

For the Partners of the Americas, $750,000 is allowed on the condition that this program should be privately financed after fiscal year 1976.

The conferees strongly supported the Senate position that drastic reforms are needed in appropriating funds for AID operating expenses of which less than one fourth is funded from the administrative expenses appropriation.

The Senate committee does not believe it is in the interest of good management or budget practice to fund operating expenses from funds appropriated for grant or loan programs. As indicated in its report, however, it will not seek to strictly enforce this ban for the remainder of the fiscal year if it is convinced the Agency is moving as fast as possible to correct the situation and reduce its excessive overhead.

This will apply to the operating expenses funded from the administrative expenses appropriation as well as other accounts. I would, however, like to reaffirm the statement in the committee report—

> The preference of the Committee would be to have all operating expenses authorized and budgeted through this account (Administrative Expenses). In the absence of such action, however, the committee serves notice that it will not again fund AID's cost of doing business through two accounts.

Therefore, the burden is now shifted to the Agency for International Development to solve this problem.

While $15 million was restored to the Contingency Fund the conferees agreed that there needs to be better control of these funds.

An American contribution of $50 million is recommended for the soft loan window of the Asian Development Bank.

The $418,380,000 provided for the Inter-American Development Bank will complete the U.S. contribution to the paid-in and callable capital accounts and bring the U.S. contribution to the Fund for Special Operations to 50 percent of the amount originally proposed. As originally proposed, the United States would underwrite two-thirds of the total soft loans currently being sought by the Bank. This is a matter of some concern but a final judgment will have to be made in connection with future budget requests for the remaining $500 million.

The military assistance program has been reduced to $450,000,000.

Indochina reconstruction assistance was also allocated $450,000,000.

OPIC was provided $25 million in additional reserves and the Inter-American Foundation's program was increased to $10 million.

The strong Senate language removing the United States once and for all from any support whatsoever for South Vietnam's police and prison system was retained.

The Senate provision requiring the use of excess currencies for local costs associated with our foreign assistance program was retained.

A slightly modified version of the Senate provision requiring that the Congress be advised in a timely manner of any changes from the program originally justified in annual congressional presentations was agreed to.

The House conferees agreed with the Senate in increasing the amount of emergency military grants that could be made available to Israel from $1 billion to $1.5 billion. This is from the total of $2.2 billion made available under the act.

For Cambodia, $150 million is provided although this is of no effect unless authorized. The Senate bar to the drawdown of $200 million from Department of Defense stocks as provided by the legislative committees has been dropped.

A total of $150 million in emergency disaster assistance is provided upon enactment of authorizing legislation and a recommendation of the allocation as provided in the Senate bill.

The Senate provision banning U.S. military assistance to Chile was dropped and the provision relating to petroleum products used in Southeast Asia was modified to conform with the provision in the Department of Defense appropriations bill.

Mr. President, on February 8 of this year the Appropriations Subcommittee on Foreign Operations at the request of Chairman MCCLELLAN adopted a highly ambitious goal of reducing the then pending budget estimates for foreign assistance by $1,202,583,000 or 28 percent. This was by far the largest reduction proposed by any subcommittee and one which I frankly thought might be unattainable.

While there have been some sizable adjustments in budget estimates because of the emergency military assistance needed for Israel and Cambodia and the disasters in Nicaragua, Pakistan and the Sahel, I am very proud, indeed, to report that the final Senate reduction on this bill was $1,399,477,000. Even though the total amount was driven up in conference our overall final figure for the bill is $5,780,434,000—a reduction of $1,212,483,000—slightly over the original target reduction by $9,900,000.

The conferees believe that the funds provided for the Regional Rail Reorganization Act of 1973 which were agreed to in conference yesterday should enable the Department of Transportation to carry out its functions under that act. In providing that the funds be derived by transfer, it is not the intention of the conferees that any essential programs of the Department be reduced. It is expected that if restoration of any of the transferred funds is required, the Department will request such restoration next session.

Mr. President, I move that the conference report be agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I should like to ask the manager on the part of the majority a few questions relating to pertinent parts of the bill.

First, may I ask him how the provision which related to the $2.2 billion for military aid to Israel came out, especially respecting that part inserted by the Senate regarding an authorization to be required before the Appropriation Act took effect?

Mr. INOUYE. As the distinguished Senator is aware, there is no disagreement, of course, on the sum of $2.2 billion. The only disagreement occurred in the matter of sums. The House had a provision for $1,100,000,000, and the Senate provided $1,500,000,000. The House receded and accepted the Senate provision.

Mr. JAVITS. May I ask the Senator the following: The authorizing bill, H.R. 11088, which passed the other body before coming here, and passed this body this morning with no change from the House bill, so that it would be on its way to the President immediately before or accompanying the supplemental, if the supplemental were approved—does that specify the condition, assuming the President signs the bill?

Mr. INOUYE. Absolutely; the provision in our bill calls for prior authorization before appropriations can be expended. With the passage of the authorization bill, it will suffice.

Mr. JAVITS. There is nothing in the appropriation bill which is other than a limitation respecting the appropriation, so there is contradiction between it and the authorizing bill as passed by the Senate, H.R. 11088?

Mr. INOUYE. The Senator is correct.

Mr. JAVITS. On the other side, I understand that the conference came to agreement on American schools and hospitals abroad.

Mr. INOUYE. As the Senator is aware, the Senate had a lower figure, and we receded to the House gross figure of $19

million for the remainder of fiscal 1974. In addition, we also agreed upon provisions suggested by the House that in the event new starts are brought about under this program, they will be limited to only those schools and hospitals that have been heretofore approved by the agency, and these starts will be limited to 6 in number, in all. No country may have more than two.

Mr. JAVITS. I thank the Senator.

Finally, I wish to express to the Senator great appreciation for the way in which the Overseas Private Investment Corporation was handled.

First, when it was here, an error was made in the amount of the provision, in the nature of the provision, too much of it having been stricken out when it came before the Senate. The Senator himself corrected it, so that they had basic authority. That was gratifying.

Second, I gather that the conference gave $25 million of the $50 million they sought.

Mr. INOUYE. The conferees are confident that with this sum, plus the full faith and credit of the United States of America, OPIC should be in great shape.

Mr. JAVITS. I thank the Senator very much. I think he has done a splendid job, as he usually does, and the Senate should be very grateful to him.

Mr. INOUYE. I thank the Senator.

Mr. MATHIAS. Mr. President, consideration of this conference report by the Senate represents the culmination of a long and difficult task. Particular credit should be given to the very hard-working and diligent chairman of our Committee, the Honorable DANIEL INOUYE. However, and I am sure the distinguished chairman would be the first to admit that this report is the result of the best efforts and best endeavors of many Members both in the Senate and in the House.

Naturally the conference did not adopt all of the positions passed by the Senate. Let me assure the Senate, however, that your managers, especially Chairman INOUYE, did their persuasive best to articulate and express the Senate position. Therefore, even though I have reservations and disappointments with respect to certain portions of the conference report let me here and now urge its adoption.

Senators will note that many of the monetary amendments in this report were adjusted either upward or downward to reflect what your conferees thought represented the best possible or attainable figure. There was give and take in the conference and a spirit of conciliation on both sides. Therefore, let me urge my colleagues to adopt this conference report as the best possible solution to a most complicated legislative problem.

Mr. President, I am very pleased that the conference committee has recommended that $750,000 be appropriated in the foreign assistance bill to the National Association of the Partners of the Alliance.

We in Maryland have benefited greatly from the Partners program. Through the Maryland Partners of the Americas, each January some 30 Brazilian students from Estado Do Rio, our partner State, visit Maryland homes and attend Maryland high schools for a 6- to 7-week period. In July a similar group of Maryland high schoolers visit Estado Do Rio. As a result of these exchanges, now in their ninth year, the Maryland Partners of the Americas have touched the lives of the thousands of young people and their parents. We have learned, in these direct and personal visits, of the customs and thoughts and habits of other countries. We can be justly proud of the wonderful feelings that have been created for Maryland and the United States by the visits of our students in Brazil.

Therefore, it is heartening to know that funds will be available for this worthy program to continue.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: "and of which $14,300,000 shall be available only for the United Nations Relief and Works Agency."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 114. None of the funds made available under this Act for "Food and Nutrition, Development Assistance," "Population Planning and Health, Development Assistance," "Education and Human Resources Development, Development Assistance," "Selected Development Problems, Development Assistance," "Selected Countries and Organizations, Development Assistance," "International Organizations and Programs," "American Schools and Hospitals Abroad," "International Narcotics Control," "Indochina postwar reconstruction assistance," "Security supporting assistance," "Military assistance," or "Migration and refugee assistance" shall be available for obligation for activities, programs, projects, countries, or other operations unless the Committees on Appropriations of the Senate and House of Representatives are previously notified five days in advance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

SEC. 604. None of the funds contained in this Act shall be used to furnish petroleum fuels produced in the continental United States to Southeast Asia for use by non-United States nationals.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

TITLE VII—REGIONAL RAIL REORGANIZATION ACT OF 1973

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

Interim Operating Assistance

For necessary expenses for Interim Operating Assistance under the Regional Park Reorganization Act of 1973, $35,000,000, to remain available until expended and to be derived by transfer from the Urban Mass Transportation Fund: *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of H.R. 9142 or similar legislation.

Salaries and Expenses

For an additional amount for "salaries and expenses," $3,000,000, to remain available until expended and to be derived by transfer from the appropriation for transportation, planning, research and development, Office of the Secretary: *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of H.R. 9142 or similar legislation.

UNITED STATES RAILWAY ASSOCIATION

Administrative Expenses

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, $6,000,000, to remain available until expended and to be derived by transfer from the appropriations for railroad research and high-speed ground transportation research and development, Federal Railroad Administration: *Provided*, That this appropriation shall become effective only upon enactment into law by the 93rd Congress of H.R. 9142 or similar legislation.

Mr. INOUYE. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 38, 53, and 54.

The motion was agreed to.

CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. MONDALE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1191.

The PRESIDING OFFICER (Mr. HUDDLESTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1191) to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes", which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Child Abuse Prevention and Treatment Act".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to in this Act as the "Secretary") shall establish an office to be known as the National Center on Child Abuse and Neglect (hereinafter referred to in this Act as the "Center").

(b) The Secretary, through the Center, shall—

(1) compile, analyze, and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of child abuse and neglect;

(3) compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organiza-

tions to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect; and

(5) conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof.

DEFINITION

SEC. 3. For purposes of this Act the term "child abuse and neglect" means the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen by a person who is responsible for the childs welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.

DEMONSTRATION PROGRAMS AND PROJECTS

SEC. 4. (a) The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect. Grants or contracts under this section may be—

(1) for the development and establishment of training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect; and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services;

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

(b)(1) Of the sums appropriated under this Act, not less than 5 per centum may be used by the Secretary for making grants to the States for the payment of reasonable and necessary expenses for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, his parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

(J) to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment.

(3) Programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act shall comply with the requirements set forth in paragraph (2).

(c) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(d) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

AUTHORIZATIONS

SEC. 5. There are hereby authorized to be appropriated for the purposes of this Act $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $25,000,000 for the fiscal year ending June 30, 1976.

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

SEC. 6. (a) The Secretary shall, within sixty days after the date of enactment of this Act, appoint an Advisory Board on Child Abuse and Neglect (hereinafter referred to as the "Advisory Board"), which shall be composed of representatives from Federal agencies with responsibility for programs and activities related to child abuse and neglect, including the Office of Child Development, the Office of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration. The Advisory Board shall assist the Secretary in coordinating programs and activities related to child abuse and neglect administered or assisted under this Act with such programs and activities administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

(b) The Advisory Board shall prepare and submit, within eighteen months after the date of enactment of this Act, to the President and to the Congress a report on the programs assisted under this Act and the programs, projects, and activities related to child abuse and neglect administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. Such report shall include a study of the relationship between drug addiction and child abuse and neglect.

(c) Of the funds appropriated under section 5, one-half of 1 per centum, or $1,000,000, which ever is the lesser, may be used by the Secretary only for purposes of the report under subsection (b).

COORDINATION

SEC. 7. (a) The Secretary shall promulgate regulations to guarantee that other programs which are assisted by Federal funds and are related to child abuse and neglect will be coordinated with programs assisted under this Act.

(b) The Secretary shall prescribe such regulations and make such arrangements as may be necessary or appropriate to insure that suitable programs related to child abuse and neglect under this Act are available for children receiving aid or services under State plans approved under part A of title IV of the Social Security Act and State plans developed as provided in part B of such title, and that there is effective coordination between such programs assisted under this Act and the programs of aid and services under such title IV.

Mr. MONDALE. Mr. President, a few weeks ago the Senate passed a very strong bill to deal with the problem of child abuse. The House adopted S. 1191 with an amendment, and that amendment is now before the Senate. We propose shortly to move to concur in the House amendment with certain minor amendments which I do not think will meet with any objection.

The first part of that amendment would call for a study of the incidence of child abuse and neglect. The second would require that a minimum of 50 percent of the funds be spent on the demonstration program. The third would place a spending ceiling of 20 percent on the State programs authorized by the House bill. The fourth amendment would establish criteria to be met by programs seeking funding under State set-aside. The fifth would require effective coordination between programs funded under this act with other federally supported child abuse programs.

None of those amendments is substantial. All have been cleared with the mi-

nority members of the Committee on Labor and Public Welfare.

I now yield to the distinguished Senator from New York, the ranking minority member on the committee.

Mr. JAVITS. Mr. President, for myself, I approve these amendments. I understand that all members of the minority on the Committee on Labor and Public Welfare have been asked about it. They are in town and know that this matter is coming up. Senator TAFT is not in town. I am advised by staff that Senator TAFT has no objection.

For myself, I do not see, from the nature of the amendments, that there should be any basis for any material objection, but each member must judge that for himself. I think that in substance, at this stage of the session, the minority, considering the accounting I have just given as to its members, would not interpose an objection as such to the Senator's motion, and I, personally, very much favor enactment of this measure, which I cosponsored.

Mr. MONDALE. I thank the Senator.

Mr. President, I move that the Senate agree to the amendment of the House to the bill (S. 1191) entitled "An Act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes," with the following amendments:

(1) On page 2, line 15 of the House Engrossed Amendment, strike out the word "and".

(2) On page 2, line 18 of the House Engrossed Amendment, strike out the period and insert in lieu thereof a semicolon and the word "and".

(3) On page 2, between lines 18 and 19 of the House Engrossed Amendment, insert the following new paragraph:

(6) make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect and increasing in number or severity.

(4) On page 3, line 9 of the House Engrossed Amendment, strike out "section" and insert in lieu thereof "subsection".

(5) On page 4, between lines 13 and 14 of the House Engrossed Amendment, insert the following new sentence: "Not less than 50 per centum of the funds appropriated under this Act for any fiscal year shall be used only for carrying out the provisions of this subsection.".

(6) On page 4, line 14 of the House Engrossed Amendment, after the word "Act" insert the following: "for any fiscal year".

(7) On page 4, line 15 of the House Engrossed Amendment, after "5 per centum" insert the following: "and not more than 20 per centum".

(8) On page 7, line 6, insert "clauses (B), (C), (E), and (F) of" after the word "in".

(9) On page 7, line 24 of the House Engrossed Amendment, before the period insert a comma and the following: "and for the succeeding fiscal year".

(10) On page 9, line 9, of the House Engrossed Amendment, beginning with "(a)" strike out through line 21 and insert in lieu thereof the following: "The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.".

Before the Senate votes on these amendments, I would like to explain briefly to my colleagues the status of this legislation. With 14 of my colleagues, I introduced this bill in the Senate in March. In the following months, I chaired a series of hearings on the bill before my Subcommittee on Children and Youth. S. 1191 was passed by a vote of 57 to 7 by the Senate on July 14.

On December 3, the House passed an amended version of S. 1191. In light of the urgent need for legislation to improve our ability to combat child abuse, we in the Senate have been working with our colleagues in the House since then to reach agreement on a compromise version of the bill.

Although the administration opposed S. 1191 in the Senate, it withdrew opposition to the bill passed by the House. Members of the Senate, however, had concern that some provisions of the House bill would prevent us from securing from the Department of Health, Education, and Welfare the commitment necessary to make an impact on the widespread problem of child abuse.

The amendments before us today reflect an agreement acceptable to the House Education and Labor Committee and the Senate Labor and Public Welfare Committee.

At this point I would like to summarize the effect of the amendments before us today:

First. The Senate bill requires that the National Center on Child Abuse and Neglect, including the demonstration program, be housed in the Office of Child Development of HEW. The House bill provides only that the National Center and the demonstration program be housed in the Department of Health, Education, and Welfare.

I have received a letter from the under secretary of Health, Education, and Welfare, Frank Carlucci, stating:

Should S. 1191 be enacted with no organizational requirements specified it is my intention, consistent with existing policy, to give responsibility for the implementation of S. 1191 to the Office of Child Development which is in the Office of Human Development.

I ask unanimous consent that the full text of the letter be printed in the RECORD.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., December 20, 1973.

Hon. WALTER F. MONDALE,
Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR MONDALE: As noted in the testimony of Assistant Secretary Stanley B. Thomas, Jr. before the House Select Subcommittee on Education on Friday, October 5, the Office of Human Development and within it the Office of Child Development has played the lead role in implementing the Department's child abuse initiatives.

Should S. 1191 be enacted, with no organizational requirements specified, it is my intention consistent with existing policy, to give responsibility for the implementation of S. 1191 to the Office of Child Development which is in the Office of Human Development. This will ensure that the Department maintains the continuity of its current activity in this important area.

In addition, I want to take this opportunity to assure you that the Interagency Advisory Board on Child Abuse and Neglect, proposed in the bill, will look to experts in the field of child abuse for advice and counsel. We believe that there are many people outside the Federal Government who have important contributions to make in the resolution of this very complicated issue. Consequently, we see no need for the specific inclusion of such a mandate in the statute. Also, it is our intention to list all of the names of those individuals who are consulted by the Interagency Advisory Board in the report to the Congress required by the legislation.

Sincerely,

FRANK CARLUCCI,
Secretary.

Mr. MONDALE. Second. The Senate bill has no special provision for State programs of child abuse and neglect. The House bill requires that "no less than 5%" of appropriations for the legislation be spent by States on technical assistance. In order to receive these funds, the House bill requires that a State meet a series of criteria.

The amendments before us today would place a ceiling of 20 percent on the funds that could be spent on State programs.

Third. The House bill contains two sections relating to programs for child abuse and neglect funded under other programs for Federal assistance.

First, the House bill requires that programs or projects relating to child abuse and neglect assisted under parts A or B of title IV of the Social Security Act must comply with the criteria which are applied to States qualifying for funding under this bill. The Senate bill contains no similar provision. The compromise we have reached, to which I understand the chairman of the Senate Finance Committee has no objection, would require these programs funded through the Social Security Act to comply with only 4 of the 10 criteria of this bill. Specifically, those programs would need to provide for:

The reporting of known and suspected instances of child abuse and neglect;

Prompt initiation of investigations of reported cases of child abuse and immediate steps to protect the health and welfare of the abused or neglected child;

Methods to preserve the confidentiality of all records; and

Cooperation of law enforcement officials, courts, and human services agencies.

Second, the House bill requires that the Secretary promulgate regulations to coordinate child abuse and neglect programs funded under this act with those assisted under other programs of Federal assistance. It also requires that suitable programs related to child abuse and neglect under this act be available for children receiving aid or services under programs assisted under parts a and b of title IV of the Social Security Act. The Senate bill has no similar provisions.

The compromise we have agreed to requires the Secretary to promulgate regulations and make arrangements to as-

sure effective coordination between programs funded under this act and other such programs assisted by Federal funds.

Fourth. The Senate bill authorizes creation of a National Commission on Child Abuse and Neglect to study some of the unresolved issues in the field and to report on the effectiveness of the Federal effort.

The House bill does not authorize a commission. It provides instead for creation of an advisory committee of HEW employees to oversee the Federal efforts on child abuse and neglect.

In the letter I received today from Mr. Carlucci, HEW states that this advisory board "will look to experts in the field of child abuse for advice and counsel. We believe that there are many people outside the Federal Government who have important contributions to make * * *."

Fifth. The Senate authorizes $10 million the first year and $20 million for each of the next 4 years. The House bill authorizes $15 million for the first year, $20 million the second year, and $25 million the third year.

The amendments before us would provide for a 4-year bill with authorizations of $15 million the first year, $20 million the second, and $25 million in the third and fourth years.

Sixth. The Senate bill "authorizes and directs" HEW to establish a demonstration program in child abuse and neglect. In the House bill, the phrase "and directs" was dropped.

The amendment before us today accepts the House language and requires that at least 50 percent of the appropriations for this bill be spent on the demonstration grant program. The purpose of this is to assure that this portion of the bill is actually implemented.

I strongly urge my colleagues to support the amendments before us today. Each year some 60,000 children in this country are reported to have been abused—some to the point of permanent injury and even death. At least 700 die annually as a result of child abuse. In the course of my subcommittee's hearings we viewed slides showing horribly battered children who had been brought to hospitals for treatment. I personally visited victims of child abuse in hospitals in Washington, New York, and Denver. And I heard—from her own mouth—the sad story of a mother who nearly killed her child before she could convince any person or agency to provide her with the help she knew she so desperately needed.

There are ways to treat child abuse. We know that a strong, healthy family is the best cure for a child abuse situation. We know that the adults who abuse children were usually abused themselves as children, and that we can only stop this terrible cycle if we provide opportunities for rehabilitation.

I am encouraged by the interest shown by the Congress and by the public in this legislation. I am hopeful that if the Senate approves the amended version of S. 1191 today we can see this legislation translated into quick and effective action.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

The motion was agreed to.

UNANIMOUS-CONSENT AGREEMENT ON H.R. 11333, SOCIAL SECURITY AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when H.R. 11333, the social security bill, is before the Senate, there be a time limitation of 1 hour on an amendment by the distinguished Senator from Louisiana (Mr. LONG), the chairman of the committee, to be offered en bloc, and 1 hour on the bill, the time in each instance to be divided between Senator LONG and Senator CURTIS or their designees.

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

Mr. MANSFIELD. I yield.

Mr. ALLEN. Reserving the right to object, is this the social security bill?

Mr. MANSFIELD. Yes.

Mr. ALLEN. What about other amendments?

Mr. LONG. Perhaps I can explain.

The social security bill is in conference, and it will necessarily have to remain in conference, because there are important items in conference to which the House does not want to say "no," but which the House cannot accept without further consideration. So we are proposing to call up a social security bill that remained in the committee, to amend it by adding those items on which pensioners and the poor will be victimized unless we act between now and January, those items which have an immediate urgency about them, and leave the other items, which include the big cost items, in conference.

I can say that the cost-of-living social security and SSI increases are already included in H.R. 11333. As to the social services regulations that are of great interest to the States, any change in the old regulations would simply be postponed until January 1975 while the Mondale amendment relating to social services is ironed out next year between the conferees.

The big cost amendments, such as the coverage of drugs under medicare, the work bonus, the increase in the social security earnings limit, and other, will remain in conference between the two Houses.

We are informed that commitments have been made on the House side that before the House agrees to or rejects some of those amendments, the House will hold hearings in the Ways and Means Committee. The agreement among the conferees is that we will continue to work on these amendments and work out the best bill we can next year, but that meanwhile we should not adjourn without assuring social security beneficiaries and the aged, blind, and disabled poor that they will get the cost-of-living increases which the Senate has already approved, and that the unintended loss of food stamps eligibility or medicaid eligibility by the poor will be prevented, and other urgent items taken care of. To fail to take care of these various urgent items before the Senate and the House adjourn would mean that a great deal of inequity and injustice would occur.

Mr. ALLEN. What about the added tax and the added wages subject to social security? Would they be included in the amendment—the increase in tax and the increase in the amount covered?

Mr. LONG. As I recall the structure of the House bill, there is no increase in the total social security tax rate over the next few years. There would be an increase in the tax base next year, from $12,600 to $13,200. I intend to place in the RECORD tonight a summary of the items we believe the House would be willing to accept so that Senators can read it tomorrow.

Mr. GRIFFIN. I think the Senator from Alabama has done the Senate a service by asking these questions. I do not see how we could agree to a 1 hour time limitation on a bill on this basis.

Mr. LONG. We have not asked anyone to agree to a limitation on amendments. At this late hour in the session any Senator who does not like a bill has the power to kill it.

Mr. GRIFFIN. We are talking about a bill involving billions of dollars. I am surprised that the Senator is talking about no provision for taxes to pay for it.

Mr. LONG. There will be an increase in the tax rates for the social security cash benefit programs, but for the next few years it will be offset by a decrease in the medicare tax rates, resulting in no increase in the overall social security tax rates. Everything we are talking about is much less than the Senate voted for. We are talking about a measure that would cost a great deal less than what the Senate voted for. We would hope to trim down to simply provide a stopgap bill, other than the cost-of-living social security and SSI increases, so that we will not do an irresponsible thing when we adjourn and come back in January.

I did not mention one item that I should have, and the Senator from New York knows about it. The Javits amendment relating to unemployment insurance is one item that will remain in conference. But we believe the House will accept the amendment for a 90-day period so that no one will lose benefits because we quit without having resolved that matter.

I can assure the Senator that no one is going to be jeopardized, because there is no limitation on amendments to be offered, and none is being asked. Senators can offer amendments from now until kingdom come. I could kill the bill and every other Senator could kill the bill.

Mr. MANSFIELD. It is my understanding that the ranking Republican member of the committee, the Senator from Nebraska (Mr. CURTIS) is in favor of this proposal; that all members of the committee on the conference are, and all members on the committee and not in the conference that the chairman had access to indicated approval of this proposal.

Mr. LONG. Let me say we felt that it will take almost unanimous consent to pass this bill tomorrow. But the Senator from Nebraska (Mr. CURTIS) felt he could persuade the overwhelming majority of conservative members to do that, and the Senator from Minnesota,

(Mr. MONDALE) felt he could persuade the liberal members to do that, and I would hope to persuade those who now straddle both sides.

Mr. GRIFFIN. Perhaps I misunderstand. The unanimous consent request related only to the amendment——

Mr. LONG. To be offered by me.

Mr. GRIFFIN. That the Senator from Louisiana is going to offer on the bill. But if other amendments would be offered——

Mr. LONG. There would be no limitation.

Mr. GRIFFIN. The majority leader is correct in that the ranking Republican member (Mr. CURTIS), in the absence of the Senator from Utah (Mr. BENNETT), agreed to this, and in view of the fact there is not an absolute time limit on the whole subject and amendments can be offered without limitation, I will not object.

Mr. LONG. I thank the Senator. I feel confident he will not regret giving consent, and if he does, I will find a way to accommodate him.

Mr. MANSFIELD. I understand this is the only way, and it almost calls for unanimous consent, in which anything can be done by means of which an agreement could be reached between the two Houses which would be of benefit to the people on social security beginning the first of next year.

Mr. LONG. It is just about that way, I would say to the distinguished majority leader.

Mr. MANSFIELD. It is a skeletal bill compared with the Senate-passed bill.

Mr. LONG. That is the point. It is very much a skeleton version, including the items which must be passed before we adjourn sine die, without which there would be a lot of hardship on many people.

Mr. JAVITS. Will the House have passed this bill by the time it gets here in the morning with the amendments of the Senator from Louisiana, or will it take the House bill as we amended?

Mr. LONG. We would hope the House will accept the House bill as it will be amended by the Senate.

Mr. JAVITS. Fine.

Mr. LONG. We have been conferring with the House, and we know which items the House conferees on H.R. 3153 would be willing to recommend that the House accept at this time. It will take a two-thirds vote over there, but they think they can persuade the House to do that. We have high hopes we can persuade the House to vote this stopgap legislation through so that we can go home in a responsible fashion and continue to work on the big items in conference.

Mr. JAVITS. The only point of the limitation is that the Senator from Louisiana, the chairman of the committee, is limiting himself, really. Is that right? The Senator gets 1 hour on the bill and 1 hour on the amendments. It would limit everybody on the bill but not on the amendments.

Mr. LONG. I would like a limitation on the amendments I am offering en bloc. I am trying to indicate to Senators who have a special interest, like the Senator from New York, what the situation is. I am asking for a limitation on my amendment, but not on amendments by other Senators.

Mr. ALLEN. Mr. President, reserving the right to object, I have always felt the conference committee on the bills performs a great service in taking a Christmas tree bill and trimming it down considerably. I had anticipated that would be the case here if they considered it as part of one package. But what is being considered now is that certain goodies will be taken from the tree and put in a package, and we are supposed to accept that sight unseen.

I feel the proposal by the distinguished Senator would probably work to the detriment of the rest of the bill because the veto-proof matters would be passed on this new bill that is being brought up and would not be in the bill that is now in conference to guarantee its signature. Has the Senator considered that?

Mr. LONG. I have some familiarity with the ability of the Senator from Alabama and others in this body to prevent the Senate from passing the measure when they think it would be a very bad idea. I can assure the Senator that the parliamentary rights he has with respect to this bill greatly exceed the rights he would have from a parliamentary point of view if we were bringing back a conference report, which I wish we could. I am trying to offer to the Senate the bill that the conference report would be if we were able to bring one back now.

Mr. ALLEN. But what occurs to me is that the distinguished Senator from Louisiana is asking the Senate, to use an expression used down our way, to buy a pig in a poke because we do not know what is being suggested by the distinguished Senator from Louisiana from his sketchy recital of it.

Mr. LONG. All I am asking is that the Senate accord those of us who are conferees of the Senate the opportunity to have a vote on this amendment, and if the Senate, having agreed on it, is dissatisfied or if any one Senator feels sufficiently unhappy with it that he wants to kill the bill, he has all the power he needs to offer amendments and to discuss the matter and bring the whole thing to a halt. But I do not think the Senate is going to want to do that.

Mr. ALLEN. Mr. President, reserving the right to object, since the Senator wants to place a limitation on his amendment, why cannot unanimous consent be given to that, and leave the bill wide open?

Mr. MANSFIELD. Mr. President, what was the request?

Mr. ALLEN. Put the 1-hour limitation on the Senator's amendment and have no limitation on the bill itself.

Mr. MANSFIELD. Very well.

Mr. President, I make that request.

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

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1973

Mr. STENNIS. Mr. President, at the end of each session of Congress, and as the calendar year draws to a close, it has been my practice to make a report to the people of Mississippi concerning the matters which have received my particular attention during the year, and which I believe are of special interest to the citizens of our State. They have entrusted me with heavy responsibilities to act in their behalf, and I would like to tell them what has been accomplished.

In past years I have commented that to me making this report is a privilege. This year to be able to make the report is a particular privilege. I have recovered from the gunshot wounds that I received from armed robbers in January, and have returned to my duties as your Senator. I am deeply grateful to have been spared, and to resume a full daily schedule. During my convalescence in the hospital I made full use of the telephone to confer with colleagues, constituents, and officials from the executive departments of the Government. Many came to the hospital to visit me and to confer on matters of mutual interest. I directed the activities of my staff, of course, and kept well informed as to daily occurrences. Much was accomplished during this period, but it was a truly wonderful experience for me when I was able to return to my office and the Senate floor on a full-time basis.

I cannot adequately say how grateful I am to all the Mississippians who told me that I was in their thoughts and in their prayers during the critical period of my illness. I know that this had a direct effect on my recovery, and I am deeply grateful. I want to thank each one for every prayer and every message. Every card and letter, gift, or flowers, or other expression of support was of great help to me. These to me were expressions of confidence that inspired strength and determination. To have so many do so much for me, and for my recovery, is such a tribute and a challenge that I know I cannot repay it, but with all my ability, I will try.

During the course of the year, both when I was ill or convalescing and when I was at my office, I received many courtesies and much help from the other Members of the Mississippi delegation in Congress, and I want to thank them warmly for this. My colleagues in the Senate have been very kind to me also, and generous in their support of legislation that is helpful to our State. My office staff has worked with dedication and has tried hard to help in the many thousands of cases where my constituents have asked for assistance in trying to resolve a personal problem involving some Federal agency.

This has been a difficult year for me, of course, because of my injury. I missed a number of votes on the Senate floor, which I greatly regret, but I am pleased to be able to say that these are the first votes that I have missed because of illness since June 23, 1949. I have been fortunate to have such good health over the years.

In spite of the difficulties, however, much constructive work has been accomplished during 1973. I will report on it, under the following headings, to the people of Mississippi.

FORESTRY

I am certainly pleased that my Forestry Incentives Act, which I introduced again in this Congress, was passed first by the Senate and then the House, and was signed into law on August 10 of this year. It provides incentives to small landowners to plant seedling trees and to improve their existing stands of timber. This law will mean a great deal to the State of Mississippi, where our forests are producing the second crop and must now produce their third, which will largely come from privately owned small nonindustrial tracts.

At the turn of this century, beautiful forests of pine and hardwood spread from border to border of Mississippi. They were not to last long. In the next 20 years they were, to a large degree, harvested or cleared and burned in conversion to cropland. Between 1900 and 1910, Mississippi was the third leading State in the country in timber production.

In the late 1920's there began a gradual trend toward reforestation. In 1926, the State Forestry Commission was established, on a very moderate scale. Its first budget was $7,500 in State funds. In 1940, the ad valorem tax on standing timber was repealed, and the Timber Severance Tax Law was enacted. In 1942, Gov. Paul Johnson, Sr., accepted the lands for the Kurtz State Forest. In 1944 the Forest Harvesting Act governing the leaving of seed trees was passed, as was the bill modernizing the Forestry Commission. Mississippi was on its way back toward revival of its lost forests.

Until 1944, a total of only 173,000 acres in the State had been replanted with trees, but in the 25 years thereafter, up to 1969, more than 1.7 million acres were planted.

There is a total of a little more than 30 million acres of land in Mississippi. More than half our area, 17 million acres, or about 56 percent, is in forest lands. Let me emphasize that. More than half our natural assets, in terms of land area, is devoted to the raising of forests. Of the forest land, about a quarter is in Federal, State, and industrial ownership. Generally speaking, timber production on these lands is quite good. The other three-quarters of the forest land is in small private ownerships. This is about 12.5 million acres, and there are about 133,000 owners, with holdings averaging 95 acres each.

Of this, 12.5 million acres in private ownership, almost 7 million acres is classed by State or Federal studies as being in only poor or fair condition, based on the present stand of timber. Of all the forest land in Mississippi that is classified in this low category of timber production, about 82 percent is in private ownership. There are tremendous opportunities for increased production on private forest lands.

The importance of the forest industry is measured only in part, of course, by the area of forest land, and its productivity. The harvesting and processing of the timber is obviously of tremendous importance, and these operations will stand or fall, now and in the future, on the rate at which timber is grown. There are 350 sawmills in our State, and of course, many pulpwood, plywood, and veneer mills. We have more than 450 commercial operations of various kinds which are based primarily on the use of wood. Obviously, it is important that our timber production keep up with the requirements of the future.

The demands for wood in our Nation are expected to double in the next 30 years. The most informed opinions and projections show that a very large part of it must be grown in the pine and hardwood forests of the South. So the demands for Mississippi timber are going to be very large. This being the case, it seems clear that the increased production will have to come, for the most part, from the forest lands in small, privately owned tracts. If this is to come about, there will have to be a program which will provide the small owner with the incentives that have so far been lacking, and which account for the relatively low production on these kinds of lands. This was what led to my bill, the Forestry Incentives Act of 1973.

The bill establishes a forestry incentives program, to be carried out under the Secretary of Agriculture, to encourage and assist landowners to plant seedlings and to develop their forest lands to produce timber, expand recreational facilities, protect the land from erosion, improve fish and wildlife conditions, and enhance environmental values. For private, nonindustrial lands, the Federal Government would pay up to 75 percent of the costs of this reforesting and land management program.

To comment briefly on what this program can accomplish in Mississippi, the people of our State can reforest about 5 million acres that are now idle, and they can greatly improve another 6.5 million acres. Average yield per acre throughout the State can be raised.

In addition, there will be environmental dividends. Trees not only are a pleasure to the eye, but they help to filter and clean the air, reduce noise, contribute to the beauty and usefulness of recreation areas, and improve fish and wildlife conditions.

Great opportunities await Mississippi in the forestry field. We are endowed with the land and water conditions suited to the purpose. The fine, constructive efforts of the State forestry commission, the State forester and his assistants and the State and county ASCP committees have contributed greatly toward maintaining and improving the potential of our forest lands. The economic growth projections of our country make inevitable the requirement for vast additional amounts of raw forest products. And the geographic factors of land, water, and climate make it certain that a substantial part of that increased forest production is going to have to come from Mississippi.

After the authorization for this program became law, in August, I made it my firm resolve to try to see that money would be provided at the earliest opportunity to carry out this program. I determined from discussions with the Department of Agriculture that if money were appropriated in this session, the program could start about January or February of next year, and that $10 to $15 million would provide the means to carry on the work between then and the end of the fiscal year.

I am glad to say that this month I have been assured by the Secretary of Agriculture that he intends to utilize funds which he presently has at hand to operate the Forestry Incentives program during the period January through June 1974.

Turning to another aspect of forestry matters, our State contains six national forests, containing 1,134,238 acres. This is almost 4 percent of our total land area, and about 6 percent of our commercial forest land, so the national forests are very important to Mississippi. Almost a fifth of our saw timber is growing on national forest land, and of the amount that grows each year, about 60 percent is harvested.

The Federal Government expends very sizable amounts of money each year to operate and maintain these forests, and all of this money flows into our economy in terms of payrolls, supplies and services, and payments to the State and counties. The money spent by the U.S. Forest Service in Mississippi in 1973 is $10,948,000. Almost $6 million was spent for forest protection and utilization, which includes management; protection against fire, insects and disease; forest research; and State and private forestry cooperation. Another $1,662,000 was paid to the State, and large amounts were expended to develop and protect water resources, provide recreation areas, build forest roads and trails, and other similar endeavors, frequently in a mutual effort with other agencies. The U.S. Forest Service in our State has over 200 full-time employees and a similar number of part-time workers.

It should be recognized that the national forests also provide very extensive recreation opportunities for our citizens. There are some two dozen specially developed recreation areas that receive heavy usage. All of the national forest lands, except the 400 acres in the recreation areas, is open to hunting, and the Forest Service takes special care to try to develop and maintain good wildlife habitat. Special care is also taken to prevent erosion, and to restore and reforest eroded watersheds that were the result of heavy timber cutting in the earlier third of this century.

The U.S. Forest Service does a fine job of managing our national forests. They believe firmly in the multiple use of these beautiful forest lands, and our citizens therefore are able to enjoy the benefits of this policy.

I have continued this year to give my support to the funding of the four federally funded forest laboratories in our State—at Stoneville, State College, Oxford, and Gulfport. This year I had a part in increasing appropriations for research work at Stoneville on southern hardwoods and on improving forest wildlife habitat.

I have mentioned before in this report my strong interest in cooperative forestry research, where the Federal Government's money is matched equally by

State or industrial money, and the work is carried out in the forestry schools of colleges and universities. I am proud that the legislation that established this program 11 years ago—the McIntire-Stennis Act—bears my name, and I have taken particular care over the years to try to see that it is properly funded. This year, as a member of the Agriculture Appropriations Subcommittee, I was able to see that the money was increased from $3.94 million in the budget to $6.2 million.

Needless to say, there is very careful coordination of all the Federal forestry efforts in Mississippi with our State forestry commission and our State forester and his staff.

THE FLOOD OF 1973

On April 27, I accompanied the President on an inspection from the air of the flooded areas of the State of Mississippi. The damage was awesome, and my heart felt heavy for those many thousands of our people who have suffered such extreme hardships and disastrous economic losses.

As the rains continued and the waters reached high on our levees it was increasingly clear that flood protection for our Lower Mississippi River Valley must receive a higher national priority for work in the field of water resources.

This is the third great flood in 50 years. The flood of 1927 inundated 26,000 square miles in the Lower Mississippi Valley, displaced over 600,000 people, did damage which in terms of today's values would be over a billion dollars, and 214 people lost their lives. Since then some $1.7 billion dollars have been expended to help protect the area from such floods. Much has been done, but there is much left to be done.

Over the years, I made a joint effort with the late Senator Ellender and Senator McCLELLAN, as fellow members of the Senate Appropriations Committee, to increase the funds appropriated for necessary flood control work. From year to year we were frequently able to increase the amount of money provided by the budget. All too often, however, the additional amounts were frozen in budgetary reserve and not expended. It took much effort and many frustrations to get the project up to a consistent budget level of $110 million. This is not enough.

In the Yazoo basin—our Mississippi Delta region—a total of $307 million worth of flood control work has been authorized by Congress in the Yazoo basin. Funds totaling $165 million were appropriated through fiscal year 1973 to carry out the work. This is not enough.

In the eastern part of our State, channel improvements for flood control along 22 miles of tributary streams of the Tombigbee River were authorized by the Congress. The total cost of the work is estimated to be $52 million. Through fiscal 1973, $5.7 million have been made available for the work. This is not enough.

Over 3 million acres of land were flooded this year in Mississippi, and damages were over $100 million in our State alone. Thousands of people were driven from their homes. Prime croplands were saturated or completely under water; 37 of our counties were declared a part of the flood disaster area.

I want to make the point very strongly that the levees, flood control dams on the tributary rivers, flood walls, and other completed works all paid off. The projects of the Corps of Engineers prevented $3.9 billion in damages in this one flood. The forethought shown in the planning of these projects over the years has been so effective that the Engineers are entitled to be commended very highly. The overall project for the Mississippi River and tributaries is only about half completed, but its effectiveness has prevented what otherwise would have been an infinitely greater disaster throughout the central region of our Nation.

I also want to compliment the Army Engineers for their work during the flood. They led the emergency flood fight and they labored tirelessly. The people of Mississippi are greatly indebted to the personnel of the Corps of Engineers, military and civilian, who did such a fine job.

While the protection afforded by the flood control projects that have been completed to date spared us the devastating losses and suffering of 1927 and 1973, still the damage was tremendous and it was clear that more must be done to protect our people.

I resolved that several important steps must be taken in looking to the future. The existing flood control project authorizations in the Yazoo Basin must be reviewed to see what additional authorizations are appropriate, based on the new flood data. The review study of the Tombigbee River and its tributaries, which is now in progress, must be completed as soon as possible. The administration must be convinced of the absolute necessity for increased appropriations for flood control.

I devised and sponsored a short-range program and a long-range program to increase flood protection in our State.

The short-range program would set maximum possible goals for fiscal 1974 to accomplish work on projects that are authorized for flood control, but are not completed. In other words, the maximum capability of the Corps of Engineers to construct the projects would be determined and funds would be provided to cover the full capability.

Under the long-range program a restudy of the areas subject to flooding would be carried out, to determine what additional work should be authorized.

As a part of both the long- and short-range programs, the funds for the Mississippi River and tributaries project would have to be substantially increased over the level of $110 million that I mentioned previously. This is necessary in order to see that the main levee system along the river receives the attention that it should.

I am glad to say that for this fiscal year I have accomplished what is necessary to carry out the short-range and long-range plans.

As chairman of the Public Works Subcommittee of the Senate Appropriations Committee I was able to see that in the Public Works appropriation bill for fiscal 1974 all Mississippi flood control projects were funded to the maximum capability of the Corps of Engineers.

I obtained a resolution from the Senate Public Works Committee authorizing a restudy of the entire Yazoo basin. The capability of the Engineers to work on this study this year is $100,000, and this amount was provided in the appropriations bill.

A full study of the Tombigbee River and its tributaries is already in progress. The Army Engineers have been urged to expedite its completion, and all the money they can use on it this year has been provided.

The budget request for the Mississippi River and tributaries project was $110 million and this was increased to $150 million in the appropriations bill. Later, in a supplemental appropriation, another $7 million was added to raise levees. This $157 million is the largest amount ever provided in 1 year for this work.

The people of the Lower Mississippi Valley have learned again the power of a flood on the great Mississippi River, pushing against the levees that line its banks and backing into the tributary streams to wreak havoc. The river is again very high this winter. We must press forward with determination for the completion of the flood control projects that can spare us from the great misfortune that so many of our citizens underwent this year.

WATER RESOURCES PROJECTS

Our State is a water-rich State. That is, compared to many others we have an abundant supply of water, it is well distributed through the State, and for the most part it has been kept clean and preserved for constructive uses. As I have discussed elsewhere in this report, however, we know from the experiences of this year that our rivers and streams can flood quickly and heavily, and it is necessary that our economic and land-use planning take this into account. Nevertheless, our water resources are one of our finest natural assets, and they deserve our constant attention to improving them and maintaining their quality.

This can be done without detrimental environmental effects. In fact, properly planned water resource projects are environmental improvements. This is particularly true of flood control projects. As our people know from experience, a bad flood is an environmental catastrophe, and it leaves its scars as a reminder for many years.

I am privileged to be the chairman of the Public Works Subcommittee of the Senate Appropriations Committee. My subcommittee has jurisdiction over the funding of water resource projects that are built by the Army Corps of Engineers, the Tennessee Valley Authority, and for the arid regions of the West, the Bureau of Reclamation of the Department of Interior.

My subcommittee holds hearings regarding the water resource projects, and recommends to the full Appropriations Committee the amount that should be included for each project in the appropriations bill. When the bill is considered by the Senate I am the floor manager for the bill, and when a conference is

held with the House to resolve differences with their bill, I am the chairman of the Senate conferees.

This year, during my illness, my colleagues on the subcommittee were kind enough to preside on my behalf. They were also kind enough to come to the hospital to confer with me and to obtain my views, in particular with respect to Mississippi projects. These views were reflected in the report of the subcommittee, the report of the full committee, the appropriation bill as it was passed by the Senate, and these views prevailed in the conference committee and have been signed into law by the President.

As I explained in the section of this report that discusses the great floods of this year, I made sure that each flood control project that is authorized but not completed, in our State, received the maximum amount that the Corps of Engineers can do on that project this fiscal year. I considered this to be particularly important in the Yazoo River Basin, encompassing our delta area, and in the Tombigbee River Basin.

The appropriations provided $8,150,000 for work in the delta, and $900,000 for the Tombigbee River and its tributaries. The bill also contained $350,000 for construction of Tallahala Creek Lake in south Jasper County, which was money carried over from the previous year. The money for the delta was about twice what had been contained in the budget. We also added $6,000,000 above the budget for improvement of the main levees on the Mississippi River. The amount of $46,000 was provided to complete a study of necessary navigation improvements in Pascagoula harbor, and in a supplemental appropriation bill; $10,000 was added to start a study on increased navigation depths in the Mississippi above Baton Rouge.

For the Tennessee-Tombigbee Waterway, which will be an extremely strong factor in the future economy of the eastern part of our State, the budget request was increased by $3,500,000 in both the House and the Senate, from $14,500,000 to $18,000,000. This will permit beginning work on the northern end of the project, when the project enters Pickwick Lake on the Tennessee River, and working south. At the same time, work will continue on the locks and dams on the southern part of the waterway.

While insuring adequate funds for projects that have been approved and are under way, it is also necessary to pay careful attention to providing for future needs. This means that new projects must be studied and presented to Congress for approval.

The law provides that for every expenditure of Federal funds there must be two legislative actions—one to authorize the expenditure and one to appropriate the money. Each of the projects I have discussed above with respect to appropriations had to be previously authorized. This was accomplished in a past Congress by including it in an omnibus rivers and harbors and flood control bill, which is an authorization bill that is normally considered by Congress every two years.

Before a project can be included in the authorization report, it must be studied and fully justified on a benefit-to-cost basis, by the Federal agency that will build the project. This study is called a survey report. After a survey report is completed it must be commented upon throughout the executive branch, by all offices that have an interest, and it must be approved by the Office of Management and Budget before it can be sent to Congress for consideration. These procedures can be very time consuming and frustrating to those of us who are attempting to get forward with developing water resources in Mississippi.

For the last year and a half I have been following diligently the progress of three survey reports, for projects at Greenville, Vicksburg, and Natchez. They were finally sent to Congress on August 31. This followed many months of delays in the various departments which had to comment on the reports, and in the Office of Management and Budget. I sent letters, telegrams, and made repeated phone calls to keep the reports moving.

The Vicksburg and Natchez projects deal with providing flood protection to areas between the east bank of the Mississippi River and the bluffs farther to the east. The area investigated extended from Warren County on the south. Two areas were recommended for construction. The Vicksburg area project would provide leveed flood protection to 10,000 acres, at a cost of $7,760,000. Local interests would be required to provide lands and rights-of-way, and operate and maintain the project after completion. This area is generally north of the present Vicksburg Harbor area, which is currently without room for expansion, because of flood hazards in remaining lands below the bluff level.

A similar area near the Natchez port is recommended in the Warren to Wilkinson County report for flood protection at a cost of $11,100,000. This would protect 16,000 acres just south of the Natchez Harbor.

The Greenville Harbor project consists of widening and extending the channel into Greenville Harbor from the Mississippi River, and depositing the excavated material in such a way as to create landfill at an elevation above flood height. The estimated cost is $17,100,000. Local interests are required to provide lands and easements, and maintain the project after construction. The project has the very fine benefit to cost ratio of 3.4 to 1.

These three projects are in an area of the State which is experiencing a very rapid growth of industrial development. The projects will generate very large benefits and will return to the United States large returns in the form of taxes, as well as providing general public benefits substantially in excess of costs.

The Senate Public Works Committee has legislative jurisdiction over the authorization. I presented statements to the committee on behalf of the projects, and made my views known to the chairman as to the importance of their inclusion in the authorization bill this year.

Last year there were two major dam and reservoir projects that were included in an omnibus bill that was passed by Congress but then vetoed by the President. These were Edinburg Dam and Lake on Bowie Creek near Hattiesburg. Among the first actions of the Senate this year was to again pass this same bill, including these two projects.

A sixth project of interest in our State is for bank erosion and flood control in the Delta. This provides for a pilot program to test various types of bank stabilization methods. The intent is to reduce bank caving and land losses in the very productive agricultural lands in the Yazoo Basin.

I am glad to say that all of the above water resources projects are being included in the omnibus rivers and harbors and flood control bill as it is reported by the Senate Public Works Committee. I anticipate that this authorization bill will be sent to the President in January or February, and should he sign the bill, as I hope he will, it will become public law. Initiation of design, as a preliminary to construction, will depend upon future appropriations, which will receive my careful attention.

RURAL DEVELOPMENT

In my report for 1971 I told you that I intended to continue to press for legislation aimed at the revitalization of rural areas. I was the cosponsor of several related measures aimed at that purpose. As I reported to you last year, out of those measures came the Rural Development Act of 1972, which the Congress passed and the President signed in August, 1972.

That act put new authorities into the hands of the Secretary of Agriculture to promote economic growth into rural areas without taking anything away from existing agricultural programs, and without doing away with any of the existing programs of the Farmers Home Administration, such as rural water systems and rural housing, that have been so effective in rural areas.

The Rural Development Act recognized that financing is the main problem in developing rural areas. It authorized guaranteed loans for commercial and industrial enterprises, and for community facilities, such as utilities, industrial parks, and fire protection to attract and support such enterprises.

In my 1972 report I said that I was pleased with the authorizations provided in the Rural Development Act. I added, however, that this was only the first step and that after the necessary funds were provided, Congress would have to continually followup to see that the intent of the legislation is carried out. This has certainly proved to be the case.

I think that all the Members of Congress who are interested in the progress of rural areas have been disappointed in the slow preparation of detailed policies and regulations to carry out the intent of the Rural Development Act. This work, carried out by the Department of Agriculture under the guidance of the Office of Management and Budget, has taken an unconscionably long time to accomplish. It is even yet substantially incomplete. It has been complicated by the fact that the administration originally intended to use a concept of general and

special revenue sharing throughout Federal programs. The Congress accepted general revenue sharing, which was to be new money for States, counties, and towns to use in running their governments, and this concept was passed into law. The Congress consistently rejected special revenue sharing, which was to be a series of lump-sum grants, each replacing a group of existing specialized programs. One of the special revenue sharing categories was to be rural revenue sharing, replacing many ongoing programs of the Farmers Home Administration.

As I said, the Congress rejected this concept. Then the administration concluded that rural revenue sharing could, in effect, be carried out under the Rural Development Act. As a consequence, the administration terminated some ongoing programs, such as grants for rural water systems, by freezing the money. This was not only contrary to the express intent of Congress, but has complicated and delayed the regulations to carry out the law as passed. Hopefully this footdragging is beginning to come to an end, but we will have to see, and continue to press for the actions contemplated when the act was passed.

Funding for the Rural Development Act is provided for the first time in the appropriation bill passed this fall. For grants there is a total of $163 million, and for loans there is authority for $720 million. Congress will now have to try to see that this money is used and not impounded; that the policies and regulations under which it is used are in compliance with the intent of the act; and that programs previously established under earlier laws are not stopped under the guise of replacing them with the Rural Development Act, contrary to the intent of Congress. There is much work to be done if the rural areas of our Nation are to receive the attention and assistance that they must have and that they fully deserve.

HIGHWAYS AND AIRPORTS

The Federal highway trust fund receives very substantial amounts of money from taxes levied on highway users, and from this fund money is apportioned to States as matching funds for the construction and improvement of the Federal-aid highway system. The latter consists of interstate, rural-primary, rural-secondary, urban, and forest highways.

In recent years there have been intensive efforts made within Congress, on behalf of the major metropolitan areas, to divert money from the highway trust fund and use it for urban mass transit—primarily for rail mass transit, but also for subsidizing bus transportation in big cities. I think this is a poor use of tax money intended for highways and I have consistently opposed it. Unfortunately, this year for the first time some money was diverted for these purposes. It was not a great amount, on a comparative basis, but substantial when viewed in itself, and most importantly it is a foot in the door for future raids on the highway fund. This money is extremely important to all States, and particularly to rural States, and I will continue to oppose its use to pay for mass transit in urban areas. This money is too important to our Mississippi highway system.

During the first half of calendar 1973, the Federal funding for highways in our State was $10,273,000. Together with State matching funds, this money was used for construction and improvement of 95 miles of highway and 34 bridges. Detailed data are not yet available for the second half of the year. However, for fiscal year 1974, which includes that 6 months of 1974, the apportionment of Federal funds to Mississippi totals another $49,958,000. Of this apportionment, $22.5 million is to be used for interstate highways, $12.6 million for rural-primary, $7.2 million for rural-secondary, and $6.1 million for urban highways.

I am particularly pleased that this year, as in past, rural secondary roads are receiving a substantial amount of this money. Beginning with a bill that I introduced in 1949, I have made strong efforts to strengthen the Federal program to build and improve the rural roads that serve the Nation's farmers and rural population. Every year, beginning in 1950, an average of about 350 miles of secondary rural roads have been built or improved in our State, at costs of over $10 million a year, of which about half was in Federal funds. Last year, for example, 263.2 miles were improved, at a total cost of $17,520,000, and a Federal cost of $7,688,000. Detailed figures for this year are not yet available but will be generally similar.

The National Highway Traffic Safety Administration was established by Congress to reduce the number of traffic deaths, injuries, and property losses on our highways. It establishes safety standards for motor vehicles. It also works directly with the States by providing Federal matching grants for State and local driver safety programs. In Mississippi this year these grants total $965,000. Activities carried out with this money include additional police traffic services, and various other educational and enforcement programs aimed at increased safety for highway users. A similar kind of effort aimed at safe boating practices is administered by the Coast Guard and brought a $95,000 matching grant to our State this year.

Also, in the field of transportation, the Federal Aviation Administration makes grants to assist public agencies in the planning and development of public airports, in particular those features aimed at increased safety for airplane passengers. Fifteen of our Mississippi airports received such grants this year, in a total amount of $4,293,000. The largest amounts went to Bay St. Louis, Jackson, Booneville, Indianola, Batesville, and Corinth. Typical purposes for which this money is spent are for extending or strengthening runways, runway lighting, and fire and crash rescue vehicles. Such vehicles are in the program this year for Oxford, Columbus, Meridian, and Natchez.

EDUCATION AND HEALTH FUNDS

As a member of the Senate Appropriations Subcommittee for Health, Education, and Welfare, I have an opportunity to participate in decisions that involve large amounts of money for Mississippi for education and health programs. The HEW appropriations bill is larger than any other appropriation except that for national defense. It is a very complex bill because of the wide variety of subjects that it covers, and the technical nature of many of them. It is also a very controversial bill because of the large amount of money, about $31 billion this year, and because there are pronounced differences of opinion about many of the subjects that are covered in the bill.

The controversies between the Congress and the administration about HEW money have been especially strong the past 2 years. Because of vetoes, we have not had an HEW appropriation bill for 2 years, and the programs have been operated by a series of continuing resolutions. Each successive continuing resolution also sparks controversy of one kind and another, just as the regular bill does, and requires time and attention.

This year, for example, the Senators from the smaller and more rural States have had to fight hard to protect their schools from heavy losses of money for elementary and secondary schools—the so-called title I money—because the formula under which it is divided would otherwise act heavily in favor of large urban areas.

There are many other programs that have to be watched carefully to see that they are well funded, usually because the administration is opposed to them. Typical examples this year are representative of the problems that come up each year, and were resolved favorably this year. The administration was attempting to end assistance to schools in areas with large numbers of students from Federal installations, which would have had very serious effects on the budgets of many of our school districts. There would have been no money for hospital construction under the Hill-Burton program, and we need this very much in our State. There would have been no money for construction and operation of public libraries, and not enough money for grants for educational television broadcasting. Both are very important in a State where most of the population is in relatively small communities. I had to watch carefully the funding for vocational and technical education, vocational rehabilitation, community mental health centers, family physician training, and many others. It is time very well spent, for these funds are extremely important to us.

This year the Department of Health, Education, and Welfare is expending in Mississippi alone the sum of over $950 million.

In the field of education, more than $84 million is involved. More than half of this is for elementary and secondary schools, but there are substantial sums for occupational, vocational, and adult education; special assistance for the handicapped; educational professions development; and more than $13 million for higher education.

The Health Resources Administration and the Health Services Administration between them are spending over $20 mil-

lion in the State this year. The amount for all the health agencies is almost $26 million. The Office of Human Development is spending about $40 million, most of this under the Head Start program.

The largest expenditures in the State are by the Social and Rehabilitation Service and the Social Security Administration. The amount by the Social and Rehabilitation Service is $218 million, most of which is for grants for public assistance. The Social Security Administration expenditures in Mississippi in calendar year 1973 is the tremendous sum of $581 million. Social security payments to retired workers, their dependents and survivors total $386 million. Another $83 million goes to disabled workers and their dependents. The costs of the medicare program are $96 million.

The above amounts of money, when considered as pertaining to just one State, give an idea of how much of the Federal budget goes to health, education, and welfare programs. They show how carefully these programs must be watched to see that they do not get out of hand, in relation to the Federal income, and that the very worthy education and health programs receive a proper priority in comparison with less effective programs intended to improve social conditions in general. It must be remembered, too, that the social security program is extremely large with respect to others; that it is a fixed commitment that cannot be reduced to economize; but that in contrast to many other programs, it is paid for by taxes levied for that specific purpose from those who will later be recipients; and that what a person receives is established according to the work he has done during his working years.

RURAL WATER WORKS

For rural areas, one of the best Federal programs has been for many years the rural water works program of the Farmers Home Administration. Nonprofit organizations and local public governments have been able to obtain loans and grants to construct such systems in rural communities and in towns of less than 5,500 population. Such a system might consist of a developed water source, such as wells, elevated water tanks for storage and water pressure, water treatment facilities, and the pipeline distribution system. These facilities promote the health and prosperity of the communities they serve, and they are essential in attracting industry to rural areas.

Beginning in fiscal year 1973, the administration has consistently refused to make any grants for rural water works, even though they are authorized by law and money has been appropriated by Congress for that purpose. In several prior years the administration impounded and refused to spend a part of the money appropriated for rural water grants, but this is the first time that no grants have been made, and that the Farmers Home Administration has been allowed to make only loans for this purpose.

It is a very heavy burden for small rural communities to completely finance water systems on a fully repayable basis. It frequently makes the projects impossible. The administration has taken the position that towns and counties can use general revenue sharing funds to supplement the loans, but those funds were not supposed to be in lieu of existing categorical programs, such as water system grants. The Congress refused to make this change, preferring the assurance of the old programs. Then the administration spoke of the rural development programs being available, but again, here Congress made it very clear when the Rural Development Act was passed that it was based on the continuation of the existing categorical programs in rural areas.

Congress is continuing to insist that rural water grants be made. As a member of the Agriculture Appropriations Subcommittee I advocated again appropriating funds for this purpose. The Senate provided $30 million for such grants, and reappropriated $120 million of previously appropriated but frozen funds, making a total $150 million for rural water system grants in fiscal year 1974. Strong language appears in the committee reports, directing that this money be spent, and not impounded again.

In spite of the fact that this program has been handicapped this calendar year by not receiving grants, much progress has been made by only using loans. There have been 124 loans made by the Farmers Home in Mississippi for rural water works, totalling $20,651,200. Some counties had as many as five or six different loans to community systems. Some of the largest enterprises undertaken under this program were the East Lowndes Water Association, the Lincoln Rural Water Association, the town of Marion in Lauderdale County, the D'Iberville Water and Sewer District in Harrison County, the Tallahala Water Association in Jasper County, and the Kossuth Water Association in Alcorn County.

I intend to continue to press for more money for rural water works and waste systems. They are an investment that pays off for our rural communities in terms of health, slowing down the tendency of people wanting to move to the cities, and attracting industry and jobs to the rural areas. They also are a part of the environmental effort that we must recognize will be a part of life for American people from now on.

URBAN WATER AND WASTE SYSTEMS

I have been very disappointed this year with the extremely slow progress of two Federal programs intended to provide water and waste treatment facilities in towns and cities, to help keep our streams clean and to provide good potable water systems.

Under existing law the Department of Housing and Urban Development is authorized to provide grants and loans for urban water and sewer systems. Last year under this program Mississippi communities received about $3 million in grants and $750,000 in loans for these necessary public facilities. Congress appropriated money to continue this work. However, in January of this year HUD decided, without consulting Congress, that the program would be terminated. Consequently no grants or loans have been made this calendar year. The ostensible reason given was the money would be used later as a part of special revenue sharing for community development. The fact is that there is no legislative authorization for such revenue sharing, and there is not likely to be, as Congress has continued the authorization and funding of the existing categorical programs, instead. General revenue sharing, which has been passed by Congress and put in effect, was announced by the administration as new money that would not replace any categorical Federal programs. Here again, when local governments complain about funds for previous programs that have been cut off, there is a tendency in the Federal agencies to point to the availability of general revenue sharing money. This money was intended to supplement rather than replace the existing Federal assistance.

The other program I refer to is under the Environmental Protection Agency, and is intended as matchnig grants for construction of waste treatment plants, under the clean water program. In the last Congress good legislation was passed to strengthen this program, and a substantial amount of money was appropriated for the purpose.

The length of time that it has taken for the Environmental Protection Agency to prepare and issue the regulations to administer this program is unconscionable. The processing of projects for approval has been interminable in time consumed. The net effect has been that the funds simply have been as unavailable as if they had been frozen in budgetary reserve. This fact has not been lost upon the communities which are dependent upon these grants to make sewage treatment plants financially feasible.

Last year 26 Mississippi cities and towns used these grants for treatment plants, sewers, and pump stations. The Federal funds involved were over $16 million. This year there is one new construction grant, as this is written, in the amount of $38,700, for Delta City. Nine other grants were made, for 75 percent of the costs of plans and specifications only, with no construction authorized, and five grants from previous years received supplemental amounts. The total amount of money involved is about 6 percent of what Mississippi received last year.

These are good programs, essential for environmental and health reasons, that are being frustrated by administration action. Congress is continuing to attempt to see that the money voted for these purposes is spent as intended and not impounded.

ECONOMIC DEVELOPMENT PROJECTS

The Economic Development Administration was established by the Economic Development Act of 1965 to work on long-range measures to improve economic conditions in areas which have been experiencing severe unemployment conditions or persistent low-income levels. To do this the EDA uses grants and loans to build public facilities or to assist private enterprise to create new job opportunities. The agency also provides planning grants and technical assistance, working through multicounty economic development districts.

Mississippi has ten such planning and

development districts, encompassing all 82 counties. Seven districts receive their planning grants from EDA and three in the northeast part of the State form the Appalachian Commission.

So far in 1973, as this report is written, EDA grants received in Mississippi total $8,624,422, and loans total $1,721,722.

There are 75 different endeavors involved throughout the State, and more applications are pending. As an example of the variety of these endeavors, there are 3 water systems, 17 water and sewer improvements, 9 industrial parks, 2 access roads, 3 improvements to harbor facilities, 6 waste treatment plants, 1 water treatment plant, 4 cases of assistance to industry, 13 planning grants, and 9 public buildings.

Some of the largest projects for which EDA grants have been received are for water and sewer improvements in Wayne County, Tate County, Covington County, and Holmes County, and at Waveland, Quitman, Houston, Prentiss, and Philadelphia. Other large improvements are the Laurel water system and the industrial port development at Bay St. Louis.

Economic Development grants and loans bring lasting economic benefits in the form of permanent payrolls and an increased local tax base. These benefits in turn grow into increased tax receipts by the Federal Government, as an indirect return of its investment. It is a progressive and useful program to enable the people and the communities in which they live to have better economic and health conditions, and I will continue to give my support to the program. I will also press for approval of the EDA project applications that are now pending but have not yet been approved.

APPALACHIAN COMMISSION PROGRAMS

Under the Appalachian Regional Development Act of 1965, programs are sponsored by the Appalachian Commission to further economic development, and educational improvement, and health care within the 13-State Appalachian Region. As originally passed, this act did not include any part of Mississippi, but an amendment I sponsored in 1967 resulted in the inclusion of the 20 northeast counties of our State in the area eligible to participate in projects sponsored by the Appalachian Commission.

Since my amendment was signed into law, very significant progress has been made in these programs, all aimed at health, education, and job development. We are in the 6th fiscal year of that period, and projects have been completed or approved that now have a dollar total of $103,223,765. Of this money $34,336,641 came from grants from the Appalachian Regional Commission, $18,630,090 came from funds appropriated for other Federal programs, and $50,257,034 was from matching funds of State and local money.

In the last fiscal year alone, ending June 30, 1973, approvals totalled $33,512,425. For the current fiscal year, proposed projects will receive approval by the Appalachian Commission in the coming weeks, so the totals I have given above do not include any fiscal 1974 money.

I take particular satisfaction in the projects that are completed under the Appalachian program. As the chairman of the Public Works Subcommittee of the Senate Appropriations Committee, it is my duty to conduct the hearings that examine into the budget requests for this work, and to recommend the amounts that shall be appropriated. Some of the larger projects that have received approval by the Commission this calendar year include the extension of the Tupelo Appalachian Access Road, the Baldwin sewer extension in Prentiss County, the Corinth water system, expansion of the Itawamba County Hospital and the North Mississippi Medical Center, West Point sewer improvements, and facilities for vocational and technical training in Itawamba County, Tippah County, Webster County, and Noxubee County. These are just some of the larger projects of the 36 that have been approved this calendar year.

The Appalachian Regional Development Act of 1965 established authority for a system of so-called corridor highways—major multiple lane highways through the Appalachian States linking population centers and connecting with the interstate highway sytsem. Because Mississippi was not included in Appalachia until 1967, we did not receive an allocation of corridor highway, nor did Alabama and South Carolina.

This has been a matter of concern for several years, and I am glad to say that a resolution of the problem has been reached this year, and this situation is being remedied.

I am pleased that our State has taken full advantage of the Appalachian programs, within the 20 counties that are eligible, and I intend to press for continuation of adequate authorizations and funding for this work. It is important to our State.

WATERSHED PROJECTS

The Soil Conservation Service of the Department of Agriculture carries out a national program to conserve our soil and water. The SCS works with landowners by giving technical assistance through the more than 3,000 conservation districts throughout the Nation. It also works through community planning agencies, regional resource groups, and local governments.

Of particular importance to Mississippi are the Federal funds provided for watershed projects under Public Law 566 of 1954, and flood protection projects under the Flood Control Act of 1944.

During 1972, $2,781,000 is being expended on 32 watershed projects distributed through 28 of our counties. Chickasaw County has three such projects, and Bolivar and Rankin Counties each have two. The largest expenditures this year are for Town Creek watershed in Lee County, Second Creek in Adams County, Chuquantonchee in Chickasaw County, Big Creek in Jones County, Muddy Creek in Tippah County, Standing Pine Creek in Leake County, Tuscumbia River in Alcorn County, and Upper Leaf River in Smith County.

There are two major flood prevention projects presently underway, on which a total of $4,027,000 is being expended this year. The Little Tallahatchie project, which involves eight counties, was funded at $681,000. The Yazoo project received $3,346,000, and encompasses parts of 21 counties. This flood control work on tributary streams is an essential part of an overall flood control plan which includes major works on larger streams by the Army engineers. It deserves continued strong support and will receive it from me. We learned again this year how crucial this work is to the citizens of these areas.

The Soil Conservation Service plays a prominent planning role in many activities of special interest in our rural areas, working closely with units of local government and with landowners to establish resource conservation and development programs. I have been concerned at the fact that the administration has not been more interested in pressing forward with these programs. The SCS has been placed under rather severe personnel and expenditure limitations, which I hope can be eased. Our basic natural resources in Mississippi—our soil and our water—cannot be replaced if once lost, and everything possible should be done to see that they are protected for future generations.

NATIONAL PARKS IN MISSISSIPPI

Our State has been making fine progress over the years toward achieving a balanced economy—one that has a balance between agriculture and industry, and that is diversified as to the sources of payrolls and inflow of money into our local enterprises. A growing factor in our economic progress is the increasing numbers of visitors from other areas that visit our State as tourists. They enjoy our beaches and lakes, our forests and campgrounds, our parks and historic sites.

Among the leading attractions to tourists are the national parks in Mississippi. We have three main parks, the Vicksburg National Military Park, the Natchez Trace Parkway, and the Gulf Islands National Seashore. The latter is relatively new, having been created 2 years ago by legislation which I helped to sponsor. It encompasses some of the islands off the gulf coast, with a headquarters and operating base on the mainland. These parks are operated in a superior manner by the National Park Service. I would like to say that the Park Service employees are a very dedicated group who are outstanding in their ability to provide courteous and efficient treatment of the public.

I wish to say also that the National Park Service brings to our State a very substantial payroll, which contributes in itself toward our economy. The Natchez Trace Parkway office, which also includes operations at Tupelo National Battlefield and Brices Crossroads National Battlefield Site, has 107 employees, and will spend about $2 million this calendar year on park operations and management. Another $600,000 will be spent on construction.

At the Vicksburg National Military Park there are 22 employees, and that

office will spend $443,000 this year. The Gulf Islands National Seashore has 34 employees and a budget of $650,000 for this calendar year.

Last year I was able to have money put in an appropriation bill to enable the National Park Service to establish another facility in Mississippi. This is their Regional Environmental Laboratory, now in operation at the Mississippi Test Facility in Hancock County. This laboratory works on effects of diseases and pollution on plant life in national parks, and on effective park management. It has 10 employees and a budget of $750,000 for this year.

I have reported to you the last 2 years on progress being made toward the reconstruction and display of the Gunboat Cairo at the Vicksburg Military Park. Authorization was obtained in legislation passed last year for the National Park Service to undertake this project. This year the budget contained $21,100 for maintenance of the vessel, but no money for reconstruction of the Cairo, or preparation of the display site. However, an amendment—proposed on the Senate floor by Senator EASTLAND and me—added $150,000 for this purpose, and I am glad to say that this amendment prevailed in conference and became part of the bill signed into law.

Over the years I have worked toward getting more money each year for construction of the Natchez Trace Parkway, which is always difficult to do because the Natchez Trace is competing for the money with eight other national parkways. Last year we were able to obtain $1.4 million in a supplemental appropriations bill, and this together with similar amounts carried over from the regular appropriations of fiscal 1972 and fiscal 1973 will permit a reasonable amount of construction.

The administration's budget for fiscal year 1974 did not contain any request for money for the Natchez Trace, although they had been strongly urged to speed up the construction. Our Mississippi congressional delegation, however, was able to see that authority was given to obligate for fiscal 1974 $2,560,000 for planning and construction of portions of the Natchez Trace, which means that contracts can be let this fiscal year for that much more work.

I have again begun a strong effort to get enough money included in the budget for fiscal year 1975 to start a 5-year program to finish all the remaining work on the parkway, now estimated to cost about $80 million. I have been joined in this effort by all of the Senators from the three States involved—Alabama, Tennessee, and Mississippi—and the Mississippi delegation in the House has undertaken similar efforts. I intend to continue to pursue this effort to see that delays in construction are minimized.

For the Gulf Islands National Seashore I was able to get an increase into the Senate appropriations bill of $250,000 for stabilization work to help protect old Fort Massachusetts from wave damage, $200,000 was retained in conference and signed into law.

Our people enjoy our fine national parks, and they are an attraction to others to come and visit our State, so I am going to continue to try to see that their operations are adequately funded.

THE RESPONSIBILITY OF THE CONGRESS IN DECLARING WAR

In May of 1971 I introduced legislation which reaffirmed the constitutional power and duty of the Congress to pass on the question of a declaration of war. This is a policy question that has concerned me for many years—whether or not we shall return to the mandate contained in the original text of our Constitution which provides that Congress shall have the power to declare war.

When I introduced this bill, I specified that it should not apply to the Indochina war, which of course was still going on at the time. I wanted to insure that the subject would be considered as a policy matter, for I felt we would soon be entering a postwar era, and should do so with a clear understanding of the respective powers of the President and the Congress in case of a future international crisis.

It was, and still is, my firm belief that before our Nation can be committed to a state of actual war, the Congress, representing the people, must so declare. We have learned that unless this course is followed the people as a whole do not feel committed and obligated. Also, the decision is too big for one mind to make, and too awesome a responsibility for one man to bear. It demands collective judgment and collective responsibility.

In February of 1972 my bill was favorably reported by the Senate Committee on Foreign Relations, and it was passed by the Senate in April. The House passed a somewhat similar measure in August of 1972, but the legislation was still in conference when the 92d Congress adjourned on October 18 of last year.

It was necessary, therefore, to start over this year in the 93d Congress, so I reintroduced the bill. It passed the Senate in July, and a generally similar bill was passed by the House in that same month. After extended periods in conference to reconcile the differences, agreement was reached by the conferees. The Senate passed the conference report on October 10, and on October 12 the House also approved the measure, clearing it to be sent to the White House.

The President found it necessary, in his view, to veto this legislation, as being too restrictive on executive powers. I think any man who is President would oppose a bill of this kind. It would be in the nature of things for him to do so. He is in good faith espousing the cause of the executive branch.

It takes a two-thirds vote, rather than just a majority to override a veto. On November 7 the House voted to override, by a vote of 285 to 135. Later that same afternoon I led the debate on the majority side in the Senate.

The Senate also voted to override, by a vote of 78 to 18, and the measure became public law.

The language in this legislation protects the emergency powers of the President, and at the same time recognizes a need for the constructive judgment of both the President and the Congress. This Nation is not going into a war without the President taking the lead in advocating to Congress that it also meet its responsibility by a declaration of war. This legislation in fact clarifies the emergency powers of the President as pertaining to situations wherein there is a national emergency created by an attack upon the United States, its territories or possessions, or its Armed Forces.

Just that fact within itself is a real contribution to our constitutional history, clearing up and not unduly restricting, in my humble opinion, the Chief Executive of the United States. He must have the power to act. He must have the power to act quickly. Someone has to make a judgment on that. I never want to restrict it. It is a matter of restricting, though, the committal of the Nation, its manpower, its worldly goods, and its future existence, to an all-out war.

The legislation includes provisions urging consultation between the President and the Congress before U.S. Forces are introduced into hostilities, or situations where hostilities appear imminent. This is a particularly important provision because it emphasizes that it is only as a result of both of these branches of the Federal Government working together and accepting their responsibilities that the Nation should be committed to war.

This was a carefully thought out, bipartisan effort to restore the constitutional balance of power between the President and the Congress. I am thankful that is was successful.

THE ALL-VOLUNTEER ARMY

I want to include in this report a section on the transition of our Armed Forces to an all-volunteer basis after many, many years of the national draft. I do this because it is a matter of interest to the people of Mississippi, and of all States, because we depend on our Armed Forces for our national survival in the troubled world in which we live.

Recently I visited several Armed Forces bases and personally interviewed about 200 enlisted men and some 10 enlisted women from all four of the military services. My specific purpose in talking with these people was to obtain a frank appraisal on the question of how to get men to enlist for the first term and then to learn what were the determining factors in getting them to enlist a second time.

All of the interviews were held behind closed doors with no one present except the men themselves and me, and I believe the answers I received were sincere and truthful. I talked with every person involved, generally opening the discussion by asking each one to make an observation or ask me a question and by stressing that I was not looking for shortcoming or wrongdoings. All of the discussions were full and frank, probably in part because of my promise not to individually quote them and/or use their names.

Based upon my discussions with these people, I think it will be a severe but not impossible problem for all four services to fill their ranks with volunteers if the necessary quality of personnel is maintained. I advised against relying entirely on a voluntary army because I did not feel we could get the numbers and qual-

ity of men we need. But this is the only method we have now and we must do everything we can to make it work. Unless we rigidly maintain the quality of our military personnel, we will not have many dependable units of military strength. That is just commonsense. Some of the enlistees never will be reliable and responsible military men, and any unit that has an appreciable number of them is not going to be a dependable military unit.

I am willing to spend the same amount of money—even more, if necessary—on fewer men than we have now, if the quality is actually maintained.

The difficulty of filling the ranks with all volunteers will be experienced by the four services in the following order:

First, the Army.

Second, the Navy.

Third, the Air Force—the Air Force is by no means immune from this problem. I base that on what these men told me in the privacy of these conversations.

Fourth, the Marines.

In virtually all cases, whether they plan to reenlist or not, enlistees say that their period in the service has been helpful to them, and most of them voluntarily expressed appreciation of the good that the service has brought them. There is a very slight dissent from this position, even though different enlistees assigned different reasons for this result.

In this partial examination of the way the Volunteer Army concept is working, I saw some signs of encouragement, but there has not yet been time for a full trial. I think that it will require 2 to 3 years more time to give a full test and fair trial to the plan.

Patience and hard work by all the services will be required. It is essential that all this effort by all the services be based on the idea that quality manpower must be maintained. Quality must not be sacrificed to other considerations.

We can yield some on the number of personnel required, but we cannot yield on quality. Any service that does yield on these quality requirements renders a serious disservice to the Nation and will destroy itself.

I think young women who are willing to go into the service should be encouraged. It seems to me that they should be given more and more places and used more and more by the services—especially in the Air Force and the Army—but, of course, not for combat. They are an abundant source of talent.

I do not think that the Congress can or should pass any selective service legislation for at least 2 more years. Having gone as far as we have, we must be certain that this system of relying on voluntary enlistments in the military is given a real chance and, to that end, all commissioned officers and noncommissioned officers must make a special effort to see that they have done their best to make it work. I refer particularly to those in command at every level in every service.

THE ENERGY CRISIS

Recent rapid changes in the situation with respect to international oil purchases have precipitated what is referred to as the energy crisis. These reductions in imported oil have of course created a very serious and immediate problem. The United States, however, was already on a head-on collision course with an energy crisis.

In April 1972, in my capacity as chairman of the Public Works Subcommittee of the Senate Appropriations Committee, I received testimony from the heads of the three Federal agencies most directly involved in electric power matters: The Federal Power Commission, the Atomic Energy Commission, and the Tennessee Valley Authority. From their comments it became clear that from a national point of view the energy situation was approaching a condition of crisis.

In a speech on the Senate floor on May 4, 1972, I reported this conclusion. I quoted the Chairman of the Federal Power Commission, Mr. Nassikas, as follows:

> The demand for energy in this country continues to grow at a relentless pace. Our domestic proven reserves of gas and oil are being depleted faster than they are being replaced by new discoveries. The search for new hydrocarbon reserves is becoming more difficult and costly. The resolution of environmental issues has slowed the development of energy resources such as off-shore oil and gas, as well as the siting of new power plants and high voltage electric transmission lines. Scheduled additions of nuclear power plants have been delayed by environmental review procedures, related factors and technical problems. As a result, our power reserve margins have been reduced below adequate levels to assure reliable power supply in all regions of the country.

In my "Report to the People of Mississippi for 1972," I discussed this problem at length.

The embargo by the Arab Nations on oil shipments to the United States, superimposed on a situation that already was of crisis proportions, has created economic problems so complex as to defy reliable analysis and prediction. There are varying opinions among experts in this field. We are hearing some very grim predictions, however, which include a temporary halt to economic growth, and rapidly rising unemployment.

It is clear the Nation is in a belt-tightening situation. I think it is also clear that it was a serious mistake to let ourselves become partially dependent upon the Arab States for our annual fuel requirements, with this dependency growing each year. It is my firm opinion that we must establish as a goal for our Nation to become totally independent of all other nations as to energy and sources of energy. We should not be forced to depend for our energy supplies on any nation, even our close friend Canada.

To achieve independence in fuels will require a concentrated technical effort equivalent to the space program that culminated in the landing by our astronauts on the Moon. Most informed estimates of the time this will take range from 8 to 12 years. I supported the legislation passed by the Congress which calls for a 10-year energy research and development program estimated to cost $20 billion, and designed to make the U.S. self-sufficient by 1983.

The research and development effort to achieve self-sufficiency in fuels will, of course, consider all potential sources of energy, such as processing oil shale, and use of solar and geothermal power. The United States has, however, two proven energy sources that are available to us in quantity. These are coal and nuclear power generation. The greatest stress should be placed on full development of the potential of these two fuels. We already have highly developed techniques in these two fields, and should improve and exploit them for long-range purposes.

As to coal, the U.S. Geological Survey estimates our U.S. resources as 3.2 trillion tons, of which 150 billion tons are recoverable with present techniques. This would last us 200 years. Actually, today coal supplies a smaller part of our energy use than it did 20 years ago. Yet 90 percent of our fossil fuel resources are coal.

As to nuclear power, U.S. plants which enrich uranium for use in nuclear reactors presently provide this service not only for our own needs, but for the free world, for which, of course, we are paid. We have 1.6 million tons of uranium, and assured low-cost amounts for the next 15 years or so. Under development, and proceeding well, are * * * generation provides only 4 percent of our energy today, so there is much to be done in this field.

There has been frequent mention in the press of the possibility of applying sanctions on the export of our agricultural products, as a means of dealing with the Arab nations. The American farmer should not be inhibited in the export of his products. He is the man who takes the chances in crop production, and when there are opportunities for reward, he is entitled to them. American agriculture appears to be standing on the brink of a new era of expansion and development. In this situation, inhibitions on export would be unbearable.

American agriculture is the greatest strength this Nation has in our relationships with the rest of the world. We are the greatest producer of the food reserve that the rest of the world must have in order to live. There are only four nations that produce substantially more food than they need themselves and, therefore, can export. They are the United States, Canada, Australia, and Argentina. Of the four we are preeminent, for we export more than the other three together. Of all the wheat exported in the world, averaged over the years, half comes from the United States. Of exported soybeans, over 80 percent is from the United States. For feedgrains the figure is 60 percent. What we raise that is surplus to our needs often means literally the difference between starvation and survival for people elsewhere in the world. There are only three things completely essential for humans to survive. They are air, water, and food. Oil is not one of them. With the lion's share of the surplus food in the world, the United States is in a very strong position. But it would be very shortsighted to use this strength hastily, by export limitations, thereby cutting back production and sur-

pluses, and blunting our strongest weapon.

Over the long pull in our Nation's future, the best prospects for energy are coal and nuclear power. But this is not to say that there is not a lot that can be done to increase petroleum production from our own resources and contribute in this way also toward our independence in energy sources of fuel and energy where we can. Some of these proven and unproven reserves are in our Continental Shelf, the undersea ledge that extends out for many miles from our coastline in the Pacific, the Atlantic, and the gulf. It has been said by some experienced geologists that there is almost as much oil under the Continental Shelf as has been found to date in our land areas. Drilling on the shelf started almost 20 years ago, but relatively little has been accomplished. There is production only in Louisiana, Texas, and California. It is hard to believe, but after all of this time, less than 2 percent of the Continental Shelf has been leased for exploration and production. How many exploratory wells have been drilled in our Atlantic Continental Shelf? None. Not one. Yet a group of European nations have joined together to produce oil from the depths of the North Sea, hundreds of feet down. We can do more to help ourselves, now that we are threatened with the loss of cheap Middle East oil.

When the Arab oil embargo was announced, and a progressive cutback in production of Arab oil scheduled and announced, there was some early comment and speculation about retaliation. To retaliate quickly is to select confrontation versus negotiation, and to do so without being sure where the confrontation might lead. The negotiations in the Middle East have not yet started in earnest, and the final stages of negotiations probably will not start until after the elections in Israel the end of the year. As a prelude to the negotiations, the Arab nations have met to demonstrate their unity, and have announced the oil embargo and production cutback to demonstrate their ability to use in concert their single economic leverage against the Western World. Mr. Kissinger has noted publicly that this is different than sitting down at the conference table to negotiate the terms of a peace settlement between nations, and using threats of economic sanctions to influence the peace terms.

There is a point beyond which the Arab oil threat will not be acceptable, and it is to be hoped that the negotiations will reveal that all parties have some reasonably common understanding of where that point is.

Even after a negotiated peace settlement in the Mideast is an accomplished fact, there should be no relaxation of our national determination to achieve our energy independence. There should be no undue optimism about having access to foreign oil to meet our imbalance in fuel requirements. It should be remembered that it was in the economic self-interest of the Arab Nations to reduce production. It was convenient to do so in conjunction with the war with Israel and the cease-fire. After a peace settlement it will still be in the economic self-interest of the Arabs to hold down production, for many reasons. There is a finite limit to the number of years those wells can be pumped, which can be great or small, depending on the rate of production. The Arabs naturally would like this period to be as long as possible, for oil is their only asset. As production is cut, scarcity drives the price up on the world market, so the flow of dollars to the Arab Nations is not drastically reduced. There is also a finite limit to the rate at which dollars can be usefully spent by the Arab rulers to improve their undeveloped countries. They already have a greater flow of dollars than they can use, and have billions of them in banks around the world. Now that the dollar is floating in currency markets, they can suffer great losses in dollar value, as they did not long ago. So they naturally have concluded that it is safer to have the oil in the ground than the dollars in the bank. There is little room for optimism about Arab oil in the future. The United States has to knuckle down and solve our own fuel problems.

COMMITTEE WORK

The preceding sections of this report have been devoted primarily to matters that have direct effects on the people of Mississippi, and that I believe are of the most interest to them. For this reason they are of intense interest to me, and they receive my careful attention and a large measure of my time and effort.

In addition to this work, I also have, as do all Senators, legislative responsibilities of a national nature. Most of this work is done in committees. As a body, the Senate represents the union of 50 States, each State having equal rights. In national matters a Senator is speaking for his State, and when legislation is passed into law, that law becomes binding upon the people of his State, so this is a responsibility that is taken very seriously indeed.

The work that is done in Senate committees ultimately is considered on the Senate floor as legislation, so it is important that this work receive careful attention. The assignments of Senators to the various standing, or permanent, committees and to the various special, select, and joint committees are of course of great significance, for they delineate the particular broad subjects in which each Senator will do most of his work which is of a national nature.

I believe in a strong America—strong in ability to defend the Nation against military aggression; strong by having financial policies that will result in balanced budgets; strong in protecting and developing our resources in ways that will protect the coming generations; and strong in moral fiber. I am particularly fortunate in my committee assignments, in that they enable me to reflect these views in committee deliberations and in the preparation of legislation of a national nature.

It is my privilege to serve as chairman of the Senate Armed Services Committee, a major committee which deals with all military matters involving the security of our Nation and of our national support of the security of the free world. This is a very broad field of activity, because it is related to so many other aspects of our society and so closely interrelated with other national and international endeavors. Each year the Armed Services Committee, after months of hearings and detailed investigation and examination of the facts, draws up the bill that will authorize the procurement of major weapons systems and set the personnel strengths of the Armed Forces. In doing so, I as chairman endeavor to see that not a dollar is wasted but that a strong national defense is insured.

Usually I serve as floor manager for the consideration of the military procurement bill by the Senate, and this involves many vigorous hours of debate over days and even weeks on the Senate floor. This year, because of my injuries, I returned to my Senate duties after the committee work on the bill and just as it was being considered on the floor, I did not attempt the floor manager's work on the bill, but participated fully in the extensive debate, and I was generally pleased with the bill that the Senate passed. I accepted and carried out the duties of the leader of the Senate conferees when the bill was sent to conference to resolve the differences between the House and Senate bills. We had some lengthy and intensive discussions in conference, and I believe we evolved an eminently satisfactory bill which was accepted on the floor by the House and Senate and signed into law by the President.

Although the military procurement bill is the main reponsibility of the Armed Services Committee, we also deal with other matters connected with national defense, including the conservation of strategic and critical materials, jurisdiction over the Panama Canal and the Canal Zone, and military applications of the space program.

My second major committee assignment is on the Senate Appropriations Committee, where I am the third ranking Democrat. I serve on six subcommittees: Agriculture, Defense, Housing and Space, Labor-HEW, Public Works, and Transportation. Of the 26 Members of the Congress, only three of us serve on as many as six subcommittees. As I mentioned previously, I am chairman of the Public Works Subcommittee.

I am particularly gratified to have the opportunity to serve on the Appropriations Committee, for it has the duty of passing on every proposed expenditure of money by the Federal Government. The committee reviews the budget proposal of the President, and any proposal that may originate within Congress. There are, of course, differences of opinion at times between the House and Senate as to the amounts and purposes of appropriations, and these must be resolved in conference committees, which in effect, write the bills in their final form. My seniority on the committee privileges me to participate frequently as a member of these conference committees.

I also serve as a member of the Aeronautical and Space Committee, which is a major committee, and I am

honored to be chairman of the Senate Select Committee on Standards and Conduct for the Senate.

Last year I was appointed a member of the Joint Committee on Reduction of Federal Expenditures. This committee has six members each from the House and the Senate, and two members from the Administration, the Secretary of the Treasury and the Director of the Office of Management and Budget. This is a permanent committee that monitors expenditures. Although it does not have legislative authority, it can and does study the expenditure problems and make recommendations to Congress.

Prolonged discussion in the last session regarding the debt ceiling impoundment of appropriated funds, and expenditure limitations culminated last December in the establishment of a temporary committee to recommend procedures for better congressional controls on the annual budget. It is called the Special Joint Committee on Budget Control, and I was honored to be one of the members of the Senate Appropriations Committee designated to serve on this Joint Study Committee. Unfortunately, I was unable to attend the meetings of the committee after I was injured and to contribute as much as I would have liked to the work it accomplished. However, I kept in touch with the work of the committee and conferred during the course of the work with several of my fellow Members of the Congress. The committee issued a preliminary report in February, held hearings, and issued a final report in April, recommending to the House and Senate legislation to establish firm procedures for continuous budget controls. This bill was referred to the appropriate standing committee, the Committee on Government Operations, and following some revision has been reported and will be considered early in the next session.

I studied carefully the preliminary draft of the committee report, and discussed its contents with one of the cochairmen. I was kept informed by the cochairmen of the modifications subsequently adopted by the committee. I endorse the concept that the primary responsibility lies with the Congress to set a ceiling on expenditures for each fiscal year and to provide for the apportionment of funds among the purposes for which appropriations are made. I endorse the findings of the joint committee and the proposed legislation to set in motion the processes recommended by the joint committee.

It is my firm opinion that the finances of our Nation must be placed in sound order, and that this action is essential to counter the inflation that goes with financial irresponsibility. These are the most demanding domestic issues facing our country today. It is absolutely essential that inflation be checked, for the future of our Nation.

The relationship between the Federal income and annual expenditures must be monitored by Congress. This must be done by systematic procedures carried out within the rules of the Senate and House, amended or added to as may be necessary to carry out that purpose.

The report of the Joint Study Committee and the bill introduced in the Senate this session are the product of a great deal of hard work on the part of the committee members and the staff assembled to assist in this problem, and the members and staff of the Government Operations Committee. I particularly wish to commend the efforts of my friend, Congressman JAMIE WHITTEN, who was cochairman of the Joint Study Committee. His long experience on the House Appropriations Committee and his broad grasp of the financial problems of Government enabled him to make an outstanding contribution toward this bill. In the Senate the bill will be voted upon early in 1974.

Committee work is demanding, and takes time, but in my judgment it is time well spent. My assignments give me many opportunities to look out for the interests of Mississippi, and its people, in the formulation and enactment of the public laws that apply across the Nation.

CONCLUSION

The year 1973 has been a difficult one for the American people. There have been regrettable and shocking occurrences in the Government in Washington that captured national attention for an extended period. Our Nation is faced with a crisis in the energy field, especially in petroleum, and the implications are going to be serious for many years to come. American families have experienced this year increases in the necessities of life that are unprecedented in memory. All of the developed nations in the world are suffering from inflationary trends in their economies. Although the United States is relatively low in the rate of inflation compared with many other countries, nevertheless every American family has seen the buying power of the dollar drop at an alarming rate. We have seen a sudden and violent war break out in the Middle East, an area strategic in the national interests of all the major nations of the world.

These developments have been disturbing and discouraging to all Americans. A people of lesser strength of character might well have been thrown into a state of chaos. Yet our people show a determination to get on with the solving of our problems. Our processes of Government have responded ably to the responsibilities and functions established under the Constitution.

There have been encouraging developments which our people have accepted gratefully. The United States has disengaged itself from a painfully long and costly war in Southeast Asia. Domestic programs aimed at the health and economic and social progress of the people have taken a leading place in our Government expenditures, succeeding defense costs. Unemployment has been kept within bounds that can be considered very reasonable based on our national experience. The real income of American families—that is, the purchasing power based on income and allowing for price rises—is advancing markedly. Our Government has entered into meaningful discussions and advantageous trade arrangements with the U.S.S.R. and mainland China which may lead to a better world. And finally, we are at peace. We have much for which we must be very grateful.

This has been a very difficult year for me as an individual, as I said at the beginning of this report. But I have been fortunate enough to recover fully, and I am indeed deeply grateful. I am intensely grateful to the people of Mississippi for their support and loyalty throughout the year. I intend to have my work on their behalf show my gratitude and demonstrate my total loyalty to them. I look forward to 1974 with great anticipation. The work of 1973 is behind us; I hope that my part of it has been helpful to you. Much remains to be done in the coming year. It will be a challenge to you, to me, and to all the American people. I would like you to give me your constructive criticisms and let me have the advantage of always knowing your views and having your suggestions.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES AFTER ADJOURNMENT TONIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to received messages from the House following the session of the Senate today and until the Senate convenes tomorrow.

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

AUTHORIZATION TO FILE CONFERENCE REPORT AND ACCOMPANYING PAPERS ON S. 2589 UNTIL MIDNIGHT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the conference report and accompanying papers on S. 2589 be permitted to be filed until midnight tonight.

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

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M.

Mr. MANSFIELD. Mr. President, if I have not forgotten anything—and I think I have covered all the angles—I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until the hour of 8:30 tomorrow morning.

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

Mr. MANSFIELD. I do so because three Senators wish to be recognized for special orders at that period.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 2491) to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains.

The message also announced that the House had agreed to the amendment of the Senate to the amendment of the House to the bill (S. 2482) to amend the Small Business Act.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H.R. 1316) for the relief of Claude V. Alcorn and 21 others.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution (H. Con. Res. 88) authorizing certain printing for the Committee on Veterans' Affairs.

The message further announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 369) to print as a House document House committee print on "Impeachment, Selected Materials."

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 375) providing for the printing as a House document the booklet entitled "The Supreme Court of the United States."

The message further announced that the House had agreed to the amendments of the Senate numbered 1 and 2 to the bill (H.R. 6186) to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions; and that the House had agreed to the amendment of the Senate numbered 3 to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

STATEMENT OF SENATOR ROTH BEFORE WILMINGTON ROTARY CLUB

Mr. CASE. Mr. President, I was fortunate enough to receive a copy of a statement made by our colleague the Senator from Delaware (Mr. ROTH) today at the Rotary Club in Wilmington. Knowing how much all of us respect his intelligence, his sound judgment, and wait upon his words, I ask unanimous consent that a copy of those remarks be placed in the RECORD so that all of us may have the advantage of reading them, and perhaps others besides.

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

STATEMENT OF WILLIAM V. ROTH, JR., U.S.S. BEFORE THE WILMINGTON ROTARY CLUB DECEMBER 20, 1973

Ladies and gentlemen, it is a great pleasure to be with you this afternoon. I was particularly pleased to accept your invitation to speak today because it provided me with an opportunity to express some of my thoughts on our nation's foreign policy. There is probably no better audience for this topic than you of the Rotary. Rotary is, of course, many things, but one of the most important of these is that it is a great experiment in international cooperation. It bridges many countries—in fact, it is my understanding that there are now Rotary Clubs in 149 different countries and territories throughout the world.

One of my major criticisms of the style of American politics has been our tendency to act and react according to the mood of the moment quite divorced from a careful long-range perspective. It has always seemed to me that in addressing current problems or in initiating new policies, we should review the lessons of past experience and assess possible future consequences. Too often we return to an approach that has been tried before and failed. Or we create a new problem because we fail to account for all possible consequences.

This is true of our foreign policy as well as to other public policies. I think our changing views on detente is a particularly apt case in point. Recently, until present the Middle East crisis, it was fashionable to assume that a whole new chapter had been opened up in our relations with the Soviet Union. It was popular to talk about an end of the Cold War, about a new Soviet attitude toward the West, and about enormous cuts in the defense budget. But immediately after the Arab attack, when Soviet reluctance to assist in achieving a cease-fire was most marked, attitudes changed dramatically. In the general disillusionment many said that detente was bankrupt.

Actually, the Middle East situation provides an excellent opportunity to assess both the limitations as well as the merits of detente. It is clear that detente has been oversold. At the same time we should not take the other extreme, because it is important to try to work with the Soviets to limit and contain whatever crisis do occur. I think we do both share an interest in preventing a military confrontation between our two countries because in such a confrontation there could be no winners. We must be realistic about detente. Too many had been too ready to equate detente with entente. Detente in the language of diplomacy signifies a relaxation in tensions whereas entente refers to a positive, friendly, cooperative relationship.

Detente does not mean that the Soviet Union will necessarily live up to the spirit or the letter of the agreements that have been signed by President Nixon and Chairman Brezhnev. As you may recall, one of these agreements stated that both countries "attach major importance to preventing the development of situations capable of causing a dangerous exacerbation of their relations." It went on to say that the two superpowers "have a special responsibility . . . to do everything in their power so that conflicts or situations will not arise which would serve to increase international tensions."

Obviously, the Soviet Union knew in advance of the Arab attack and made no move to stop it or to consult with us. Nor did they seek an early end to the hostilities as long as the Arabs were doing well. At the same time, the links that have been established did help facilitate the reaching of a cease-fire once it was in the interest of both sides to have a cease-fire.

Walter Laqueur made what I consider to be one of the soundest assessments of what should be our future approach to detente in an article which appeared in this last Sunday's New York Times Magazine. He said that detente will "have to be negotiated not on the basis of trust but on its absence, on the assumption that the political aims of the two sides are in some respects compatible and that, in these fields, it may be possible to cooperate."

In other words, we should move forward with detente but we must do so with strength and with realism. Strength in this context consists of two principal elements. First we must maintain a strong United States. Secondly, we must maintain a strong Western alliance.

My principal topic today is the second point, but let me speak briefly about the first. A strong United States requires both and adequate defense posture as well as a renewal of confidence and pride in our public institutions. I have been concerned by the widespread anti-defense mood in this country today. As many of you know, I have supported a number of cutbacks in defense programs where I believed that hasty and imprudent spending would actually harm our defense effort, for example, in the acceleration of the Trident nuclear submarine program. I have been and am, however, a firm believer that our peace and security must be rooted in a defense posture second to none. There is great danger that in reacting to the mood of the moment, the pendulum will swing too far in the direction of reducing the military establishment. We may be sorry later.

We must recognize that although the danger of nuclear war has receded, we still live in a tough world. We need to be powerful, but at the same time we must use our power wisely. This is one reason why I co-sponsored and supported the War Powers legislation. When the public is being asked to support the defense establishment, they must also be assured that our military power will be used wisely. I think the best way to restore that confidence is to have constitutional procedures which require that if we use our military power in hostilities, it represents the combined judgment and wisdom of both the President and the Congress that we must do so.

Renewed public confidence in our public institutions requires more than just a clearing up of the Watergate affair—although this is certainly an essential element. It also requires permanent legislation to curb excessive secrecy in government—both in the Executive branch and in the Congress, to reduce waste and unnecessary spending, and to show the people that they are getting something for their hard-earned tax dollars. As those of you know who follow my activities closely—and I hope you all do, I have introduced legislation to review and reform classification rules and to open most Congressional Committee meetings to the public, and I have fought for fiscal responsibility and for significant reform in the Congressional budget review process.

Now let me turn to the second element of strength—the Western alliance. I entitled this speech "The United States, Western Europe and Japan: Trilateralism as a New Dimension in International Relations." By "trilateralism" I am referring to the three-sided cooperative relationship between the United States and the other two great industrialized democratic regions of the globe the countries of Western Europe and Japan. My thesis is quite simple. It is that our most vital international interest is to maintain our access to and friendship with Western Europe and Japan. If either Japan or Western Europe become hostile to us, we will be facing an international situation every bit as bleak and as dark as in the days just before the last World War or at the height of the cold war.

You may ask—and very legitimately ask—what is so new about this dimension. After all, Western Europe and Japan have been our major allies for more than two decades—in NATO in the case of the former and in the bilateral U.S.—Japan Security Treaty in the case of the latter.

The answer is that trilateralism denotes a new emphasis on consultation and equality within the Western entente (and here the word "entente" is quite appropriate). This new emphasis is required because of a lessening of disparities between the three regions. Twenty years ago, because of the abnormal situation resulting from World War II we were by far the predominant partner in these alliances. Today we are still the leading country and should remain so, but the income disparities have been sharply altered. Let me use some figures to illustrate. In 1952 the *combined* gross national product of Japan and all the countries of Western Europe was only 75% of ours, even

though our population was less than half as much. By 1962, this figure had risen to 97% and last year it stood at 115% of ours. Per capita incomes in most of these countries remain substantially below our own, but as economic prosperity has returned to our alliance partners, each has sought to play a more independent role in international relations.

In addition, a host of new problems have arisen, particularly in the trade and monetary fields and on the subject of our relations with the communist world and the developing world. It is to be expected that the perspective and interests of great countries will diverge, but we cannot allow these divergences to overshadow the many interests and concerns that we, the Europeans, and the Japanese all share. Fortunately in the non-communist world we have a vast network of non-governmental ties—those provided by tourism, by educational and cultural exchanges, by international corporations and by groups such as the Rotary—which link and bind our countries in a very genuine way. But we cannot sit passively by and hope for the best. Good relations—like good gardens—require tending. We will require new modes of doing business with our allies in order to accommodate their legitimate desires to play more independent roles in international affairs and at the same time maintain and strengthen the ties between us. This is where trilateralism becomes important.

One of the principal elements of trilateralism is consultation. It is one thing to say that consultation is important and necessary and quite another to put it into practice. Consultation often seems to be tantamount to delay, to "leaks" that might cripple a new policy initiative, or to the appearance of indecision. Consultation, as an on-going process is probably particularly difficult for us and the Japanese because it involves procedures quite foreign to our long traditions of isolationism and independent action. Our experience with alliances—particularly alliances of relatively equal partners—is a relatively limited one.

Consultation does not mean that we allow our allies to determine our foreign policy. Nor does it mean that we should not be hard bargainers in our relations with our allies. I have often criticized our policy-makers, particularly in the field of trade, for not bargaining as hard as we should. What consultation does mean is that when we find we must take an action that will significantly affect our allies we consider their interests, solicit their views, and give them adequate time to adjust even when we cannot accommodate these views. Of course, we expect the same from them. To illustrate, although I strongly supported the President's initiatives with respect to China, I believed he should have given the Japanese adequate notice of what he intended to do, especially since such notice was implicit in the U.S.-Japan Security Treaty as well as innumerable joint communiques between the leaders of the two governments. Another example which readily comes to mind is the export controls we applied to soybeans this past summer. Without passing judgment on the merit of this action, I think we should have given Japan and Western Europe, who are our principal customers, adequate notice and the assurances, which we later provided, that the action would not void existing contractual relationships. Our failure to provide notice caused unnecessary alarm and confusion in these countries. The unilateral nature of our action certainly did not enhance our image.

The second element of trilateralism is a new emphasis on the equality of the partnership. In the past, the non-communist alliance has consisted of two main bilateral links—one between Japan and us, the other between Europe and us. Now we should make an effort to promote a more triangular structure.

This task will constitute a true test of the mettle of our diplomacy. There has traditionally been concern in Europe that the United States pays too much attention to Asia, and concern in Japan that our diplomacy is essentially still centered on Europe. Europeans have a tendency to discuss how Europe and the United States should jointly face the challenge of Japan's industrial growth. Japanese have a tendency to regard European markets as relatively closed and to concentrate on continued penetration of the American market.

We must frankly recognize that the potential for trilateralism is more developed in some fields than in others. In the case of international monetary arrangements, Europe, Japan and the United States all have a vital stake in preventing destabilizing flows of speculative capital, in minimizing the transfer of inflationary forces from one economy to the next, and in developing new arrangements to maximize balance of payments equilibrium. The dollar, the pound sterling, the yen, the mark, and the franc all play an important role in the world economy and the countries to which these currencies belong must all play an important part in shaping a new international monetary system.

In the defense area, I think the potential for a trilateral approach is quite limited. Both Western Europe and Japan still tend to have limited regional security perspectives. Each are basically quite pleased with their present bilateral relations with the United States; neither yet sees the security of the other as fundamentally and intimately related to its own security.

One area where I think trilateralism is especially relevant is in the area of energy cooperation and particularly international cooperation in research and development into new energy technologies. I have long been a strong believer that we need a massive R & D program equivalent to the space program or the Manhattan Project to develop new, clean, cheap sources of energy. I also think that this is an area where there can be some real honest-to-goodness burden-sharing by our allies. We all face the same fundamental problem—our industrialized economies require more energy than we produce domestically. Western Europe and Japan, of course, are much more dependent upon foreign supplied petroleum than we are, and therefore, have an even greater stake in seeking to assure cheap, abundant, and environmentally clean energy for their industries. I hope they will join with us in helping to harness the many alternative forms of energy that are being discussed today—solar energy, geothermal energy, coal gasification and liquification and use of the winds and tides.

The slow realization of those in government to recognize the importance of energy research and development and international energy cooperation is another indication of the tendency to react only after the crisis has occurred rather than beforehand. As some of you may recall, in 1970 I introduced a bill in the House of Representatives that would have estabilshed a commission to review our fuel and energy needs and recommend measures to counter what I referred to then as a forthcoming "energy crisis of unprecedented proportions." In the spring of 1972, when I visited both Europe, as a participant in the Ditchley Conference on Trade and Investment, and Japan, as the leader of the U.S.—Japan Parliamentary Exchange mission, I raised the question of energy cooperation and found there was almost no interest. As late as this spring, when I structured my annual Youth Leadership Conference around our energy problems, the major policy speech which I gave calling for a massive R & D program and warning of possible oil blackmail by the Middle Eastern countries received very little attention.

To bring together the themes of detente and trilateralism, I strongly believe that while we move forward with detente, we should do so within a trilateral framework in concert with our principal allies. This is an essential part of moving forward with strength.

In closing, I would like to emphasize the importance of private groups, like Rotary, in helping to maintain the close relations within the non-communist world. I have recently accepted an invitation to be one of the American Commissioners in another new group known as the Trilateral Commission. The Trilateral Commission is composed of Americans, Europeans, and Japanese who are dedicated to fostering the links between our three great regions. Other American Commissioners include former Governor Scranton of Pennsylvania, Congressman Wilbur Mills, I. W. Abel and Leonard Woodcock for Labor, and David Rockefeller and David Packard among those in business. Each of us, of course, has individual ideas and approaches to the problems, but the point is that there should be outside the usual governmental institutions to bring together nationals of all countries for a penetrating dialogue on the issues we face together. Recently, for example, the Trilateral Commission released studies on international monetary problems and political problems. Europeans, Americans, and Japanese all contributed to these studies. By working together, we understand and appreciate each other's points of view even if we cannot always agree.

Trilateralism is not something that will grow like a weed. It is a rare flower that requires good soil and constant tending. The similarities in our economic, social and political values and institutions provide the good soil. You and I in groups like the Rotary, the Trilateral Commission and the Government must do the tending.

In less than two weeks we will be celebrating a new year. As we end the current year, we are deeply concerned for our country, for the democratic institutions of which we are so proud, and for our American way of life. Major scandal overhangs our government. The energy emergency threatens our prosperity. We may see the return of rationing for the first time in a quarter century. Many essential goods are in short supply and inflation is still at some of the highest levels in our history. We have ended our military involvement in Southeast Asia, but we were witness to another tragic and senseless war in the Middle East.

There are very formidable challenges to America—no question about that. But America has faced formidable challenges before and has emerged triumphant. As we go forward into the new year, this is not the time to dwell on the past; it is the time to work together in the spirit which is and has always been our country's greatest asset to reflect soberly on our problems and move forward with determination to resolve them. Let us recall for a moment the story of our National Anthem and the inspiration and joy that filled Francis Scott Key as he beheld the flag atop Fort McHenry in the early light of dawn. Again we are under seige, but we have the strength and the spirit to overcome the challenge. I am confident that we will emerge at the dawning as strong and as proud of our country and our people as ever. I hope that it is with this spirit of resolve and hope that all of us will enter the new year.

RELEASE OF IMPOUNDED HEW FUNDS

Mr. JAVITS. Mr. President, I wish to make a statement on the release of impounded funds by the President.

The announcement by the President of the release of $1.1 billion in impounded education and health funds is a welcome

indication that the White House is recognizing that impoundment of appropriated funds is not a proper device to make budget adjustments.

I first called attention to these impoundments on the first continuing resolution on Labor and HEW early this year and urged the Senate to act and to require the expenditure of the funds already appropriated by the Congress.

A series of court decisions and congressional enactments has given special emphasis to the view in which my colleagues and I have persisted, that the Federal budget and appropriations must necessarily be a product of a decision reached, through law, by the Congress and the President, and once an appropriation has been signed into law, the President is obliged, except in exceptional nonbudgetary circumstances, to commit the funds appropriated.

I am hopeful that this release of impounded funds presages renewed close cooperation between the President and the Congress on budgetary matters.

AMERICAN BAR ASSOCIATION ENDORSES ANTITRUST REVISION COMMISSION

Mr. JAVITS. Mr. President, the American Bar Association, section of antitrust laws, has enacted a resolution which it seems to me is a very, very favorable one to a matter which I have been pursuing, which is the expression of support for S. 1196, introduced by my colleagues Senators HRUSKA, MCGEE, and TOWER, as well as S. 2659, introduced by the Senator from Maryland (Mr. MATHIAS), and the bill in the other body, all of which seek, by an appropriate commission, a review of the antitrust laws. This really should be one of the highest priority matters in our whole effort to deal with the business system of the United States.

I commend the resolution to my colleagues and ask unanimous consent that the recommendations be made a part of my remarks.

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

AMERICAN BAR ASSOCIATION, SECTION OF ANTITRUST LAW

RECOMMENDATIONS

The Section of Antitrust Law recommends adoption of the following:

Be it resolved, that the American Bar Association, without specifically supporting any particular legislation, approves in principle a study of the antitrust and other laws of the United States which have a significant competitive impact, by a broad-based commission of Senators, Congressmen, Government officials, and private persons.

Be it further resolved, that the Section of Antitrust Law be authorized to appear before the appropriate committees and subcommittees of Congress to present their views with respect to the creation of appropriate legislation for the development of a comprehensive study of antitrust laws, to submit written statements in support of such views, and to testify with regard thereto, subject to the following terms and conditions:

1. That none of the views presented shall be in conflict with any position previously adopted by the Association;

2. They shall at all times make it known that the Association's support of specific legislation on this matter will require further approval of such general principles and specific legislation by the Board of Governors or the House of Delegates;

3. At least fourteen (14) days prior to the submission of any written statement to any legislative committee a draft thereof shall be submitted to the President and Secretary of the Association, to the Chairman of the House of Delegates, to the chairman of each other interested section or committee of the Association, and to the Executive Director of the Association with a list of the other sections and committees to which such distribution is being made;

4. The Section will coordinate its statements, testimony and activities with such other sections and committees, as well as with the Association's Washington Office, and no statement as to which timely written objection is received from the chairman or other proper officer of any such other Section or Committee shall be filed unless approved by the Board of Governors or by the President in advance of filing;

5. The President of the Association or the Chairman of the House of Delegates may require the Section to withhold publication or action until the next meeting of the Board of Governors or the House of Delegates;

6. No statement shall be submitted to any legislative committee unless it has been approved in writing by the Chairman of the Section and unless it is stated that the views presented are those of the section and do not represent the views of the Association until approved by the House of Delegates or Board of Governors;

7. A copy of any statement filed pursuant to this resolution shall be submitted to the Board of Governors and House of Delegates not later than the next succeeding annual report of the Section.

REPORT

S. 1196 (Senators Javits, Hruska, McGee and Tower), S. 2659 (Senator Mathias) and H.R. 1016 (15 Congressmen), while differing from one another in significant respects, have a similar objective—the creation of bodies comprised of Senators, Congressmen, Government officials and private persons to conduct a thorough and objective study, and then report to the Congress, on the antitrust laws.

The Antitrust Law Section of the American Bar Association, through its committee structure, has considered comparable proposed legislation from time to time during the past several years, and most recently, beginning in the Spring of 1973, has intensively reviewed the current proposals. After receiving a report from its Committee on Prosecution and Adjudication of Trade Regulation Litigation in August of 1973, and thereafter soliciting the views of Committee and Subcommittee Chairmen on that report, the Council of the Section, at a meeting on November 9, 1973, unanimously adopted the first resolution set forth above, which it now recommends for adoption by the American Bar Association.

Since the first antitrust statute was enacted in 1890 (followed by others in 1914, 1936 and 1950), there have been a number of official and quasi-official studies of various aspects of those statutes. The latest group would include the Senate Subcommittee on Antitrust and Monopoly, which studied the laws but never adopted a report (1955–1958); the Attorney General's Committee to Study the Antitrust Laws (1955); President Nixon's Stigler Commission (1969); President Johnson's Neal Commission (1969); the Ash Council (1971); and the ABA Commission to Study the Federal Trade Commission (1969).

The current proposals are substantially different from the foregoing types of review in important respects which compel the conclusion that the proposed study could make a contribution to the development of a coherent competitive policy. Thus, a broadly representative group, with remuneration to an expert staff, and time for in-depth analysis and discussion, indicate a scope of analysis never before undertaken, leading to a thorough document which can be a foundation for legislative and administrative programs, to the extent recommended. The composition of the body assures a needed interaction between public officials (Legislative and Executive) and the private sector—that is responsible public officials with an understanding of the legal, economic, political and social ramifications of their recommendations, advising their fellow public officials on future directions concerning competitive policy. It will constitute the first public assessment of the administration of the antitrust laws and resulting competitive policy.

There is a need for such an assessment. The American economy and the nature of competition have changed since 1890. International trade, the nature of industrial organizations (including labor), the role of the Government as buyer, seller and regulator of many competitive relationships and also as a time to time controller of wages and prices, the relationship between regulated and non-regulated sectors of the economy, the availability of essential raw materials, the concern for consumer and environmental matters, among other things, are significantly different from what they were at the end of the Second World War, let alone in 1890. The public is entitled to the best informed thinking on whether such changes have affected or been affected by existing laws dealing with competition, and whether modification or change in such laws is warranted.

Among the specific subjects which could be studied as the group proceeds to consider changing circumstances and judicial, administrative and executive interpretations of competitive policy, are: the existence and objectives of competitive policy; the use of *per se* rules and economic evidence in interpreting competitive policy; the effect on international trade—both flowing in as well as well as out of the United States; piece-meal and special exemptive legislation; the delineation of relevant markets; and methods of measuring competition.

It should be noted that the proposed resolution specifically does not support any particular legislative proposal, but simply endorses the principle of a study. The reasons for this are that a number of key questions are not yet adequately dealt with in the existing proposals. For example, existing legislation appears to be restricted to the antitrust laws, while the section believes that all laws affecting competitive policy should be considered; the precise composition of the body to conduct the study requires more careful scrutiny and thought; the powers of the body to obtain data and maintain its confidentiality are not yet adequately dealt with; and the staffing and length of time to be allotted to the study requires additional consideration.

Nevertheless, because the section believes such a study should be conducted, and because it believes it has the expertise to assist in the creation of appropriate legislation, the section now seeks the foregoing resolution so that the American Bar Association can contribute its professional expertise to the development process.

When the section believes that appropriate precise legislation has been developed, it will seek specific approval of such legislation from the American Bar Association.

The need for immediate action is occasioned by the fact that the Consent Decree Procedure Bill—(H.R. 9203, S. 782 (Tunney Bill))—which has already passed the Senate, is being considered and revised in Subcommittee 5 of the House Judiciary Committee, and we understand that there will be a title IV to the S. 782 submitted by members of the Subcommittee which will deal with the establishment of some form of antitrust law study commission. Accordingly, if the American Bar Association is to begin to participate in the development of a study commission it must do so promptly.

CLASS ACTIONS

Mr. TUNNEY. Mr. President, on Monday of this week the U.S. Supreme Court handed down a decision, which in my opinion, will have an unnecessary, undesirable, and unintended effect on the administration of justice in this country. The decision, *Zahn* v. *International Paper Co.*, No. 72–888, decided December 17, 1973, will require that both a State and a Federal court will have to receive substantially the same evidence and export testimony in order to resolve a case which is in reality only one single legal dispute. The decision will place substantial unanticipated burdens on the State court system by bucking to those courts large segments of cases which would otherwise be the responsibility of the Federal courts to decide. This procedure will be uneconomic both from the point of view of the citizen seeking redress and from the perspective of the administration of justice. I cannot believe that the result is one Congress intended. Because the Court felt that this question might be appropriate for congressional action, I feel that it would be desirable to bring the case to the attention of my colleagues.

The suit was commenced by lake front property owners in Vermont who felt that their property had been damaged by the defendant's unwarranted polluting. The four named plaintiffs each claimed that his or her damage exceeded $10,000. They banded together with the over 200 property owners along the lake front and brought a class action.

The Zahn decision found that the case could not be maintained as a class action because not every member of the class could claim that the amount of his or her damage exceeded the $10,000 jurisdictional amount in controversy required by title 28, United States Code, section 1332(a). The decision furthers neither the purpose of that statute nor the purpose of the class action vehicle as a method to redress citizens' grievances.

As Justice Brennan said, writing for the dissent:

> Class actions were born out of necessity. The alternatives were joinder of the entire class, or redundant litigation of the common issues.

In addition to the efficient administration of justice, class actions allow citizens to band together for the collective good. This is necessary, for as in the instant case, there may be no single citizen sufficiently damaged to justify his outlaying the high cost of litigation.

The class action vehicle allows these neighbors in Vermont to get together and share the expenses of litigation, and at the same time condense over 200 separate claims into one single case. As a result of the Court's decision the four named plaintiffs can proceed in Federal court while the other plaintiffs must go to State court, introduce the same evidence and expert testimony and try the issue again. Therefore, the State courts will be burdened by unnecessarily having to repeat the Federal courts' work. This does not seem like an efficient use of our judicial machinery.

Moreover, the decision will not streamline but will exacerbate the problems inherent in the administration of Federal class actions. Upon claim of a defendant in a class action that one or more members of the class lacks a claim in excess of $10,000, a complicated and cumbersome pretrial discovery procedure will follow in order to determine if any member does not have the requisite jurisdictional amount in controversy. This seems to run counter to the mandate of Federal Rules of Civil Procedure: Rule 23 which requires a determination of the members of the class as soon as practicable. This discovery procedure will make class actions even more difficult to administer.

In addition to undermining the efficiencies of a class action the decision does not seem to achieve a result consistent with the purpose of title 28 of United States Code, section 1332. That section requires that—

> The matter in controversy . . . (must exceed) the sum or value of $10,000.

Although Congress has from time to time increased the jurisdictional amount upward, it has left the wording of the statute untouched from the time of its enactment in 1789. Legislative history shows that the purpose of requiring a jurisdictional amount is to insure that only matters of a substantial nature are before the Federal courts.

But can it be doubted that where four named plaintiffs each present a claim to a Federal court involving an amount in controversy exceeding $10,000 that the entire case is substantial enough for Federal concern? Four years ago the Court decided *Synder* v. *Harris*, 394 U.S. 332 (1969), which held that where no single party to a class action claimed damages in excess of $10,000, the Federal courts would not have jurisdiction over the action. That decision, however, did not compel the result in *Zahn*. Each of the four named plaintiffs in Zahn presents a substantial case which will be determined by a Federal court. Since their aspect of the case will be before a Federal court, the efficient administration of justice would seem to require, and the notion of ancillary jurisdiction allow all the claims to be heard at once.

While class actions have been the subject of abuse by lawyers, it is the job of the courts to check these abuses on a case-by-case basis. The class action is an extraordinarily good vehicle from the point of view of judicial administration and the economics of citizen redress. The *Zahn* decision is unsatisfactory to the extent it causes redundant litigation. Fortunately, Congress has in great measure reduced the significance of the amount in controversy requirement by providing, in various environmental, consumer, antitrust, and civil rights legislation for jurisdiction in Federal court without regard to amount in controversy. But there can be no doubt that the inability to aggregate claims, or employ ancillary jurisdiction in a case like *Zahn* will set back the cause of justice.

As chairman of the Judiciary Subcommittee on Representation of Citizen Interests, at a hearing on November 13, 1973, together with the Commerce Subcommittee for Consumers we received the report of the National Institute for Consumer Justice, affiliated with the Administrative Conference of the United States. That report recommended strongly that Congress change, by legislation, the construction of the amount in controversy requirement given in Snyder against Harris. It recommended that consumers be allowed to aggregate their claims to achieve the $10,000 jurisdictional requirement.

The *Zahn* decision represents a step backward from meaningful reform. It is time Congress began a meaningful look at class actions, eliminating artificial barriers erected by the Court, while at the same time insuring that the class action vehicle is responsibly used to the benefit of all citizens' interests.

SENATE COMMITTEE REPORT ON SUPPLEMENTAL APPROPRIATIONS

Mr. MONTOYA. Mr. President, the Senate committee report accompanying H.R. 11576, making supplemental appropriations for fiscal year ending June 30, 1974, states that funds provided the Economic Development Administration of the Department of Commerce for industrial development loans and guarantees, a supplemental appropriation now set at $15 million, is to be used "to pay off the outstanding loan balances of a reasonably sound venture threatened by foreclosure and assist the borrower in obtaining new financing." This language is also used in the report accompanying H.R. 8916, the original appropriations bill for fiscal year ending June 30, 1974, and accompanies an appropriation level of $5 million for loans and guarantees, as recommended by the administration.

The report accompanying H.R. 11576 fails to explain that the $15 million in supplemental funding are to be used to provide new loans. In recommending additional funding for the Economic Development Administration, I expressed concern that given the current economic situation—particularly with regard to the adverse impact caused by recent defense realinements and the ensuing energy crisis—and given the continued need to address the problems of low income and high unemployment in the Nation's distressed areas, the funding levels suggested by the administration were insufficient.

The programs authorized by the Public Works and Economic Development Act are well suited to help meet the impending economic emergencies that may cause unemployment rates of 6 percent next year. We must utilize them. These programs call for coordinated action at various levels of government to combine limited resources and to provide needed jobs and income.

Additional appropriations were requested because initial levels would not allow for a proper transition into new regional and economical development programs now being considered by Congress and the administration. Rather, they would have led to a phaseout of existing programs with no acceptable alternatives to replace them. For example, initial appropriations for loans and guar-

antees authorized under title II of the Public Works and Economic Development Act of 1965—$3 million for development facility loans and $5 million for industrial development loans and guarantees—represented a phaseout of these critical programs. Congress in extending the programs authorized under the 1965 act and in appropriating funds for these programs did not call for a phaseout. Indeed, Public Law 93–162, signed by the President on November 27 of this year, states that—

None of the funds appropriated in this Act or otherwise available for expenditure by the Department of Commerce shall be used to discontinue or phase out the economic development assistance programs (including Regional Action Planning Commissions) undertaken under the Public Works and Economic Development Act of 1965, as amended.

Clearly, funds provided in the supplemental appropriations are not to be used simply to phase out these programs. They are to be used to maintain the national effort to provide timely economic assistance to those who find themselves, by no fault of their own, in temporary need of a helping hand.

THE NEW YORK AREA—A LOW ENERGY CONSUMER

Mr. JAVITS. Mr. President, I would like to bring to the attention of my Senate colleagues the results of some important studies recently conducted by the Census Bureau and the New York Regional Plan Association. They bring to light the important connection between mass transit use and energy consumption, and thereby illustrate the urgent need for maintaining and expanding mass transit systems in our Nation's cities.

The Census Bureau study found that only 27 percent of workers who live in the New York metropolitan area drive to and from work, which is the smallest percentage of any metropolitan area in the country. The study, entitled "Journey to Work," shows that in New York City, where mass transit facilities are plentiful, an even smaller percentage of people use the private automobile for commuting.

The New York Regional Plan Association statistics conclude that the New York urban region, taking all energy uses into account, consumes less energy per capita than any other in the country. This, of course, includes New York's relative independence of the private automobile.

Although New York has been maligned for its brightly lighted office towers—now likely to be much restrained—it is a tribute to the region that its total energy consumption is so low as to be applauded.

Mr. President, I ask unanimous consent to print in the RECORD, an article appearing in the New York Times on Tuesday, December 17, and an editorial of that date in the Washington Post which elaborate on the points I have just made.

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

[From the Washington Post, Dec. 17, 1973]

ENERGY AND LIVABILITY

For all its bright lights, traffic jams and screeching subway trains, New York City consumes only about half the energy per resident that the rest of the nation does. The entire New York Urban Region, in fact, requires less energy per capita than any other in the country. The region includes 26 counties in New York, New Jersey and Connecticut, inhabited by 9.7 per cent of the nation's population. These people earn 12 per cent of the nation's money income. Yet, they consume only 6.4 per cent of the nation's energy.

These perhaps surprising statistics, recently worked out by the New York Regional Plan Association together with Resources for the Future (a Washington research organization), point up a simple fact: Higher population density means lower energy consumption. Urban sprawl wastes not only land and time, but also energy.

People who live in cities, towns or planned communities like Reston and Columbia, where they can get around on foot or by public transportation to meet some of the necessities of life, obviously require less fuel than suburbanites who must mobilize 250 horsepower every time they need a loaf of bread or want to get the children to their music lessons, to say nothing of commuting. But the energy waste of suburbia—or, as urban sprawl is now more accurately described, "spread city"—is not only a matter of transportation.

Per dollar of income, "spread city" residents use up to three times more energy in their homes than people who live in high-density communities, according to the New York Regional Plan Association study. "Per dollar of income" is an important part of the statistic. It means that suburban energy waste is not only due to more affluence and electric gadgets. It is also a matter of heating, cooling and lighting free standing homes as opposed to townhouses and apartments. The use of electricity per employee in "spread city's" scattered commercial and public buildings is also higher than in urban concentrations. Except at the sacrifice of personal convenience, there is relatively little that can be done about the high energy consumption of "spread city," which is what we have built all over America in the past 30 years. This urban America is too sprawled out, by and large, to substitute public transport for the private automobile and make it pay. The best we can hope for is the use of smaller cars.

But what seems imperative is that we start immediately to arrest the spread of "spread city." We don't advocate more Manhattans or New York regions. But the nation, in our view, must start regional planning in earnest and concentrate new development in new communities served by public transportation. In the sprawling Washington metropolitan area, the proper organization to draw up such a comprehensive area-wide urban development plan would seem to be the Council of Governments, in which our various jurisdictions have finally learned to cooperate on matters of regional concern.

While COG is drawing up such a plan and developing the means to enforce it—i.e., laying the foundations for regional government, or something close to it—the suburban counties should be taking speedy action to inhibit free-standing shopping centers, "strip" development along our freeways, isolated office and educational campuses and other such elements of "spread city." With respect to new housing, as the Regional Plan Association points out, we will have to go back to homes on smaller lots, substituting siting and landscaping for space, and to cluster apartments around commercial, office and public buildings rather than allowing them to mushroom wherever their developers find a crack in the zoning pattern. The loss of private open space can and must be compensated by the provision of more public open space—playgrounds, walkways, bicycle paths and other public amenities.

All of this will not only help reduce our profligate demand for energy, but it will also result in greater convenience and livability. Better urban planning and land use, to be sure, won't help much to alleviate the present emergency. But if the experts are to be believed, the energy crisis will be with us for a long, long time.

[From the New York Times, Dec. 16, 1973]

TWENTY-SEVEN PERCENT HERE DRIVE TO WORK, STUDY DISCLOSES

WASHINGTON, December 16.—Only 27 per cent of workers who live in New York City or Nassau, Suffolk, Westchester or Rockland Counties drive to and from work, a far smaller percentage than in any other metropolitan area, according to a Census Bureau study of commuting habits.

The 1,100-page report, "Journey to Work," points out that although New York's comparative plenitude of subway, bus and rail facilities for mass transit constitute a great advantage in facing the growing energy crisis, a large proportion of commuters in the outlying counties use the automobile to reach their jobs.

More than 80 per cent of commuters from Suffolk and Rockland Counties drive cars to work, while 72 per cent of those in Nassau and 63 per cent in Westchester use automobiles. And in the region as a whole, where 640,000 cars transport workers to their jobs each day, at least four-fifths carry only the driver.

125 CENTERS STUDIED

The Census Bureau's report, taken from a study of the social and economic characteristics of commuters on each of the 125 metropolitan areas in the country, covers the five counties of the city and the four nearest suburban counties in New York State.

Because of the way in which the report is arranged, detailed information is not available on New Jersey or Connecticut residents who work in New York City. However, the report does offer broad basic figures on commuters from these two states. It says that 22,500 Connecticut residents traveled to jobs each day in New York City in 1970, 22 per cent by automobile. Just over 20,000 of these came from Fairfield County.

New Jersey's commuting force constituted 192,600 people, with Bergen County workers making up 35 per cent of that total and Hudson County just under 20 per cent. Just under 30 per cent of those workers drove to their jobs.

By comparison, 67 per cent of the work force in the Chicago and Boston areas travels by automobile, while in the Los Angeles-Long Beach metropolitan area 86 per cent commute by car—and all but 3 per cent of the coast commuters drive alone.

Dr. William J. Ronan, chairman of the Metropolitan Transportation Authority of New York, commenting on the Census Bureau findings, said that they "point out once again that mass transportation in this region, especially in this period of crisis, is a major asset that many other areas do not have."

David A. Grossman, New York City's Budget Director, estimates that the subway system could handle a 50 per cent increase in riders with little difficulty. Subway ridership has been declining over the last several years.

But it may not be easy to persuade people who work in New York to form car pools as a means of cutting the use of gasoline.

"The ones driving to work are not the 8-to-5 employes, but the managerial and ex-

ecutive group," said Milton Musicus, chairman of Mayor Lindsay's Emergency Energy Committee. "They can afford to drive by themselves and pay for parking in the business district."

He noted that when department stores and other large employers tried to arrange car pools, they found that most of their rank-and-file employes already used public transportation to get to and from work.

56 PER CENT USE PUBLIC TRANSIT

The Census Bureau survey, which was taken from information in the 1970 census, found that public transportation—subway, bus or rail—was used by 56 per cent of the workers in New York City's five boroughs and by 47 per cent of those in the nine-county metropolitan area as a whole.

The survey dealt with many aspects of commuting and job habits other than the method of transportation. One was the level of workers' pay, and the Census Bureau figures indicated that workers who travel farther earned more than those who worked close to home.

Except for Manhattan, the lowest average pay for a worker—whether citydweller or suburbanite—was in the county in which he lived. For example, the average rate of pay for a resident of Brooklyn was lower if his job was also in Brooklyn than it was if he worked any place else in the statistical area.

Mr. Grossman said one possible explanation for this was that high-skilled workers were able to shop around for the job offer that best suited their demands. The mass transit system allowed them the mobility to seek distant employment.

A worker with low skills, on the other hand, does not need to travel since he will not increase his earnings, regardless of location. Thus, Mr. Grossman speculated, he finds a job as close to home as possible.

MEDIAN AVERAGE USED

A median average was used by the Census Bureau in reporting earnings. Such an average divides the distribution into two equal parts, half the cases being above the average and half below. The Census Bureau disclosed that there were 775 farm workers living in New York City, and 305 of them work somewhere in Manhattan.

The census figures also disclose a greater use of the automobile for commuting to a job within one's home county than for traveling to a different county. This may be a statistical illusion, however. Mr. Grossman suggested that the out-of-county figures might be unusually depresed because of the large number of workers in Manhattan who use public transportation to get there.

Another theory was offered by Richard Forstall of the Census Bureau's population division. He said that many local jobs might be too far from the worker's home to walk but inconvenient to the flow of public transportation.

Mr. Forstall forsees the data contained in "Journey to Work" as receiving "very intensive use locally," particularly by city and traffic planners. Much of the information in the volume was collected for the first time during the 1970 census.

MANHATTAN

Of those Bronx, Brooklyn, and Queens residents who worked in Manhattan in 1970—and there were 865,000 of them—81 per cent used the subway to reach their place of employment.

Only 9 per cent of Manhattan's residents drove to work, and 6 per cent of those who lived and worked in the borough drove to their jobs. It is the only borough where residents used the automobile less to get to work in the borough than outside it.

One reason for this minimal use of the auto is that 87 per cent of Manhattan's workers have a job in the borough, and the subway-bus system had enough appeal to lure 65 per cent of them to use it for commuting. Twenty per cent did not have to choose between auto and mass transit—they walked to work.

BRONX

The Bronx has a greater exodus of workers each weekday—64 percent—than any other borough. Half of the entire Bronx working force heads south for Manhattan, while Westchester County to the north receives more Bronxites than do any of the three other boroughs.

Bronx commuters showed less dependence upon cars than the rest of the city outside of Manhattan, with only 24 per cent traveling to work by auto.

The worst pay went to those who lived and worked in the borough, an average $5,813. The Bronx also had the lowest average income of any county in the statistical area, $6,219.

BROOKLYN

The major export of Brooklyn in 1970 could well have been clerical workers. Of all workers leaving the borough, 38 per cent went to jobs as secretaries, receptionists, clerks, bookkeepers and the like. And 29 per cent of all Brooklyn workers were in clerical jobs.

Half of all Brooklyn workers left the borough to go to their jobs in 1970.

Brooklyn is very dependent upon public transportation, with half its workers using the subway to reach their jobs and almost two-thirds using mass transit in general. Of the Brooklynites who worked in Manhattan, 87 per cent chose the subway as their means of transportation.

QUEENS

A greater percentage of workers commute to the suburbs from Queens than from any other borough—7 per cent. Each work day saw 63 per cent of Queens workers leave the borough for jobs elsewhere. Thirty-six per cent of all the workers used a car to reach their destination, but mass transit remained in great demand, with 53 per cent of Queens workers using it.

Wholesale and retail trade and manufacturing accounted for 42 per cent of the employment for Queens workers in 1970. And 182 Queens residents, 26 of whom commuted to Manhattan, told the Census Bureau they were employed as farm workers.

STATEN ISLAND

Half of all Staten Island workers used the car to reach their employment, while 31 per cent of the residents working in Manhattan indicated they used "other means" to get to work. "Other means," in this case, would mostly include the Staten Island Ferry.

SUBURBAN COUNTIES

The New York suburbs have apparently surpassed the stage of being largely bedroom communities. Just under 60 per cent of Nassau workers remained in their home counties to work, while 70 per cent of Westchester's workers have found employment in their own county. Rockland and Suffolk each keep about two-thirds of their resident workers at home.

As might be expected, automobile use for traveling to employment is substantially greater for suburbanites than city dwellers, although the percentage is still lower than the national average.

Almost 72 per cent of Nassau workers use the automobile to get to jobs in the New York statistical area, higher than Westchester's 63 per cent, but still less than Rockland and Suffolk Counties' 80 per cent plus figures.

In the suburbs, 5.6 per cent of the workers walk to their jobs, compared with New York City's 9.5 per cent, but more suburbanites than city workers work at home.

No figures are available on one important segment of suburban commuting, the railroads, because of an error in Census Bureau tabulations.

THE ENERGY CRISIS

Mr. CRANSTON. Mr. President my mail this month contains many agonized letters from working people facing the very real possibility of gasoline rationing or a huge new fuel tax or sky-high retail prices on gas at the pump, or all of these. A typical letter comes from Mrs. Judy Litly, of San Diego:

Please, for the sake of middle-income families ($6,000–$8,000), don't let them pass along another gas hike to us. We can't take it. It's sad when you can't afford to drive to work.

L. W. Stump, of Redwood City, asks:

Who was the idiot who proposed a 30–40 cent-a-gallon gas tax? Even if you could deduct it at the end of the year, most of us don't have the capital and would simply have to stop working. If we must have severe control, let it be rationing.

Indeed, those are the alternatives to rationing: Either a huge tax to discourage consumption or retail prices at $1 per gallon or more, forcing many people to abandon their cars. The problem with these approaches is that only middle- and low-income working families would suffer. Certainly the well-to-do would not be deprived. They could pay the taxes and buy all the gasoline and fuel oil they need for pleasure and for business even at prices that would be prohibitive for working families. This is the plan the administration is talking about. I reject it as discriminatory and unfair.

The third alternative—rationing is also undesirable. But it is the only fair system for allocating scarce fuel supplies. I do not like it any more than you do. But we already have delayed far too long in taking action to alleviate the fuel shortage.

This administration has all the facts and figures on our growing energy problems for some time. But it has not acted decisively. And I would add, in fairness, that the Congress has also been slow to respond. Now the Nation is in a spot. If we are going to await worsening economic crisis the administration is going to have to bite the bullet and begin rationing fuel oil and gasoline immediately. I believe the administration will finally be driven—by the facts—to rationing. If they delay too long, the energy shortage could totally wreck the American economy and throw an estimated 2 million workers out of jobs. We can only avoid rationing if the Arabs lift the oil embargo. I hope they do—but we cannot count on it actually happening.

I would like to cite, at this time, some additional questions that have been raised in my mail, and my answers to them:

POSTAL RATES

Don't let them raise the postal rates to 10¢ for first class and 13¢ air mail. Instead

raise rates on junk mail, tons of which are tossed in the trash every day. If there were less junk mail, perhaps the first class would be delivered on time.—Nellie Schnitman, Covina, California.

Sure, costs have risen but only 15 years ago it cost 3¢ to mail a letter. The new rates represent a 333% increase over that! There is no other product or service that has increased so much over the same period—Jay Patterson, San Francisco.

Why should it take five days to get an air mail letter from here to Salt Lake City?—Mrs. Rae O. Cady, San Bernardino.

We are retired and operate a magazine subscription service out of our home to augment our income. First class mail is our biggest expense, running into hunderds of dollars a year. Does a 25% or more increase in rates meet the Cost of Living Council guidelines?—Byron and Lorene Tarr, Grass Valley.

The only contact a lot of us older people have with children, etc., is by mail. What with utilities, gasoline and food so high, don't let us be cut off from our families more than we already are.—Mrs. Florence Harris, Corcoran.

The performance of the reorganized Postal Service is a national disgrace. Many of us in Congress, speaking on behalf of millions of people already strapped by higher prices on just about everything have condemned the latest proposal for raising rates. Nevertheless the Cost of Living Council will probably approve the 10 cent postage stamp. Yet all we have gotten in return for steadily rising rates are later deliveries, more damaged parcels, fewer postal outlets, and generally poorer service than at any time since I can remember.

In addition, there are reports of contract irregularities, misuse of taxpayer's moneys and special breaks for some "junk" mailers. I have asked the General Accounting Office, which is the investigating arm of Congress, to investigate. If the Postal Service can not operate properly in its present capacity then perhaps it is time for Congress either to turn it over to private enterprise totally or else bring it back under complete government supervision.

DAY CARE CENTERS

I am a factory worker and bring home $100 a week. I pay $50 a month to put my two young boys in federally funded nursery schools in Long Beach. Now I am told they are no longer eligible because we are not welfare recipients. Either I quit my job and go on welfare or just lay down and die. Do you know what this means to women who are trying to support their families and maintain a little self-respect? Please continue the funds. So we may continue to work—Beverly Lerell, Long Beach.

Nearly 30,000 California youngsters will be ineligible for day care if harsh new social services regulations proposed by the U.S. Department of Health, Education, and Welfare take over State eligibility rules. I have been protesting to HEW about this for a full year. Last month the Senate passed legislation that would keep eligibility rules in the hands of the State. The issue will ultimately be decided by a Senate-House conference as part of this year's omnibus social security bill. In the meantime, California is one of several States that is keeping all day care children enrolled.

EXPORTS AND SHORTAGES

As someone who is living on a fixed income and feeling inflation and shortages keenly, I protest the export of grains and other foods out without regard for the shortage it creates for our own people.—Mrs. Alice Sitron, Los Angeles.

We are older folks. We don't have enough to eat. We are sick. My husband is totally disabled. All our lives we have tried to be good citizens always helping the poor and ailing. Then we become one of the poor. We can't afford what we need while our country cares for foreign countries and sells them our heating oil and foods. Can't you in the Senate force the President to take care of our people first?—Mrs. M. J. Grimm, San Jose.

Unhappily, crop reverses, inept handling of agricultural resources, mismanagement of foreign sales and too much farm land left out of production have hit us all at once. I think our country is big enough and inventive enough, though, to take care of Americans at the same time that we contribute to the economic vitality of the rest of the world. We must, of course, make sure first of all that there is enough food for Americans at decent prices. Our capacity to produce food is enormous, however. Our reservoir of technology, trained manpower scientific brains and energetic intelligent people is without parallel.

The new farm bill is one of many steps Congress has taken to enable us to provide abundant goods at home and abroad. Beginning next year when the crops come in, there should be more food—hopefully at good prices—for all of us, at home and abroad too.

SUPPLEMENTAL SECURITY INCOME

I get state assistance because I'm blind and have no other income. I understand the federal government is going to make these payments now. What do I have to do to make sure my payments continue?—Floyd Johnson, Huntington Park.

Starting in January 1974, the Federal Government will make monthly supplemental security income—SSI—payments to people in financial need who are 65 or over, or who are blind or disabled. Since you are now getting public assistance, you do not have to apply now for the Federal payments. The social security people say that before Federal payments actually start, they will be sending you more information and instructions.

My neighbor is 68. He owns the little house he lives in, and he's worried whether he'll be able to get payments under the new Federal Supplemental Security Income program because he owns his own home. Will he be able to get federal payments?—Ariel McKenna, Oakland.

He should. Owning a home of reasonable value should not rule out Federal supplemental security income payments to older people who have limited assets and little or no cash income. I wrote an amendment to this year's social security bill directing the Secretary of Health, Education, and Welfare to be flexible in determining what constitutes the "reasonable value" of a home, stating he must take into consideration regional and area differences—factors like the inflated housing market especially in California. I have also asked Secretary Weinberger to undertake a massive public information program on this complicated new social security income law.

PENSION REFORM

I have worked for an aircraft factory here in Southern California for 30 years. There isn't a thing I can do if they change their mind and stop paying my pension. Isn't there some kind of a law that can be passed to protect us?—Vincent Bourassa, Lakewood.

Yes, there is. The Senate recently passed a pension reform bill (H.R. 4200) that would provide the kind of Federal backup for private plans that American workers deserve. The House Ways and Means Committee is considering several bills and will probably have settled on one soon after the first of the year. There probably will be some kind of pension reform legislation in 1974 and I intend to fight to see that it is the strongest, most comprehensive bill possible.

SCHOOL LUNCH

I am very concerned about the rising price and lowering quality of our school lunches. It is a terrible thing for our economic problems to be inflicted on children in this way. I urge you to do everything in your power to stop the price of food and milk from increasing in school cafeterias. Surely there must be money somewhere to feed these children.—Ruth Hartman, Berkeley.

You are absolutely right. If phase IV has been rough on adults, it has been just plain disastrous for kids. During the 1972-73 school year, Los Angeles schoolchildren paid a nickel for a half-pint of milk. This year they are paying 10 cents—a 100-percent increase—and some children cannot buy it any more. To try to keep the price of school lunches down, I and others in Congress advocate raising the contribution from the Federal Government.

TAX SURCHARGE

Help! Have just learned from my local TV station that the President is considering an income tax raise of 10%—to be returned in four or five years—kind of a pay now and eat later deal. In our family we have found it more and more difficult to buy the morning cornflakes. We worry over gasoline. The low-income worker on the bottom rungs is denied a raise due him and the minimum wage is vetoed. So we hit these people to fight inflation? I could go on but I can't afford to buy more paper.—Mrs. Margaret Johnston, Torrance.

I hope what I heard on the radio isn't true. A 10% surcharge tax? Man, right now 20% of my check goes to the Federal government. And you want another 10%? This is too hard to comprehend. Don't let it happen, please.—Eddie Dow, Bakersfield.

Please, please *do not* let them take more federal tax out of my husband's paycheck. We are just barely able to make it now. Since I can't work he is even working two jobs just to live!—Mrs. F. L. Briggs, Los Angeles.

I am flatly opposed to a personal income tax rise at this time. If the administration insists on raising taxes, I will fight to make sure it is imposed on profits of large corporations only, and not on individual income taxes. Profits of many of the large corporations are booming, and in fact are contributing to inflation. A number of businessmen have told me they would go along with a temporary, refundable corporate tax hike if

it would really help put a brake on inflation. I vigorously oppose the suggestion that individual income taxes should be increased as well.

MINIMUM WAGE

Not all people earning the minimum wage can meet their rents or buy adequate food—and I'm not talking about people in the fields living in tents. I'm talking about nurse's aides. We have uniforms that must be clean. We should be well fed. But how can a woman live on $1.65 an hour? My God, Mr. Cranston, do something to try and make people understand.—Marg Mefford, Richmond.

Please override President Nixon's veto of the minimum wage increase. With these high prices it is just impossible to live on $1.65 an hour. Persons on a fixed income, or at the bottom of the wage bracket, really have a rough time.—Mrs. Norman Leon, Paramount.

I planned to vote to override President Nixon's veto of the recent minimum wage bill, but I never got the chance. The House failed to override and the issue never got to the Senate. The good news is that Senator HARRISON WILLIAMS—Democrat of New Jersey—has authored a new minimum wage increase (S. 2747) and the outlook for its enactment is good. It would raise the minimum hourly wage to $1.80 this year, then to $2 the second year and to $2.20 the following year. But unfortunately, Congress may have to compromise with the White House on such things as coverage and effective dates in order to stave off another presidential veto.

MISCELLANEOUS INFLATION

As an avid sports fan I want to thank you for the fast action lifting the blackout on professional sports events. But why couldn't the same senatorial precision be used to push a bill through that would slow up, if not reverse, the current price trends?—Dave Hoffman, La Habra.

Lifting the sports blackout was not accomplished as quickly as it may have seemed. Years of study, debate, and public hearings preceded final congressional action, which I was happy to support. We have already had too many attempts at easy, quick solutions to our economic problems. They have not worked. Nevertheless, Congress has moved speedily and decisively when the inflationary crunch called for it. We acted quickly in 1971 to grant the President emergency power to control wage and prices. This authority has been extended twice and will be considered again this April.

We have also enacted a comprehensive new farm bill which will utilize farm land to produce bumper crops in the years ahead. This is the best possible way to achieve an ample food supply at the lowest possible prices. Also budget control legislation is in the final stages of Senate action. By setting an annual ceiling on Government spending, reexamining priorities and cutting out waste, I believe we can go a long way toward reducing inflation. We also need to cut out wasteful and extravagant defense spending—particularly the $30 billion we now spend to maintain more than half a million American troops overseas. This particular expenditure hurts the dollar, and contributes greatly to inflation. Congress this year began to cut back on the size of our Armed Forces in terms of manpower—and this will be a significant contribution to the war on inflation.

NATIONAL BELLAMY AWARD

Mr. MONTOYA. Mr. President, each year the National Bellamy Award selection board selects one State in the Nation and one public high school in that State to receive the annual Bellamy Flag Award.

The award, which consists of a U.S. flag which has flown over the Capitol, honors a public high school for the excellence of its staff, for the achievements of its faculty and for the academic excellence of its student body. Moreover, and equally important, the award recognizes the level of community support given the school.

For 1974, the Los Alamos High School in Los Alamos, N. Mex., has been chosen to receive the award. This is, naturally, a matter of great pride to me and to the people of Los Alamos.

I ask unanimous consent, Mr. President, that an article from the Los Alamos Monitor of June 8, 1973, announcing the granting of the award to Los Alamos High School be printed in the RECORD.

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

LOS ALAMOS HIGH SCHOOL AWARDED BELLAMY FLAG

Los Alamos High School has been designated the "standard bearer" for all High Schools in New Mexico as winner of the 33rd annual Bellamy Flag Award.

The announcement of the award was made last night by LAHS Principal Robert L. Loar during commencement exercises for 390 seniors. The formal presentation of the award will be made in the high school auditorium Oct. 11, 1974.

LAHS will retain the honor for a 50-year period "in the distinguished group of outstanding and representative secondary schools throughout the nation."

Each year, the National Bellamy Award selection board selects one state in the nation and one high school in that state to receive the award. For 1974, New Mexico was chosen as the state and LAHS as the school to receive the award.

The Bellamy Flag award is a large outdoor United States Flag that has flown over the Capitol in Washington, D.C., and honors Francis Bellamy, minister, journalist and advertising man, who authored the Pledge of Allegiance to the Flag of the United States of America in 1892. He wrote the pledge for the National Public School Celebration of Columbus Day and commemorating the nation's quadro-centennial.

"The National Bellamy Award gives conspicuous acknowledgement to the vital role the public schools, an instrument of the American ideal, plays in helping to mold and to realize the ideals and goals of our country," Dr. Margarette S. Miller, director of the award program, said in a letter to LAHS Principal Robert L. Loar announcing the award.

"This honor is not one obtained by the mere efforts of administration, faculty and students during the year of study," she said. "The school is chosen for its history of accomplishment along with its continuous accumulation of awards, honors, innovation in teaching, the accomplishments of the alumni, faculty and the present student body. It is anticipated that these accomplishments will continue and grow in the future.

"Fine schools take the concerted effort of every member of the school system and the community. The educational experiences and training gained at Los Alamos High School should produce a strong foundation for the young people to mature into responsible adult citizens," the letter said.

Los Alamos High School was selected on the basis of ten areas of accomplishments. "Los Alamos High School will receive the coveted honor for these specific reasons:

"The Proficient Performance of Duty by the Administration: Robert L. Loar, principal, and Dr. Duane W. Smith, superintendent, are cited for leadership, inaugurating and establishing innovative techniques, and "constantly moving forward in varying levels, with methods and theory, along the path of true individualization."

"Individual and Enormous Achievements of the Faculty—surpassing any in the history of the National Bellamy Award—who "exhibit outstanding technical competence, a great desire to be of service and hold the highest level of professionalism." This calibre staff in a highly intellectual environment enables Los Alamos to be termed the "nation's best educated" city by the U.S. Census.

"Absolute and Definite Concern for National and International Standards—"a parochial, local view of the responsibility of education is totally inadequate and would threaten the school system with the error of trying to do well that which is not worth doing at all."

"Encouragement in Furthering Student and Idea Exchange—through athletics, the arts, programs of study "in order to foster students' awareness of people . . ."; the acceptance of "speakers on timely topics, including representatives of political, ethnic, and religious groups"; controversial subjects and individuals are not outlawed.

"A Student Body Excelling Academically—more than two dozen students honored by National Merit this year alone; National French Council achievements with 5 national and 11 regional winners; the National Science Foundation; lauded by the Commission on Presidential Scholars, and the National Council of Teachers of English. NCTE (National Council of Teachers of English) ". . . have never known a school which so supported a national institute."

"An Accomplished Alumni—on national and international levels exhibiting excellence in the fields of creative arts, education, science, medicine and engineering.

"A Responsive Community Eager for Constant Improvement in the Schools—that any superior educational system may still be surpassed. The business community works closely with the school through the Alternatives Program lending added experiences in medicine, criminology, silversmithing and forestry, among other specialized interests.

"Free Thought and Honest in Publications—La Loma 1972 yearbook—creative and thought-provoking: the right and wrong of the nation in its introductory pages:

We die in Vietnam and walk on the moon.

We pave the desert and high plateau and fly through sky faster than the sun.

We take the power of atoms to make a bomb, and to probe the darkness of disease.

We find a mountain paradise and build our city there.

We are alone and we are together.

"The School Philosophy—in part—which recognizes "that because of the insular nature of Los Alamos, our students need additional association with people of diverse racial and socio-economic backgrounds . . ." A Student Attitude Survey, prepared by Associated Public Schools Systems (Teachers College, Columbia), dealing partially with

Peer Group Relations, brought to light "there were no distinct ethnic groups in the minds of Los Alamos students."

"A Cooperative, Supportive Local Press—interested in carrying school activities and accomplishments; in promoting the plus side of education.

DOUBLE TROUBLE—BUY 10 GALLONS TWICE, RATHER THAN 20 GALLONS ONCE

Mr. ROBERT C. BYRD. Mr. President, of all the questionable proposals put forth for combating the energy crisis, limiting gasoline purchases to 10 gallons at a time seems to me the most futile.

What can such a limit accomplish, except to double the trouble for drivers and those who work in filling stations? I fail to see how the administration expects to save any significant amount of gasoline by this awkward device. What difference is there between a trip to the gas station once a week for 20 gallons and two trips a week to the station for 10 gallons—except in the extra gas used for the added trip?

Persons with medium sized and larger cars will be penalized most by this action, inasmuch as a number of smaller cars have only 10-gallon tanks. Nothing will change for smaller car owners. But as sensible as the trend to smaller cars is—and it is sensible—everyone who drives a larger car cannot be expected to immediately go out and trade his vehicle for a compact or a subcompact.

The 10-gallon limit seems to me another piece of evidence that the administration is floundering badly in its belated efforts to deal with a crisis that the administration was warned months ago was coming.

OUR FORGOTTEN MISSING

Mr. HARTKE. Mr. President, the saga of the American still missing in action in the Southeast Asia theater has not ended. While the administration gave the returning prisoners of war a deserved gala festival, they have failed in their duty to those Americans who were left behind. At last count, there are still some 1,300 Americans unaccounted for in Indochina. The Department of Defense has failed to carry out its obligations under the treaty as negotiated by now Secretary of State Kissinger. I ask unanimous consent that an article entitled "Jaycees Ask Congress for MIA Probe," appearing in the Voice of POW's and MIA's, October issue, be printed in the RECORD.

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

JAYCEES ASK CONGRESS FOR MIA PROBE

The U.S. Jaycees has called on Congress to investigate what efforts have been made by civilian and military agencies in the government in "obtaining and verifying" an accounting of the MIAs.

The Jaycees, at their annual meeting held in Minneapolis, unanimously recommended the strong action because of what they termed "a lack of adequate action" by the government in seeking to obtain an accounting.

The organization also criticized North Vietnam for not complying with provisions of the Paris Agreement, pointing out that there were substantial reports that some MIAs may still be held captive in Southeast Asia.

They further noted that "there is reason to suspect that agencies of the United States Government may make blanket changes in status from Missing in Action to Killed in Action." The Jaycees recommended the government stop the changing of statuses of all MIAs to killed-in-action for the next five years unless there is positive proof of death.

Through a class action suit MIA families have temporarily enjoined the government from making status changes without the permission of the family. The constitutionality of the suit will be ruled on later this month.

Mr. HARTKE. Mr. President, there seems to be some confusion within the administration in this matter concerning the policy which the families of the MIA's should be taking. I believe the administration must be aware of the emotional stake which the families have in this important policy of the United States. We are all aware that article 8B of the agreement signed by the parties on January 27, 1973, and paragraph 8b of the Joint Commique of June 13, 1973, contained procedures for the parties to "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 the exhumation and repatriation of the remains, and to take any such other measures as may be required to get information about those still considered missing in action."

I ask unanimous consent that an article appearing in the same issue of the Voice, entitled "DOD Statements Contrary to Administration Policy," be printed in the RECORD at this point.

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

DOD STATEMENTS CONTRARY TO ADMINISTRATION POLICY

Mrs. Gloria Coppin of the National Advisory Board of VIVA and George Brooks, Vice Chairman of the Board of Directors of the National League of Families, stated at a New York press conference that statements made by members of the Department of Defense regarding the negotiations in Saigon are contrary to the statements of those actually involved in the negotiations and are destructive to the efforts of POW-MIA families.

According to the two spokesmen, Deputy Assistant Secretary of Defense in Charge of Public Affairs, General Daniel (Chappie) James, has been urging returned POWs, POW-MIA families, and concerned citizens to leave the issue solely to the government "experts" in order that they not hinder the delicate negotiations that are in progress.

Mrs. Coppin, who has just returned from a two-month trip to Asia, stated "I met with Col. Tombough, who heads the American delegation to the negotiations, as well as General Kingston and most of his staff who are charged with accounting for the missing. These men all admitted that the negotiations are not going well nor did any of them feel that public awareness would hinder the negotiations. Quite the contrary, most admitted that world public opinion might be the only weapon left. We were also assured by Melvin Laird that the administration policy is to support efforts to broaden public awareness of the failure of North Vietnam to comply with the peace agreement. It is difficult to understand why Gen. James is not required to comply with this policy.

"The POW-MIA families and thousands of concerned citizens have been working to inform the public that all our POWs did not return home. Although there is no evidence as to what the Communists have done with these prisoners, over 50 men who are known to be captive and are still listed as POWs by our government, neither returned nor were listed as dead by the Communists. Until the Communists account for the men they have held captive, none of the over 1200 Pow-MIA families will find peace."

Mr. Brooks said, "As our government has retained little or no leverage, a world wide public opinion campaign, which proved successful in gaining improved treatment for our prisoners, may be the only weapon we have left. This weapon is being rendered less effective by public statements such as the one made by Assistant Secretary of Defense William Clements in which he labeled those who distribute bracelets and bumper stickers as charlatans. It is difficult to understand how our government can maintain it is doing everything possible for us and yet use stronger language against us than they do against the Communists.

"Mr. Clements also maintained "There is not a single shred of evidence that any men are alive.' Where is there a shred of evidence that the men who were alive are now dead? For our government to presume that men who were known to be captive are no longer alive relieves Hanoi from the responsibility of any accounting and we will be left just as the families were in Korea—never knowing what happened to our loved ones. The President promised that he would not leave the return of our prisoners and accounting of MIAs to the good will of the enemy. Who decided the number of known captives who were not accounted for was a small enough number to make them dispensible so our government could maintain that all the POWs were home?

"General James said public discussion of the issue may give false hopes to the families. As an MIA father, I know that if this government continues to hinder our efforts to arouse public opinion by statements of that kind, they will eventually destroy not our hope for our men, but for the integrity and future of the country our men unselfishly served."

Mr. HARTKE. Mr. President, the National Board of Directors of Voices in Vital America sent a letter to the President pleading for a free voice in their quest for the truth:

Please, Mr. President, don't allow anyone in our government to render less effective the only weapon the POW/MIA families may have left—that of public opinion.

This letter was published in the Voice, October issue, and I ask unanimous consent that it be published in the RECORD at this point in my remarks, for the information of my colleagues.

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

AN OPEN LETTER TO THE PRESIDENT

Hon. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We would like to express our thanks publicly for the concern you have shown for the POW/MIAs and their families. We have not forgotten it was under your administration the Defense Department reversed its policy and allowed POW/MIA families to discuss the plight of their men.

Once informed the American people joined in the largest and most dramatic display of brotherhood in our history to help men they had never met. This power of public opinion influenced the Communists to improve the

treatment of our men, to which many returned POWs attribute their very lives.

Unfortunately, the Communists are still perpetrating a barbaric form of mental cruelty on almost 1200 POW/MIA families. This inhumanity may never be ended unless the American people are again informed and utilize the power of public opinion.

Many have said that all the POWs are home. Yet more than 50 men, who were known to be prisoners and are still officially listed as POWs by our Government, did not return home nor were they listed as dead by the Communists. Their capture was substantiated by evidence such as a letter written home, photos in captivity, propaganda broadcasts, etc.

Mr. and Mrs. Sparks have a letter from their son Don which says he is in fine health and has been held for ten months without seeing another prisoner. Is it fair that because no returned prisoner saw Don that the responsibility now falls on Mr. and Mrs. Sparks to prove that Don is still alive in order to prevent our own government spokesmen from saying, "All POWs are home and all MIAs are dead," thereby relieving the Communists from their obligation to account for Don and hundreds like him?

To presume that the Communists could possibly acount for all MIAs is ludicrous, but to presume that it takes over seven months for them to account for men who were known to be captured is just as ludicrous. Would our outrage have been demonstrated more vocally if only 50 POWs had returned and 500 known POWs had not been accounted for?

We are aware of the ability, sincerity and dedication of our delegation to the Four Party Military Team responsible for handling the negotiations and the men of the Joint Casualty Resolution Center who seek to account for the missing. These men acknowledge there has been little success in encouraging the Communists to live up to the Peace Agreement and that perhaps public awareness is the only weapon left. We have also been assured by Melvin Laird that the administration supports efforts to broaden public awareness of the failure of North Vietnam to comply with the Paris Agreement.

We can only assume, therefore, that it has not been brought to your attention that the Defense Department has been hindering the effective use of this weapon rather than supporting efforts to broaden public awareness.

This is evidenced by public statements such as the one made by Assistant Secretary of Defense William T. Clements who labeled everyone who distributes bracelets and bumper stickers "charlatans". It is also evidence by the fact that a spokesman for the Department of Defense uses every possible opportunity to urge returned POWs, POW/MIA family members, and concerned citizens to refrain from making public statements on the issue and leave it to the government "experts" lest they harm the negotiations in progress.

Such actions negate the efforts toward awakening public awareness and are completely contrary to the statements of Mr. Laird's and those actually involved in the negotiations.

Although only the Communists know whether any of them are still alive, all POWs did not return home, nor were they accounted for.

Please, Mr. President, don't allow anyone in our government to render less effective the only weapon the POW/MIA families may have left—that of public opinion.

Please grant representatives of the national organizations directly involved with this issue a meeting to clarify these discrepancies in order that your pledge of support to the POW/MIA families be fulfilled.

Respectfully,

NATIONAL BOARD OF DIRECTORS,
VIVA—Voices in Vital America.

Mr. HARTKE. Mr. President, the fate of these individuals as determined by the U.S. Government has touched every corner of America. The unaccounted for individuals come from the cities and towns of our country. The men who are missing are not without the support of their families. The Indiana coordinator for the Association of POW/MIA Families, Mr. Robert Ammon, the brother of an Air Force captain missing for more than 7 years, is a printer for the Evening Press in Muncie, Ind. On Thursday, November 1, 1973, the Muncie Evening Press carried a story of the plight of the National League of Families of American Prisoners and Missing in Southeast Asia in its urgent plea for assistance in securing the release of information concerning these Americans. There are many thought provoking questions posed in that article, which I ask unanimous consent to have printed in the RECORD at this point for the consideration of my colleagues.

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

MIA FAMILIES PLEADING AGAINST "STRANGE SILENCE"

(Note.—This urgent plea for public support by the National League of Families of American Prisoners and Missing in Southeast Asia, it is published in its entirety:)

At the time the United States signed the Paris Peace Conference Agreement on Jan. 27, 1973, almost 2,000 Americans—1,925 members of the Armed Forces and 52 civilians—were missing in action (MIA) or being held as prisoners of war (POW) in Southeast Asia.

Today, more than eight months after the peace agreement was signed, more than two-thirds of these men are still missing, and there has been no information of any kind concerning their fate.

The question that continues to plague the wives, parents, and children of these men is this: Is it possible that any of the missing men are still alive and in Communist hands?

There is only one logical answer: "Yes, it is possible." No one can dispute certain facts:

Some of the men who are still missing are known to have been alive and in Communist hands at one time.

Some of the men were photographed in captivity. The U.S. Government has copies of the photographs.

In other cases, the enemy issued propaganda releases including photographs of the official Armed Forces I.D. cards of certain men, stating that the men had been taken prisoner. Our government also has this information in is possession.

In still other instances, the enemy made radio broadcasts announcing the capture of American servicemen. The United States monitored these broadcasts.

But when the peace agreement was signed, and the other side handed our government a list of Americans who were to be repatriated (together with a list of 60 men who had "died in captivity"), more than 50 men previously identified as prisoners of war did not appear on either list. The Communists have since provided no information about any of them.

Similarly, many Americans who had been listed as "missing in action", but never classified as POWs, disappeared in the combat zone under circumstances that point to the strong possibility that they might have been taken prisoner. Yet, when the Communists listed the Americans who were to be repatriated, the lists included only 47 men (out of a total of 1,334 missing) who were to be repatriated. Ten other men previously identified as missing also were included on the list of those who died in captivity. This means that a total of 57 MIAs (or less than four per cent of all of the missing) were accounted for.

What happened to all of the others?

The men Hanoi claimed to capture are either still alive or they are dead. If alive, they are still being held captive. If dead, there would be no apparent reason for the other side not to list them among the 60 other Americans who they admit died in captivity. But one thing is certain, since some of the men were photographed in captivity; since the North Vietnamese took ID cards from other men; and since Hanoi claimed the capture of other specific individuals . . . HANOI HAS TO KNOW IF THEY ARE ALIVE OR DEAD.

And what happened to all of the other "missing?" When they disappeared under circumstances that pointed to the strong possibility of their capture—and their bodies were not recovered in subsequent searches of the area—it is difficult to believe they just disappeared into thin air.

In Laos alone, 317 American servicemen were listed as missing in action or as prisoners of war. But when Americans were repatriated, only six men captured in Laos (all of whom had been held captive in the city of Hanoi) were released. There was no information of any kind about the other 98 per cent. And after more than eight months of waiting, there is still nothing.

When the Paris Agreement was signed, North Vietnam agreed to assume responsibility for the release and accounting of all missing and captured Americans (and members of allied forces) throughout Southeast Asia. Article 8B of the agreement also stipulates that all parties to the agreement will "help each other" obtain information about the missing, determine the location of graves of the dead, and facilitate the exhumation and repatriation of remains of the dead.

But even though the U.S. government has given the other side complete lists of missing American personnel and requested information about these men, no information has been provided. Similarly, the U.S. government has repeatedly sought to arrange the repatriation of remains of the 60 Americans the other said claims died in captivity. But not one body has been returned.

And yet America's leaders and the American people have remained strangely silent. We have heard no great cry of public outrage. We have waited in vain for our President, our Secretary of State, our Secretary of Defense, the elected leaders of the House and Senate, the Governors of our States, our mayors, and other officials holding positions of responsibility and trust, to charge the North Vietnamese with gross deception and to demand, in the strongest possible terms, that our dead be returned and our missing accounted for.

Only since the Paris Agreement was signed last January, has the United States government issued any kind of formal protest—and this was done only after the board of directors of the National League of Families made a stern, face-to-face representation to Dr. Henry Kissinger concerning the growing dissatisfaction of the families of these men.

But this protest, when it was finally made in a formal note to the North Vietnamese from the U.S. government, on July 30, 1973, was little more than a gentle, diplomatic prod. It did not even stir the curtain of silence that continues to shroud the fate of our men.

The League of Families is now more deeply disturbed than ever that our elected and appointed leaders are not making strong public demands that the North Vietnamese and their allies account for our missing, return our dead, and explain the discrepancies that exist with respect to men who we know were captured but who were neither released nor accounted for.

The American people must be made aware that even though some of our prisoners and

missing men were returned, the vast majority were not, and that more than 1,200 families all across the country continue to live in the agony of not knowing the fate of their husbands, sons and fathers.

We want our elected officials and our fellow citizens to start asking about these men.

Where are those men who were captured, who we know were captured, and who were not returned to us, who were not listed among the dead, and about whom the other side has furnished absolutely no accounting of any kind? Where are they?

Why have the bodies of the 60 men the other side identified as having died in captivity not been returned to their families? Why can't immediate arrangements be completed to return these bodies? Why?

Where are the more than 300 men listed as missing in Laos, about whom we have no information of any kind? Why has no information been provided on those taken prisoner in Laos and of whom we have capture-photographs the strongest possible evidence that they were, indeed, captured? Where are they?

Why are our search and investigating teams being denied the right to enter areas where most of the missing disappeared? Why can't they be given immediate access to these areas where the men were last seen alive? Why?

These are a few of the question we want our fellow countrymen to start asking—loud and clear.

And we want to hear them repeated at the White House, in the U.S. State Department, at the Defense Department, on the floor of the House and Senate, in Congressional hearings, in our Embassies abroad, in the chambers of our State Capitals by our Governors, our mayors, and by our representatives at the United Nations.

And we want, and demand, that these questions be asked again and again in every public forum until they have been satisfactorily answered.

Mr. HARTKE. Finally, Mr. President, this Congress must not allow the status of these individuals to go unaccounted for. The 1,300 Americans still missing are double the number of prisoners who returned home earlier from that tragic war. We must be ever cognizant of the emotions which these families possess, and must urge the Secretary of State to avail himself of every diplomatic means available to secure further information leading to the identification of those who have died, and those who may still be alive somewhere in Indochina. The plight of these men is no less than that of those we saw come home to a joyous celebration.

ENERGY CRISIS

Mr. MONTOYA. Mr. President, in the last few weeks the Congress has met the challenge of the energy crisis head on. The severity of the Arab oil embargo became clear to the Nation in October and since that time the House of Representatives and the Senate have set a remarkable legislative record by considering legislation to: First, provide emergency powers to the President; second, impose year-round daylight savings time; third, lower speed limits on interstate highways; fourth, promote energy conservation; fifth, delay clean air standards; and sixth, improve energy research and development.

Unfortunately, during this time of crisis, many people have tried to place the blame for energy shortages on certain segments of our society. Specifically, considerable criticism has been voiced against environmental groups. Some critics maintain that environmentalists are to blame for the present energy crisis and that we need to drastically roll back environmental standards to resolve the energy crisis.

Mr. President, we should not listen to those critics. While environmental statutes have had an impact on the present energy crisis, they are not the only factor behind our troubles. In addition, if we unreasonably relax environmental standards, we will lose all the gains we have made in the last several years.

The immediate cause of our energy supply crisis is the Arab oil embargo. While there is debate about the severity of this embargo, it is safe to assume that demand will exceed supply by 17 percent this winter. Shortages of heating oil, diesel fuel, residual fuel oil, jet fuel, and gasoline will be especially severe. We can only hope that the steps we have taken in the last few weeks, and the steps that will be taken in the near future, will lessen the impact of the anticipated shortages.

It is important to point out, however, that an energy supply shortage was predicted for this winter before the Arab oil embargo. In addition, many energy experts were forecasting continued supply problems for the next few years.

These shortages were the result of several complex and interrelated factors. First, there has been a rapid rise in total and per capita energy demand. Second, we have failed to use existing energy resources wisely; energy waste, not energy conservation has been our hallmark. Third, there has been a failure, for a number of reasons, of domestic energy sources to keep pace with demand. Fourth, conflicting Government policies have deterred our ability to meet demand. Fifth, the rapidly changing international situation with respect to the pricing and reliability of imported oil and gas has caused instability in our energy industries. Finally, the pursuit of environmental goals has affected energy supply and demand.

The latter problem, the pursuit of environmental standards, has had an impact on energy supply and demand. For example, many industries and utilities have had to switch from dirty fuels—such as high-sulfur coal or fuel oil—to clean fuels—such as low-sulfur fuel oil or natural gas. This has significantly increased the demands for clean fuels which were already in short supply. In addition, our attempts to improve the exhaust emissions from automobiles has slightly decreased gas mileage for most cars. Catalytic converters to be used to meet 1975 emission standards will actually increase gas mileage, however.

However, I think it is important to note that we knew improving the quality of our environment would not be easy. We knew that changes in our life style would be necessary and that certain goods and services might be more expensive. Even with these risks, the American people supported the environmental statutes recently enacted by Congress.

Several months ago, the Administrator of the Environmental Protection Agency, Mr. Russell Train, cautioned against making the environment a "whipping boy" for energy problems. As he noted:

> Environmental considerations are a part of our energy difficulties but only a part.

I could not agree more. It is important that we avoid placing the blame for highly complex energy problems on one factor such as environmental goals. The problem is much more complex than that.

On the other hand, I also think it is important that we recognize the contribution environmental goals have made to our problems and act accordingly. This is what the Congress has done. Both the House and Senate have enacted measures to temporarily modify the Clean Air Act during the present energy emergency. This legislation makes good sense, since it recognizes the problem and seeks to resolve the issue in a rational and workable fashion.

Mr. President, in the next few years we must meet both our energy supply needs and environmental goals. This task will require the United States to avoid being rigid and inflexible. Rigidity and inflexibility seldom produce reasonable solutions; indeed, they usually produce conflict. At times we will encounter problems such as the Arab oil embargo and energy shortages, but we must continue to work toward the broad national goals, such as environmental quality, we have set over the last few years.

The next few years will be important ones. We have embarked on a real challenge to continue to supply our energy needs, but to do so with environmental safeguards. The task is a large one, and there will be be setbacks and delays. In addition, the choices we will have to make will be difficult. Indeed, this problem may prove to be the most important issue we face for the remainder of the decade. I welcome this challenge.

THE ENERGY CRISIS AND CALIFORNIA JOBS

Mr. CRANSTON. Mr. President, thousands of jobs in California and elsewhere may be lost if energy and fuel shortages impact on American business and industry as many economists predict.

The new mandatory fuel allocation program gives us some breathing room. But only a little. Without it Los Angeles County could lose from 100,000 to 200,000 jobs almost immediately.

Here is how: Contingency plans drawn up by the administration in event of severe fuel shortages include limiting industrial operations to 50 hours a week. The ripple effect of massive layoffs could create social and economic chaos with many thousands more unemployed, and incredible hardships for workers, families, and businesses.

Fortunately that will be forstalled by the allocation program which will insure that Los Angeles gets its fair share of whatever fuels are available. We must add additional supplies of oil for consumer use and new sources of usable energy.

Just before the Christmas recess, the Senate passed a measure opening up the Elk Hills Naval Petroleum Reserve near Bakersfield to supply 160,000 barrels of oil a day for civilian use. Both Senator TUNNEY and I have long fought for this move. I think we can take this amount from our military and defense supplies for 1 year without adversely affecting overall defense needs. Producing oil from from Elk Hills in the amount I mentioned for a year would deplete the total supply by less than 5 percent of its total 1 billion barrels in reserve.

A bonus with the Elk Hills oil is that it is low in sulfur and will not aggravate the smog problem in the Los Angeles basin.

There are already mounting layoffs in many southern California industries, particularly in plastics and other "petrochemical" dependent enterprises. There will probably be many more layoffs next year, with or without an Arab oil boycott.

We must make proper use of the conventional fuels in reserve. And we must begin a crash program for developing new sources of energy. I am particularly interested in the potential of solar and geothermal energy.

Most important, we must keep our factories and manufacturing producing at full capacity to avoid a terrible wave of joblessness on top of an energy crisis.

DR. C. G. MELTON, SR.

Mr. FULBRIGHT. Mr. President, Dr. C. G. Melton was one of the leading citizens of Fayetteville, Ark., and his recent death represents a great loss not only for his family but for the entire community.

Dr. Melton was a leader in many civic activities, and among his many contributions was 18 years of service on the Fayetteville Board of Education. He was also a leader in the optometric profession.

As the Northwest Arkansas Times said in an editorial:

The list of achievements that grace Dr. Melton's name is awesome.

I concur with the Times editorial's conclusion:

His sort is all too rare, and he will be missed.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Northwest Arkansas Times of December 1 and an editorial from the Times of December 3.

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

DR. C. G. MELTON SR. KILLED IN ASH FLAT HIGHWAY CRASH

Dr. C. G. Melton, 73, Fayetteville optometrist, was killed and two other persons suffered minor injuries Friday in a two-vehicle crash at the intersection of U.S. Hwys. 167 and 62 near Ash Flat (Sharp County), State Police said.

Injured were Dr. Melton's wife, Mrs. Josephine Melton, 69, of Fayetteville, and Ronald J. Yates, 33, of Ash Flat. Neither was believed seriously injured. Mrs. Melton was returned to Fayetteville following the accident.

State Trooper Bill Couch said the accident occurred when a car driven by Dr. Melton pulled into the path of a pickup truck driven by Yates.

YELLVILLE NATIVE

Dr. Melton was born April 28, 1899 in Yellville, the son of William T. and Ruby Sims Melton. He was educated in the Yellville Public Schools, attended Hendrix College and was graduated from Northern Illinois College of Optometry. He had practiced optometry in Fayetteville since October 1923.

He had been a member of Central United Methodist Church for 48 years, was a past chairman of the Board of Stewards and held innumerable other leadership positions. He served as a member of the Board of Education of Fayetteville for 18 years and was a member of the Huntsville State Vocational School Board.

Dr. Melton was the first president of the Fayetteville Community Chest, now the United Fund, and served on the first Arkansas Economic Council. He was also active in the Fayetteville Lion's Club and served as a past deputy district governor. He was a 32nd degree Mason.

MANY HONORS

He was named an "Arkansas Traveler" in 1949 and was the recipient of many honors in his profession, including an honorary degree conferred by Southern College of Optometry in 1970.

He is survived by his widow; a son, Dr. C. Garland Melton Jr. of Fayetteville; a daughter, Mrs. James Bennett of Orange, Tex.; two brothers, Oscar and W. O. (Doc), both of Jonesboro; a sister, Mrs. Zol Pulliam also of Jonesboro; and four grandchildren.

Funeral services will be conducted 3 p.m. Monday at Central United Methodist Church by Bishop Paul Galloway and the pastor, Dr. Joe Cooper. Burial will be in Fairview Memorial Gardens under direction of Moore's Chapel.

DR. C. G. MELTON SR.

Dr. C. G. Melton Sr., 73, was in every sense of the word a good citizen. Every roll call of residents, on behalf of community projects, has found Dr. Melton prominently in the vanguard. His death last weekend is a tragedy not only for the family, but for this community as well.

The list of achievements that grace Dr. Melton's name is awesome. He has served with distinction in educational, church, civic, professional and business leadership circles. The Fayetteville school system, among other local facilities, owes a considerable debt of thanks for Dr. Melton's sagacious leadership during a period of more than a generation ago when planning for an uncertain future was less rewarding a task than in today's fast pace of events.

Another area where Dr. Melton will be missed, particularly by those with whom he took time to share his thoughts, is in local, state and national affairs of government. Dr. Melton nurtured an uncommon interest in public affairs of all sorts, and the "politics" of Fayetteville's water and sewer "growth area" was just as welcome grist for his mill as political ambitions at the state level among his personal acquaintances, or even Watergate. He had an extraordinary sense of history, current as well as influentially from the past, which, in our view, was an asset to his community leadership.

His sort is all too rare, and he will be missed.

MUSEUMS

Mr. PELL. Mr. President, I wish to call to the attention of my colleagues a survey recently published on museums by the National Endowment for the Arts.

The survey is a synopsis of a much more detailed analysis scheduled for publication this coming spring. I commend Miss Nancy Hanks, chairman of the endowment, and her staff and the National Council on the Arts for the initiatives they have taken, with congressional encouragement, for this comprehensive documentation of an area in our cultural life which needs our best attention—the museums of our Nation, which serve both to enrich our lives and to educate us. They face critical problems and they have urgent needs, if they are to fulfill their potentials as the reservoirs of our national heritage and as sources which increase pleasure and abiding knowledge.

Mr. President, in this Congress, as well as during the 92d Congress, I have introduced legislation to assist museums so that they can better meet the increasing demands our people are placing on them. As described in a recent article in U.S. News and World Report, museum attendance in our country has increased fivefold in just 10 years—from 200 million annual visits by individuals to more than 1 billion. In applauding such a rapid growth rate, we must recognize that it means greatly added costs for museums, and that these costs also reflect a time of inflation.

The survey conducted by the National Endowment for the Arts covers 1,821 museums throughout the country, in the 50 States and the District of Columbia. It covers museums both large and small. Criteria governing the survey include stipulations that the particular institution has permanent facilities open to the public on a regularly scheduled basis and an operating budget of at least $1,000 per month while the museum is open, plus at least one full-time paid employee with academic training or special knowledge relating to the major subjects represented in the museum's collection. For purposes of the survey operating budgets do not include money spent on major capital improvements of acquisitions for collections. Institutions covered are nonprofit and tax-exempt.

Mr. President, I intend to discuss this survey again at a later time, but I would like to point out to my colleagues now some most interesting conclusions:

One. Operating costs have increased markedly in 90 percent of the museums surveyed.

Two. Annual operating expenditures for the museums surveyed total close to $480 million—$478,912,000. Again, not included in these figures are major capital expenditures.

Three. Two-thirds of the museums surveyed find their current budgets do not enable them to provide adequate services.

Four. To achieve proper utilization of their facilities, museum directors report that a median budget increase of 45 percent will be required within the next 2 to 3 years.

Translating these findings into specific and conservative amounts we can see that increased museum needs—only for operating expenditures as defined—will total approximately $144 million within the above time span. Two-thirds of $480 million is $320 million, and a 45-percent

increase of this latter figure is $144 million.

Mr. President, the Museum Services Act, S. 796, which I introduced on February 7 of this year, provides for a new program of assistance to museums, especially in the important area of operational and administrative costs. This legislation calls for authorizations beginning at $25 million for the first fiscal year of the new programs and $30 million in succeeding fiscal years, through 1977. In light of the survey I have described, these authorizations can be considered modest in terms of needs.

I am very pleased that this legislation has been cosponsored by Senators KENNEDY, PASTORE, HUGH SCOTT, MONDALE, MOSS, RIBICOFF, SCHWEIKER, HUMPHREY, MANSFIELD, MATHIAS, and INOUYE.

Comprehensive hearings were held in July on this legislation under my chairmanship. Museum leaders from all sections of our country testified enthusiastically in favor of the concepts I had proposed. The hearings, dealing with all aspects of museum needs, have been published in a volume of almost 1,200 pages. I recommend this volume to the attention of my colleagues, for I believe the hearings contain the most detailed information on museum needs and potentials ever assembled in the Senate.

Unfortunately, the present administration has taken a very negative view on the proposed legislation, indicating that museum needs are being met by the National Foundation on the Arts and the Humanities and by the more modest programs, primarily of technical assistance, conducted by the Smithsonian Institution.

Mr. President, exemplary as are the programs conducted by the foundation and its two endowments, and by the Smithsonian, these programs fall far short of meeting the needs I have outlined. Moreover, there is a philosophic difference of viewpoint. Essentially, both the National Endowment for the Arts and the National Endowment for the Humanities concentrate on programs and projects to assist museums which relate to an expansion of services and greater community service. Welcome as is this support, repeatedly during the hearings museum leaders testified concerning the difficulty of expanding services when financial stringencies dictate a curtailment rather than an expansion of endeavors, and when endowment procedures do not include general operational support.

Mr. President, I intend to pursue the goals I have prescribed in S. 796 in the next session of the 93d Congress. Particularly do they appear relevant as we prepare for our Bicentennial Celebration, when our Nation's museums can play a major role in providing our Nation and its visitors with the very best possible services, and with exhibitions and programs which will truly reveal our heritage and our important cultural contributions.

Particularly, do these goals seem relevant to the future beyond 1976 and to the ever-growing numbers of our people who find in museums new sources of knowledge, enrichment, and entertainment.

In addition, 82 percent of the museums surveyed emphasize the need for conservation and preservation of the objects their museums contain. As I pointed out in the July hearings, "virtually all our museum directors preside at the moment over deteriorating collections" and "unless we act with dispatch the hundreds of millions of people who now visit our museums annually will have much less to see and appreciate and know and understand by the end of this century."

Conservation and preservation assistance is also implicit in the Museum Services Act.

Mr. President, two recent articles—one I have mentioned from U.S. News & World Report, and one from the Washington Post—deserve our attention as we consider museum potentials and museum needs.

I ask unanimous consent that both articles be printed in full in the RECORD at the conclusion of these remarks.

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

PACKING THEM IN—"NEW LOOK" MUSEUMS

A new kind of museum—part university, part theater, and part carnival—is now emerging in hundreds of cities and towns across the U.S.

Offering attractions from colonial villages to simulated space flights, America's 5,000 museums are moving away as never before from the musty, formal institutions of the past.

As a result, museums are packed with unprecedented crowds.

On one day recently, the buildings of the Smithsonian Institution in Washington, D.C., were jammed with 84,000 people. In California, visitors were lined up for blocks to view an art exhibit at the Los Angeles County Museum of Art. In Chicago, throngs totaling 15,000 at a time are common at the Museum of Science and Industry.

"It's really incredible," said John E. Peetz, director of the Oakland, Calif., Museum. "We're packing them in—all kinds of people who wouldn't have gone anywhere near a museum a few years ago."

In just over a decade, attendance nationwide at such institutions has climbed from about 200 million annually to a projected total of more than 1 billion this year. Among reasons cited for the boom are the increase in leisure time, growing curiosity about the nation's history, and a greater awareness of science and culture.

BARGAIN ENTERTAINMENT

Also a factor is free or low-cost admission to most museums—one of the biggest bargains in education and entertainment left to the public. At a time when most other activities are expensive, many museums have resisted pressures to raise prices.

It's the dramatic shift in the approach to exhibits, however, that is regarded as a primary reason for the boom in visitors.

One of the biggest changes is the growing emphasis on "total immersion" exhibits which often include working models, movies and tape recordings to give the visitor the impression that he is participating in an event.

Banished to the basements in some museums are many of the old-style glass-top showcases which used to be the standard for displaying most items from Civil War uniforms to rare stamps.

The "new look" is typified in a huge new hall soon to be opened in the Smithsonian Institution's Museum of Natural History.

Containing such elements as a four-stories-high "rain forest"—actually trees made of fiber glass and plastic—the exhibit adds to a lifelike quality with a wide variety of recorded sounds, including the howling of a tropical storm and a cheetah's cry.

Movies, slides and a recorded narration help to explain the interrelationship of all forms of life and man's impact on the environment.

THE AGE OF FLIGHT

Many other new techniques are being tested in anticipation of the opening of the Smithsonian's National Air and Space Museum scheduled in 1976.

Three blocks long and six stories high, the 40-million-dollar building in the nation's capital will contain 27 major halls utilizing virtually every device known to technicians to recreate the days of flight from balloons to spacecraft.

Among main attractions planned for the edifice: a chamber inside a mock space ship which will give the visitor the impression that he has embarked on a flight to the moon.

"We want this to be one of the most exciting and educational experiences available to museum visitors anywhere," said Melvin B. Zisfein, deputy director of the new facility.

Another approach is that of the Oakland Museum, which is capitalizing on events such as folk festivals and craft shows to attract wider audiences. The four-year-old museum has increased attendance from 40,000 a month in 1970 to more than 100,000 by such means as celebrations that include exhibits of art, singing and dancing and meals—all reflecting a particular heritage. American Indians and citizens of Chinese, Mexican, African and Greek ancestry are among groups that have participated. Explained John Peetz, museum head:

"We want this building to seem like an extension of the people's culture, and to get away from the idea that it is a stuffy, forbidding place for the elite only."

SEEING—BY HAND

In Louisville, the J. B. Speed Art Museum has opened a "touch and see" gallery for blind people. Six especially trained guides lead visitors through displays of sculpture and paintings, explaining the significance of what the hands feel.

Attendance at the Louisville institution has increased almost 100 per cent since 1960 to a projected total of about 65,000 this year.

Another increasingly successful operation is the Museum of Fine Arts in Houston, which is scheduled to open a 4-million-dollar addition Jan. 15, 1974.

Smaller museums, too, have expanded their activities in many areas. Although it is off the most heavily traveled tourist circuits, the Norwegian-American Museum in Decorah, Ia., has added considerably to its inventory, and is enjoying a modest boom.

Featuring art work, buildings and costumes of Norwegian settlers in the U.S., the organization has expanded from a three-story building into additional structures including a nineteenth-century church and a stone mill. The number of visitors has risen to 25,000 annually from 10,000 a decade ago.

Said Mrs. Betty Seegmiller, an official of the museum:

"One of the main reasons for our growth is greater interest in national heritage. Lots of people—not only Norwegian Americans—come here to see how our forefathers built a new nation."

Many museums, recognizing that some people can't travel far from their homes, have assembled small art and science collections that are transported from neighborhood to neighborhood and town to town.

Permanent exhibitions have been established in outlying areas by some major museums. One such operation is the Studio Watts Workshop in the Watts community of Los Angeles, a predominantly black neighborhood, which was swept by rioting in 1965.

The activity is sponsored jointly by such organizations as the Los Angeles County Museum of Art, the De Young Museum of San Francisco, and the National Endowment for the Arts. Much of the emphasis is on encouraging local youngsters to produce their own art works.

FRIENDS AND HELPERS

Many museums encourage direct community support through membership programs that provide money as well as volunteer labor for hundreds of projects.

The Smithsonian Associates, for example, is a group of 35,000 dues-paying contributors, and the Norwegian-American Museum has 2,200 members.

Despite such efforts, many curators complain that they are unsure of what the public really wants in museums. To provide more information, several organizations have undertaken surveys to help offer guidance. For instance, the Smithsonian is investigating the effects of crowded and uncrowded galleries on the visitor's receptivity.

Scientists also are studying such phenomena as finger marks on display cases for clues about what is interesting and what is not.

A display of historical surgical instruments, for example, was recently graded zero for interest when it was discovered that the cases containing them were totally unblemished. Exhibits of old guns and dolls, on the other hand, rate high on the "smudge scale."

Some institutions are investigating ways of involving the visitor more directly in the activity he is viewing. The Smithsonian is considering machines which will allow a viewer to punch buttons for tape-recorded answers to questions which still puzzle him after he has seen a scientific display.

THE MONEY PROBLEM

Many of these innovations are expensive and strain the financial resources of institutions which often rate low on the priorities of local, State and federal budgets. The situation, in many cases, is even more serious for privately financed organizations dependent on investments which have not kept pace with inflation.

All told, America's museums cost an estimated 3 billion dollars a year to run—far more than revenues from visitors. Officials of the American Association of Museums have warned the U.S. Congress that substantial aid from the Federal Government will be necessary to keep many institutions in operation.

Other problems include maintenance of historical materials—many of which are falling victim to increased pollution in America's cities, and the crush of larger crowds filling the museums.

In the Smithsonian alone, there are 75 million objects—many of which require constant custodial attention.

Estimates are that there will be a need in the U.S. over the next decade for nearly 400 conservators—highly skilled technicians who can restore everything from Egyptian mummies to old radio sets—compared with a prospective inflow of only about 220 of such experts.

Over all, however, most administrators believe the problems can be solved, and that museums will play an increasingly important role in the education and entertainment of all kinds of Americans.

Observed Paul N. Perrot, who is assistant secretary of the Smithsonian:

"We have become a university complementing the other institutions of learning. Seeing and understanding historical objects has become a very important part of American life."

MUSEUMS: PROFILING AN AILING INSTITUTION

(By Jean M. White)

Here is a half-billion-dollar-a-year industry, staffed two-thirds by volunteers, housed in aging facilities (one in five in buildings over a half century old), forced (36 per cent) to cut back services in face of a rising demand (308 million visits a year).

This is the profile of the nation's hard-pressed museum system that emerges from the most comprehensive study ever made in the field.

A summary of the key findings was released yesterday in "Museums USA: Highlights" by the National Endowment for the Arts. A report providing detailed figures and an analysis of the study is being prepared by Sen. Claiborne Pell (D-R.I.) to authorize

Altogether, the survey covers 1,821 of the nation's museums, nearly all those that are open at least three months a year for a minimum of 25 hours a week, are non-profit, tax-exempt and have at least one full-time paid employee with professional knowledge or training.

Their annual budgets range from $3,700 to $20 million, and the museums vary in size from a small county historical museum to the Smithsonian Institution and the Metropolitan Museum of Art.

Since the survey does not provide figures on individual institutions, there are no specific statistics on Washington's family of museums. The situation here is hardly representative, with federal subsidies helping the large government museums.

The preliminary study makes no recommendations and does not attempt to pull together an analysis of the statistics. But the bare figures point up starkly the ailing condition of the nation's museums. Here are some of the findings:

Over the last five years, more than one-third of the museums have been forced to curtail services or staff under financial pressures. Some museums have closed off whole wings; others have shortened hours.

The primary facilities of 41 per cent of the nation's museums are 30 or more years old. One in five of the museums is using facilities that are more than 50 years old.

Of the 110,000 museum work force, nearly two-thirds are unpaid volunteers. There are 30,400 full-time paid personnel and 18,700 part-timers.

The public is using the nation's museums more and more. A total of 308,205,000 visits were made to the museums surveyed in the last fiscal year.

During fiscal 1971–72, the 1,821 museums spent $478,912,000 for operating expenses exclusive of major renovations and acquisitions. Fifty-nine percent of this went for personnel.

Sixty-three percent of the income ($513,341,000) for the museums came from the private sector. The federal government provided 12 percent (or $60,778,000) last fiscal year. But that figure must be viewed in the perspective that most (all but $13.5 million) went to support federal museums, including the Smithsonian.

The year-long $350,000 survey is the first major research project undertaken by the National Endowment for the Arts.

Nancy Hanks, the endowment's chairman, has emphasized the need for solid data to fashion the most effective programs to help museums. Many of these needs, she also emphasizes in the report's forward, "can be put in the perspective of the needs of all cultural institutions . . ."

Under Miss Hanks, the Arts Endowment launched a million-dollar pilot program of assistance to the nation's museums in January, 1971. By fiscal 1973, the program had grown to $4.6 million, with grants mainly for special exhibits, catalogs, acquisitions, preservation and training.

But the American Association of museums is pressing for direct federal aid to museums with money primarily for maintenance, operation and major renovation where necessary. These are the areas where museums are hurting the most, AAM director Kyran McGroth says.

The association is backing a bill introduced by the endowment for spring publication.
up to $30 million a year in direct federal grants to help museums operate and renovate.

Museums are worried now that the energy crisis will curtail operations. But apart from the cost of heating, the real worry is being allocated enough fuel to maintain climate control. Humidity and temperature must be carefully maintained to preserve paintings and precious objects of art.

Beyond the statistics on finances and staff, the endowment's survey touched on the views of directors on what they think are the most important functions performed by museums.

In putting priorities on 10 given museum functions, 84 percent of the directors listed exhibiting cultural and/or scientific heritage for the public as very important. At the same time, nearly the same number (82 percent) also gave priority to conservation and preservation of objects.

There has been an increasingly fierce debate in museum circles over whether emphasis should be on reaching out to the community and attracting crowds with showmanship or on the function preserving and extending a scholarly and cultural resource.

The endowment's survey was supervised by Ana Steele, the director of budget and research, and her assistant, Anne Clark, Judith Smith prepared the highlights report.

NATIONAL GROWTH POLICY

Mr. HARTKE. Mr. President, for the last 2 years I have endeavored to make the Congress, Federal, State, and local officials and the public aware of the need to formulate a national growth policy to fulfill the need for a blueprint for our Nation's domestic policy. In the 92d Congress I sponsored the National Growth Policy Planning Act of 1972. Senator TUNNEY joined in cosponsoring that measure. In the 93d Congress I introduced the National Growth Policy Planning Act of 1973, a more broad and complicated prodigy of the first bill. I also introduced the National Growth Policy Employment Act of 1973.

As part of my effort to not only lead but to generate sufficient public support for the development of a national growth policy, I undertook an extensive public information program. I responded to the scores of letters concerned with my three proposals with a cogent analysis published in the Catholic University Law Review entitled, "Toward A National Growth Policy." In the last few months we have all seen the fruition of those efforts. The Congressional Research Service will soon hold its second series of seminars on national growth policy. A recent "National Conference on Managed Growth" attracted more than 400 people, most of them planners and local government officials from across the Nation. Several Senators have circulated

memoranda discussing the possibility of the development of a Select Committee on National Growth Policy, and Governor Rockefeller of New York will soon unleash a National Commission on the Future of America to gather data and recommendations for public policy not in 1 or even 3-year spans but for decades and generations to come.

All of these events lead to the conclusion that the time is ripe for Congress to act. The needs of the Nation in housing, environment, education, rural development, and equal opportunity require us to undertake a concerted look at our Nation's growth.

Mr. President, I ask unanimous consent that an article on "no-growth zoning" be printed in the RECORD.

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

[From the Washington Post, Sept. 18, 1973]

PLANNERS WARNED ON NO-GROWTH ZONING
(By Susanna McBee)

CHICAGO, Sept. 17.—A Washington lawyer who specializes in urban planning cases warned today that courts are going to look closely and skeptically at community efforts to slow growth.

Many local localities across the country are adopting no-growth or slow-growth policies.

"Judges will be especially skeptical of policies that don't come from well thought out plans that address themselves both to community and regional needs," said Herbert M. Franklin of the Frosh, Lane & Edson law firm.

Franklin, who is handling the legal challenge to the federal government's moratorium on housing subsidies, spoke to the National Conference on Managed Growth. The three-day session has drawn more than 400 people, most of them planners and local government officials, from 42 states.

"Zoning controls are not contraceptives," Franklin said. "Their proper role is to channel growth, not prevent it."

He noted that Boca Raton, Fla., decided by referendum last November to limit its population, now 40,000, to about 100,000 and that it now is about to undertake a study to show that the "population cap" is reasonable because of environmental factors.

"It seems to me that a population cap unsupported by any rationale cannot pass a court's test of reasonableness," he said.

Franklin, recalling a recent Michigan case in which a court struck down a locality's exclusion of mobile homes, said the burden of proving that an ordinance is valid may be shifting to the community. In the past, challengers had the burden of proving it unreasonable.

He also cited a case last year in which the U.S. Supreme Court upheld the timed-development plan of Ramapo, N.Y., which tied growth to a capital improvement program and had the effect of halting some development for as long as 18 years.

The Ramapo case shows a properly constructed plan may persuade the courts, Franklin said, but he argued that a population cap law without such a plan "should fail."

He referred to another 1972 case in which the U.S. Court of Appeals for the First District reluctantly upheld the efforts of Sanbornton, N.H., to stop the Steel Hill Development Corp. from building a big second-home community by rezoning certain land for six-acre lots.

In that case, the court chastised the town for not adequately planning for growth and made it clear that restrictive zoning merely to stop population expansion would not be permitted.

However, Franklin said, the court confessed it had been caught between ecological and population pressures and had opted for ecology.

He said referendums to cap growth present a conflict between "community self-determination and certain values we hold dear as a nation. I guess I don't subscribe to the idea that the right to travel and to seek a better livelihood and a better home should be put to a referendum."

Another speaker—Dennis L. Meadows, who teaches at Dartmouth and who wrote a book last year called "The Limits to Growth"—suggested that communities may have to stop trying to provide the best of everything for their citizens.

California once thought it could provide the best schools, jobs, health services, and recreation areas, and now, because of taxes, congestion, crime, and the welfare load, its attractiveness has been reduced, Meadows said.

"We have to be a little more philosophical about what our options are and stop reaching for Utopia," he said, citing the state of Vermont, which rates low in job opportunities and average income but high in open space and personal safety.

OCEANS POLICY RESOLUTION

Mr. FULBRIGHT. Mr. President, yesterday approximately 55 Senators cosponsored the Senate oceans policy resolution (S.Res. 222). I was quite pleased to be included in that distinguished group.

The oceans and marine-related activities are destined to play an important role in the future of man's world. The manner in which we utilize the seas will have a profound effect on the world's economy, its ability to meet increasing demands for food and raw materials, and the quality of its environment. For example, the explosive growth in the world's population is creating enormous demands for protein. It has been estimated that the world's oceans could provide an annual yield of approximately 300 to 400 million tons of fish, which if properly distributed, could meet most of the protein needs of 6 billion people. However, this goal is impossible to achieve without effective national and international arrangements for the rational management of the world's fish resources.

Similar arrangements are needed to develop fully and wisely the mineral wealth of the seas. This is particularly true in view of our current energy crisis. However, as vital as this development is to our national economy, it must be tempered by strong environmental considerations. Man's destruction of the environment is all too often ignored because of immediate economic advantage.

For these reasons and many more, it is essential that our country develop a strong, coordinated policy with respect to the oceans. However, our country's marine interests are vast and complex. The accommodation of these varied interests requires a unified plan for both national and international action. This plan must provide for an immediate attack on present problems along with a long-range program to develop a framework of laws and institutions which will create a foundation for future productive marine activities.

The Foreign Relations Committee, through the Subcommittee on Oceans and International Environment, under the able chairmanship of Senator PELL, has been concerned with our country's international oceans policy for a number of years. The hearings conducted before this subcommittee have attempted to provide the executive branch with congressional guidance in this area. In a continuation of this process, I look forward to cooperating with the study committee proposed by this resolution. Hopefully, this committee will come forth with recommendations designed to develop a uniform and coordinated national policy which can effectively deal with the problems associated with the various uses of the oceans.

In conclusion, I urge my fellow Senators to support this resolution and to give the problems of ocean space the attention they deserve.

EMBOSSED MONEY FOR THE BLIND

Mr. HARTKE. Mr. President, on November 20, I introduced, with the cosponsorship of Senator ABOUREZK, S. 2733 which calls for the embossing of our paper currency with numerals which can be "read" by the blind. Representative RARICK has introduced a similar proposal in the House of Representatives.

Many have thought it impossible to create an identification on our currency which would benefit the blind. I, therefore, am pleased to inform my colleagues that I have received from Mr. F. Morton Reed of Wooster, Ohio, an example of monetary embossing which has been suggested to the Bureau of Engraving.

Under Mr. Reed's creativity, the numbers in the corners of our currency would also contain a braille number raised for easy identification. The number "1" on a $1 bill, for instance, would contain three vertical rows of dots within its borders; the number "5" would be overprinted with a "V"; the number "10" with an "X"; the number "20" with two horizontal parallel lines through its center; the number "50" with an "L"; and the number "100" with a "C". Each of these embossed numbers would be easily identified by a blind person. An illustration of Mr. Reed's proposal can be found in the August 4, 1971 edition of "Coin World."

Mr. President, we can help those without sight to live in a world created by and for sighted people by adopting S. 2733. I urge my colleagues to give this measure serious consideration.

HENRY BRADLEY

MR. EAGLETON. Mr. President, last week Missouri lost one of its greatest newspapermen and civic leaders. Henry D. Bradley, publisher of the St. Joseph News-Press and Gazette for 17 years, died last Friday.

Mr. Bradley was not only a pillar of fairness and objectivity in the news busi-

ness, but a man who considered the news more important than the expense it took to gather it. His leadership was valued greatly not only by his associates in the newsroom, but also by the Associated Press, which he served as director and vice president.

Mr. Bradley's journalistic accomplishments were equalled by his civic accomplishments, for which he will be missed by the people in St. Joseph. Just 20 years ago he helped organize the "Citizens' Improvement Association," which successfully guided bond issues for needed improvements through to passage.

St. Joseph and the State of Missouri will feel for a long time the loss of this great newspaperman and community leader.

Mr. President, I request unanimous consent that a newsstory and an editorial from the St. Joseph News-Press about Mr. Bradley be printed in the RECORD.

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

HENRY D. BRADLEY

Sometimes an adopted son turns out to be a more dutiful and loyal member of his family than some of his natural brothers and sisters.

Such a man was Henry D. Bradley, who came to St. Joseph on Dec. 1, 1939 and immediately entered into the community spirit and activity of the city.

The news accounts of his death on Friday have told his life story and his accomplishments. Actually, he needs no tribute here because his deeds themselves have become a monument to him.

But because he was the head of this newspaper for so many years it is only fitting that he be mentioned in these editorial columns.

It is not easy to write of the death of a person with whom one has worked for a long time. It is difficult from an emotional standpoint.

If we were asked to state the one word that best described Henry D. Bradley it would be "integrity." Here was a man whose opinion was respected and who never went back on his word.

He left the News-Press and Gazette a larger and stronger organization than he found it. He left St. Joseph a better city than when he arrived. He also served the state of Missouri and the Associated Press well.

What more can be said?

PUBLISHER HAD MAJOR ROLE IN CITY GROWTH

Recognition of the role Henry D. Bradley played in redirecting the civic and industrial thinking of St. Joseph from inaction toward betterment and growth was expressed in a number of ways Friday by associates of the former St. Joseph publisher.

And from offices of the Associated Press in New York, N.Y., came an expression of the contribution he had made in the field of journalism during his 65 years as a newspaperman.

Mr. Bradley, 80, publisher of The News-Press and Gazette about 17 years, died Friday afternoon after an illness of two and a half years.

Funeral services will be at 1:30 Monday afternoon at Christ Episcopal Church, 7th and Francis streets. The Rev. Howard C. Rutenbar will officiate and burial will be in Memorial Park Cemetery.

Mr. Bradley was active in a number of newspaper organizations, linking the newspapers here to other sections of the country and other newspapers.

His associates in the newsroom in St. Joseph were especially proud of Mr. Bradley's association with the worldwide news-gathering organization, the Associated Press, as both director and vice-president.

An expression of his value to that organization was voiced Friday in this message from Wes Gallagher, president and general manager of the association in New York. Said Mr. Gallagher:

"The Associated Press feels a deep sense of loss for the death of Henry D. Bradley who served for many years on the board of directors.

"His views on news and business affairs were extremely valuable to the Associates Press board and its members. His lifelong friendship with the AP was deeply valued."

Speaking for Mr. Bradley's newspaper associates here, Merrill Chilcote, editorial page editor and former managing editor of The News-Press; said Friday night:

"Mr. Bradley was always thinking of the reader and spared no costs in providing the best possible news sources for The News-Press and Gazette.

"At a time when other newspapers our size had only a single Associated Press wire, Mr. Bradley insisted we carry five Associated Press wires, plus International News Service and United Press.

"Even during World War II when newsprint was scarce and newspapers small, he wanted the St. Joseph subscribers to have the very best available in news sources. He did this at considerable expense.

"Today, following his policy, we still have much more news come into the newsroom each day than could ever be published in a single paper. Mr. Bradley wanted to be sure the newspapers were not scooped," Mr. Chilcote said.

It was just short of 20 years ago, Jan. 9, 1954, that Mr. Bradley and other St. Joseph business and civic leaders organized the "Citizens' Improvement Association." It was an organization whose aim was to promote city improvements and was patterned after its forerunner "Citizens for Improvement," an unincorporated organization of citizens which Mr. Bradley had organized for a successful 1953 improvement bond campaign.

Its bylaws read in part: "to promote plans for bettering the St. Joseph metropolitan area, assisting public officials with those plans, getting the people to participate in this program, and doing all this in a 'non-political' manner."

The original incorporators of the organization were Francis Smith, C. A. Semrad, Henry D. Bradley, Warren S. Welsh, A. J. McNally, Orwin O. Anderson, E. W. Stimble Jr., Joseph Bushman, Leroy Mead, Gilbert Burnham, Walter A. Bauer, Robert B. Chesney, True Davis Jr., Robert E. Douglas, M. Karl Goetz, E. Y. Lingle, Arthur J. Loutch and Don Spalding.

It was this group which subsequently guided the bond issues which financed the lighting of city streets in many unlighted areas, extending new sewers and improving city streets in older sections of the city as well as the area annexed in 1954–58. The organization is no longer active.

St. Joseph's mayor at the time was Stanley I. Dale, a young attorney. Still active as a practicing attorney and as an observer and sometimes critic of municipal affairs, Mr. Dale said Friday that St. Joseph "has lost one of its greatest champions."

He said further: "Mr. Bradley and I worked together closely while I was mayor. His leadership of Citizens for Improvements campaign was an example of his sincere dedication to public service. He sought no personal recognition for his tireless endeavors and his friendly personality caused tension to evaporate at any meeting. In his death, we have lost a truly great citizen."

Emphasizing the influence of Mr. Bradley's efforts toward industrial growth of the city, Clint Coons, former Chamber president and long an active worker in search for new industry here, described Mr. Bradley's work in that area of community betterment.

"He was the sparkplug of an industrial effort that was started about 20 years ago which has blossomed out so much in recent years." Mr. Coons said. "Henry Bradley was a very dedicated man, and certainly was a tireless worker in industrial development and in seeking new payrolls in the community. He was a man of trust and integrity who could represent St. Joseph and gain the respect of the highest leaders of industry. His passing is a great loss to the community."

Clovis McWilliams, insurance executive who was president of the Chamber of Commerce in 1954 during the expanding influence of the improvement group, said Friday night:

"I remember Henry Bradley very vividly for the tremendous amount of work he did at that time. I know that Citizens for Improvements looks like a small start for a turn-around in the thinking of St. Joseph and the direction toward what it will someday be. In those days, we were wishing and working for some of the things which are happening now.

"Always at the meetings for civic improvements, whenever the issue arose—as it almost always did—that a 'clique' was running the Chamber of Commerce, Henry Bradley would good-naturedly suggest to critics that anyone who wanted to join the clique had only to raise his hand and roll up his sleeves. 'Then you'll be a part of the clique' he would tell them."

In addition to civic and business affairs, Mr. Bradley was deeply involved in Masonic activities of St. Joseph and Northwest Missouri. Elton Klamm, also a former potentate of Moila Shrine here, said Friday that "Brad," as Mr. Bradley was known by close friends, was never halfway in his approach to any undertaking.

"Not only in business but socially and fraternally, 'Brad' was a prime mover in everything he believed in—as a servant of the readers of his newspapers, as a business-industrial development booster, as a worker for our city and our state, his church and the Masonic fraternity he loved. He attained the highest rank in Masonry, said Mr. Klamm. "I valued his comradeship and his counsel, as he was a wise, thoughtful and considerate man."

Following his stepping down in 1956 from the post of publisher of the St. Joseph newspapers, Mr. Bradley was active as president of the firm until his illness July 1, 1971.

RETIREMENT OF THOMAS J. SCOTT, STAFF DIRECTOR, COMMITTEE ON APPROPRIATIONS

Mr. McCLELLAN. Mr. President, on the occasion of the retirement of Thomas J. Scott from the staff of the Senate Appropriations Committee, I deem it appropriate to say a few words in recognition of the outstanding service that he has rendered to the committee and to the Senate over a period of three decades.

In an age when superlatives are frequently used with relative abandon, it is difficult to convey with the sincerity intended the high regard with which I hold Tom Scott, both as staff director of the committee and as a man. I am confident that this feeling is shared by all the members of the committee as well as those members of the Senate who have been fortunate enough to know him. In 1964 Senator Carl Hayden, the then chairman of the committee, referred to Tom's service with the committee as constituting—and I quote—

The most outstanding performance by a member of any congressional staff that I have observed during my 50 years of service in the Congress.

I am not certain just when it was that I first became aquainted with Tom. It may well have been in 1943, when I came to the Senate from the House and he was detailed to the Senate Appropriations Committee from the Federal Bureau of Investigation. We were in the midst of World War II and the work of the committee had increased markedly as a result. Senator Kenneth McKellar, who was then acting chairman of the committee, recognized the urgent need for additional staff personnel to assist Everard Smith and Cecil Tolbert, the two principal clerks, who had handled practically all of the appropriations bills prior to that time. Senator McKellar asked FBI Director J. Edgar Hoover if he might borrow one of his best men.

Tom had worked for the FBI since 1934, first in a clerical position, later as a special agent, and still later in a supervisory role in the Washington headquarters, where his fine work had come to the attention of the Director. In fact, when Tom had been with the FBI 10 years, Mr. Hoover wrote to him glowingly, stating:

The Bureau has grown greatly during these years, and you may well take pride in the knowledge that your efforts have contributed much to our present success. The personal sacrifices that you have been called upon to make from time to time have been reflected in the efficient operation of the Bureau.

In detailing Tom Scott to the Senate committee, even Mr. Hoover, fine judge of character and ability that he was, could hardly have been able at that time to assess fully the monumental favor he was doing for the committee, for only rarely, in my judgment, does one find a man so admirably fitted for the responsible position he has held as does Tom Scott.

Tom quickly demonstrated his ability to assimilate needed information, assess its value through accurate appraisal, and thus expedite the staff work needed to speed vital war measures through the committee and Senate. In 1945 he resigned from the FBI to accept a permanent position with the committee. During the years that followed, he was responsible for the staff management of a number of appropriation bills. And when an emergency arose, it was usually to Tom Scott that we turned for effective staff coordination. He never failed us. On January 1, 1966, he became staff director of the committee, which position he has held since that time. During his tenure on the committee he has served under seven different chairmen—Senators Glass, McKellar, Bridges, Hayden, Russell, Ellender, and the present speaker, all of whom held him in high esteem.

As a staff member he demonstrated a profound depth of knowledge and understanding of both the appropriations and legislative processes, thus enabling the committee to act expeditiously and with full knowledge of the facts on which to base judgments. As staff director of the committee he has provided a high capacity of leadership, a breadth of appreciation and understanding of governmental machinery, and an unerring judgment that have been of great assistance to the various chairmen and members of the committee as well as to the Senate itself. Whether it be during our hearings, on the Senate floor, or in conference with House Members, Tom has always been able to furnish the factual information necessary to support the committee and the Senate position. He has an almost uncanny capability to foresee difficult legislative problems and to suggest possible solutions, an area in which his value has been inestimable. His background of experience, gleaned through the years, has made him a virtual storehouse of facts and precedents, always accurate, always most helpful, in deciding a course of action. I know that these attributes are not only the product of inborn ability, they are also the result of dedicated hours of hard work. And despite the rigors of long sessions and extreme pressures, he has invariably presented a calm demeanor and a reasoned approach.

Such unusual characteristics are combined with a personality that has endeared him to us all. His natural warmth, frank objectivity, thoughtfulness, modest demeanor and cooperative attitude are constantly so much a part of his outgoing nature that one tends to accept them unnoted. His sincerity is a manifestation of his unquestioned integrity, both in word and deed. As a consequence, his advice on appropriations matters has been widely sought and appreciated on both sides of the aisle. That he enjoys the respect, admiration, and confidence of the staff of the committee speaks for the warmth of his personality and the quality of his character. When people refer to dedicated public servants, Tom Scott is the type of individual they have in mind. Ever responsible, ever dependable, never forward or presumptuous, but ever available—this is the story of Tom's relation to the committee.

And now Tom is about to retire. We shall miss him for the many contributions he has made, not only to the committee and the Senate, but also to the welfare of the country. For all that he has done for us individually and collectively we express our heartfelt gratitude. We know that he will be successful in whatever fields he chooses to employ his many talents. And with his wife Mary and their children we wish him long years of happiness along the road ahead.

Yesterday the Committee on Appropriations unanimously adopted a resolution in recognition of Tom's outstanding work for the committee. I ask unanimous consent to have a copy of that resolution, duly inscribed by all 26 members of the Committee printed in the RECORD.

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

RESOLUTION OF THE COMMITTEE ON APPROPRIATIONS OF THE U.S. SENATE, ADOPTED, IN RECOGNITION OF THOMAS J. SCOTT

Whereas, Thomas J. Scott, as the extremely able Staff Director of the Senate Committee on Appropriations for the past eight years, as a most highly valued member of the staff for the past thirty years and as a devoted public servant for forty years, has demonstrated at all times a tireless dedication to the timely and successful accomplishment of the work of the Committee, a profound understanding of the legislative process, and a unique and outstanding administrative and advisory capability; and

Whereas, Thomas J. Scott has steadfastly exhibited an integrity of character, a full appreciation of human values, and an unswerving loyalty and devotion to the Committee and to the Senate; and

Whereas, in his association with seven Chairmen and 89 members of this Committee, Thomas J. Scott, through his wealth of technical knowledge, unerring judgment, cooperative manner and impartial approach, has been of immeasurable assistance in the formulation, consideration and resolution of Committee activities and to the individual members of the Committee and their staffs; now, therefore,

Be it resolved that the Committee on Appropriations and the individual members thereof hereby express our most sincere appreciation to him for his countless invaluable contributions to the Committee, to the Senate, and to the welfare of the United States.

PAST AND PRESENT MEMBERS OF THE COMMITTEE ON APPROPRIATIONS WITH WHOM THOMAS J. SCOTT SERVED

1. Glass
2. McKellar
3. Hayden
4. Thomas
5. Tydings
6. Russell
7. McCarran
8. Overton
9. Bankhead
10. O'Mahoney
11. Truman
12. Green
13. Maloney
14. Chavez
15. Mead
16. Maybank
17. Nye
18. Bridges
19. Lodge
20. Holman
21. White
22. Gurney
23. Brooks
24. Reed
25. Burton
26. Ball
27. Murdock
28. Willis
29. Ferguson
30. Wherry
31. Cordon
32. Saltonstall
33. Young
34. Knowland
35. Dworshak
36. Ellender
37. Hill
38. Kilgore
39. McClellan
40. Robertson
41. Thye
42. Ecton
43. McCarthy
44. Mundt
45. Smith
46. Dirksen
47. Magnuson
48. Holland
49. Stennis
50. Clements
51. Potter
52. Johnson
53. Pastore
54. Ives
55. Kefauver
56. Monroney
57. Bible
58. Byrd (W. Va.)
59. Dodd
60. McGee
61. Kuchel
62. Hruska
63. Allott
64. McGee
65. Humphrey
66. Schoeppel
67. Cotton
68. Case (N.J.)
69. Javits
70. Mansfield
71. Bartlett
72. Proxmire
73. Yarborough
74. Montoya
75. Fong
76. Boggs
77. Pearson
78. Inouye
79. Hollings
80. Percy
81. Brooke
82. Hatfield
83. Stevens
84. Bayh
85. Eagleton
86. Chiles
87. Mathias
88. Schweiker
89. Bellmon

LOBSTER, A CREATURE OF THE CONTINENTAL SHELF

Mr. KENNEDY. Mr. President, I am delighted that the Senate has unanimously approved today an amendment to the Brazilian Shrimp Agreement legislation which declares the lobster, a creature of the Continental Shelf. This

declaration, if enacted into law will have the effect of providing Federal protection for this dwindling marine resource off the New England coast. As the Commerce Committee report points out:

The lobster, now threatened by foreign fishing, will be better protected from foreign encroachment.

Since 1964 at the International Convention on the Continental Shelf coastal nations have had the opportunity of exclusive jurisdiction over those marine resources that are creatures of the seabed. The National Oceanic and Atmospheric Administration has not declared the lobster a creature of the Shelf and I ask unanimous consent to print in the RECORD at this point the letter from Dr. Robert M. White, Administrator, discussing that decision and a letter sent by Dr. White to Governor Sargent of Massachusetts.

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

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
Rockville, Md.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am aware of your great interest in marine resources, the U.S. fishing industry, and management of the American lobster. For this reason I am enclosing a copy of my recent letter to Governor Sargent of your State setting forth my decision to recommend against declaring the American lobster a creature of the Continental Shelf at this time and the basis for this decision.

Sincerely,
ROBERT M. WHITE, *Administrator.*

Enclosure.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
Rockville, Md.

Hon. FRANCIS W. SARGENT,
Governor of Massachusetts,
Boston, Mass.

DEAR GOVERNOR SARGENT: The National Oceanic and Atmospheric Administration of the Department of Commerce has been working with Mr. Frank Grice of your State Division of Marine Fisheries in developing a State/Federal cooperative management plan for the American lobster to insure its continued conservation as a viable resource. This valuable resource is now subject to great fishing pressure which is likely to become more intense in the next few years, with attendant danger to the stocks.

A lobster management Policy Committee consisting of the directors of the fisheries agencies of 11 North Atlantic States, including Massachusetts, and a National Marine Fisheries Service official agreed upon some 13 recommendations which can serve as a basis for a State/Federal lobster management program. Such a program can provide a uniform system of management of the lobster resource by the States with the cooperation of the Federal Government.

One of the recommendations called for the declaration of the lobster as a creature of the Continental Shelf, thereby securing for the United States the exclusive right of exploitation of this resource in accordance with the 1958 Geneva Convention on the seabed resources. The Policy Committee has correctly identified one of the central problems in the management of this resource, i.e., to gain effective control of the total resource so as to insure its conservation and protect the interests of U.S. fishermen. Effective control is not possible unless we are able to control the foreign catch. The recommendation was aimed at this problem.

I have reviewed this recommendation and find that while it gives the appearance of achieving effective control, in fact it does not do this; it creates many additional difficulties, and would have an uncertain legal and biological basis. I have, therefore, decided that alternative methods of securing effective control would be more desirable and offer the possibility of achieving our mutual goals more directly. In particular, I believe that we can secure the necessary restrictions on foreign catches of American lobster through agreements with the principal nations fishing off our coast.

We have succeeded already in obtaining agreement from the Japanese Government that there will be no Japanese fishery for lobsters and that Japanese fishermen will take all reasonable precautions to reduce their incidental catch of lobsters from waters traditionally fished by U.S. vessels. Meetings are planned in the next couple of months with the Soviets and Canadians looking toward similar agreements. We will seek a similar agreement with the Government of Poland early in the summer, and with other governments thereafter.

The United States is also sponsoring initiatives in multilateral forums which could have beneficial effects for the lobster resource. One of these is a U.S. proposal which will be debated this month at a special meeting of the International Commission for the Northwest Atlantic Fisheries to reduce sharply overall levels of foreign fishing effort in waters off our North Atlantic coast. For the long term, the United States is seeking, as I am sure you know, to establish through agreement at the United Nations Conference on the Law of the Sea the authority of coastal countries to manage resident coastal species.

I have, therefore, decided not to recommend at this time that the U.S. Government declare the American lobster a creature of the Continental Shelf. I will, of course, review this decision very carefully in the light of the outcome of the negotiations which I propose be undertaken.

Even though the proposal of the Policy Committee to declare the lobster a creature of the shelf has not been adopted, in favor of other alternatives to reach similar ends, it is my sincere hope that the proposed coordinated management program for American lobster will move forward with the full participation of the officials of the States concerned. It is essential that we cooperate to the fullest extent in working speedily to preserve the lobster resource and its rich yields.

I think it no exaggeration to say that the actions taken now to conserve the lobster resources will determine the future of the fishery for years to come. Cooperation of all in pursuing a landmark State/Federal cooperative fisheries program for lobster is essential.

Because of the intense interest in this question, I am enclosing a detailed rationale for my decisions which I hope will clarify many points which may remain in your mind.

Sincerely,
ROBERT M. WHITE, *Administrator.*

Mr. KENNEDY. In March of this year the New England Governors Conference passed a resolution urging the declaration of the lobster as a creature of the Shelf and I would like to include that resolution in the RECORD at this point.

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

MARCH 23, 1973.

NEW ENGLAND GOVERNORS CONFERENCE,
Prudential Center,
Boston, Mass.

CONSERVATION OF OFF-SHORE LOBSTER RESOURCES

Whereas a lack of adequate conservation measures for the preservation of off-shore stocks of the American lobster has been clearly documented by both state and federal fishing agencies and,

Whereas there are presently no effective controls with regard to lobsters on the growing foreign fleet off New England and,

Whereas our own New England lobster fishermen are subject to many landing laws imposed by the several states to protect undersized and egg-bearing lobsters

Now, therefore, be it resolved that the New England Governors urge the administrator of the National Oceanic and Atmospheric Administration to declare the American lobster a creature of the shelf and therefore subject to United States control and ownership.

KENNETH M. CURTIS, *Maine.*
THOMAS MESKILL, *Connecticut.*
PHILIP W. NOEL, *Rhode Island.*
THOMAS P. SALMON, *Vermont.*
FRANCIS W. SARGENT, *Mass.*
MELDRIN THOMSON, *New Hampshire.*

Mr. KENNEDY. As the Commerce Committee under the distinguished leadership of Senator MAGNUSON pointed out there is differing biological data on which supports this designation. And the reason this action by the Senate today is so important is a simple one: "The status of the American lobster is precarious."

Those who have watched the rising prices of lobster recently can attest to the fact that this resource which produces more revenue than any other single species of North Atlantic fish or shellfish is in sharp demand with decreasing availability. The National Geographic in its outstanding survey of the status of the American lobster said: Talk to any lobsterman about the vanishing lobster and he will say: "Disappearin'? The bottom is crawlin' with snappers," the term for immature, not yet legal lobsters. And every year fishermen take 90 percent of the lobsters of legal size.

With the declaration of the lobster as a creature of the Continental Shelf we can begin to renew this resource, and we can give new hope to the lobster fishermen of New Bedford, Mass. and all along the New England coast that there will be lobsters to take in the years to come.

THE ENERGY CRISIS

Mr. TUNNEY. Mr. President, in California, as throughout the Nation, 1974 may be more devastating to our economy and our daily lives than any year in recent memory. At least it will begin with massive uncertainty brought on by the energy crisis.

With each day, predictions become more dire about the crisis and its effect on our economy.

The National Petroleum Council is particularly grim. It predicts a shortage,

in 1974, of up to 4 million barrels of oil a day in the United States, and it offers a detailed analysis of the impact in the western petroleum allocation district, principally California, if the shortage is only 2 million barrels a day.

The economic dominoes would fall thusly:

There would be 10 percent less energy usage. This would reduce gross national product in the area by a thumping 6 percent. In pocketbook terms, this means a $12.5 billion loss—$7 billion, the council estimates, for the transportation industry and $5 billion in the household, commercial and industrial sectors. Nationally, the loss in gross product would be $48 billion.

I report these statistics quite deliberately because at any time of great emergency one factor that can be more debilitating than any other is ignorance.

As a nation, we must face the burgeoning implications of the energy crisis.

As we move through this December of discontent, we simply cannot bury our heads in the sands of half-truths and half measures.

As seldom in our history, our Nation faces a new year with uncertainty and the blunt cogency of another anxious era—"the only thing we have to fear is fear itself."

As yet, no one has fully measured the probable effect of the energy crisis on our country, on our industry and, indeed, on our daily lives.

Beyond the loss of energy for our cities and our factories and farms is the loss of confidence in our Government. This particularly applies to the President, caught as he is in the quagmire of Watergate.

Also, it can apply to a Congress paralyzed, as it sometimes is, by its own parochialism. Nonetheless, Congress, over the years, has anticipated the crisis and has enacted some bold legislation, and in fact, gave us early as 1950, in the Defense Production Act, authorized Presidential authority for fuel allocations and even rationing measures reconfirmed in recent legislation.

The administration, meanwhile, fiddled while thermostats were turned down.

On May 6, 1972, the President told us:

> All the evidence shows that we are going to have a major energy crisis in this country in the eighties.

On April 18 of this year in his White House energy message, the President characterized the energy situation as "a problem, but not a crisis."

Just weeks ago, the President told the Seafarers Union that this Nation will be able to ride out the energy crisis in less than a year.

The performance of his administration has been one of delay and distortion; of administrative chaos and bureaucratic bloodletting; of opposition to congressional initiatives—even today $20 million of urgently needed research and development funds stand under Presidential impoundment—of acting only when backed to the precipice by the crisis of events.

Most of all, the missing element in the performance of this administration has been leadership—leadership capable of unifying a nation, rallying its people to hardship and challenge, mobilizing its human and scientific resources to face and surmount the difficulties.

Given the President's record of complacency, timidity and failure, I have little confidence in the bland assurances of his economic advisors that the energy crisis will pass with little hardship.

The evidence I see tells me something quite different.

I suspect we may well be in for one of the worst economic and social upheavals since the great depression of the 1930s and the days of shortage and sacrifice of World War II.

INFLATION

The price of nearly every commodity in our economy is tied to the price and availability of energy supplies. And growing shortages in those supplies inevitably will drive prices up.

Already, the trucking industry is clamoring for higher rates to offset increased fuel costs. Similar pleas are coming from public utilities, airlines and other heavy energy users. Increased federal and state gasoline taxes are under intensive discussion within the Federal administration and in State capitols across the Nation.

Food prices in 1973 soared by an incredible 25 percent—an all-time record. But even that devastating record will be broken in 1974 if adequate fuel is not available to every link along the food production and distribution chain.

One frightening harbinger of higher food prices was announced last week by the administration when it downgraded the agricultural priority for mid-distillate fuels.

I believe this could prove a blunder equal in magnitude to the disastrous Soviet wheat deal. Its likely result will be lowered production, and skyrocketing food prices triggered by the scarcities.

The fact is that energy supplies are at the heart of our hopes to keep the cost of living manageable. Scarcities can send a tidal wave of inflation through every economic sector.

Most economists are predicting a tremendous slowdown in new construction. And they expect the average cost of a new house to go up by at least 10 percent with rents generally following suit.

Massive curtailment of operations seems inevitable in a number of transportation industries, in the multimillion-dollar recreation business, and in such key industries as petrochemicals, where there is likely to be a multiplied ripple effect.

The petrochemical industry, for example, produces products for a wide range of other industries, including the automotive industry, textiles, packaging, furniture, construction, agriculture and pharmaceuticals. As petrochemicals become scarcer, shortages in the dependent industries could well encourage consumers to join in a price-exploding competition for what supplies remain available.

UNEMPLOYMENT

Optimistic economists are forecasting a 1974 unemployment rate of under 6 percent. But they are basing that forecast on the hope that the administration will develop the kind of tough, effective program needed to minimize economic disruption.

Some suggest unemployment could reach a depression level of 10 percent. Clearly, millions of Americans will be colder this winter and in winters to come. Millions of Americans will find their mobility drastically restricted.

Beyond inconvenience and sacrifice will be the jolting economic reality of curtailed working hours, slashed paychecks, and, for hundreds of thousands, the loss of their jobs and livelihoods.

The big daily headlines portending such things as the layoff of 50,000 workers in the airline industry may be just the tip of the iceberg.

Job layoffs will be a cruel holiday present for uncounted workers in transportation, in transportation-related businesses and scores of other energy-intensive industries.

Let me again cite the petrochemical shortage as just one example of what the energy shortage could mean in unemployment.

The respected research firm of Arthur D. Little, Inc. projects that a reduction in petrochemical output of just 15 percent could throw between 1.6 and 1.8 million Americans out of their jobs in dependent industries.

Action should include steps to increase food stamps and to provide unemployment compensation for those who have exhausted benefits and reemployment and relocation aid, or are otherwise ineligible.

In addition, any tax revenues derived from a surtax on excess energy consumption or other conservation measures should be used, in part, to provide a vastly expanded public service employment program for individuals dislocated by the fuel shortage. And, in part, to provide adequate public transportation.

Few are blameless in the failure to anticipate the current energy dilemma, but there were pointed warnings.

LEGISLATION

In 1970, Senator JENNINGS RANDOLPH introduced bipartisan legislation to establish a National Commission on Fuels and Energy. The administration opposed it.

We authorized money for research and development into the fuels and energy sources of the future. The President impounded the funds.

The Senate has approved the national energy emergency bill, the trans-Alaskan pipeline bill, the national energy research and development bill, calling for a 10-year, $20 billion research and development program.

We have passed the National Fuels and Energy Act and we have given the administration the authority and the guidelines to manage and allocate our energy resources.

We are attempting to do more. For example, I have joined with a number

of my colleagues in cosponsoring a bill to allow partial deregulation of natural gas prices for independent producers in order to stimulate exploration.

Thus a cutback of just 15 percent in a single industry could increase our present unemployment by well over one-third.

Economists can and do cite other industries where the "ripple" or multiplier effect could be similarly severe.

In my own State, the Los Angeles Department of Water and Power has already warned the city of Los Angeles to expect "rolling blackouts" and other major restrictions on electricity usage by industrial consumers.

The inevitable result will be layoffs, perhaps on a massive scale.

It is imperative that the administration act to ensure that these victims of the energy crisis are compensated.

With many of my colleagues, the energy crisis has consumed most of my personal attention in recent months—both on the legislative front and in fighting for the rights of my constituents in the face of bureaucratic bungling in the administration's fuel allocation program.

I personally am pleased that two of my proposals were adopted by the Senate when it passed Senator JACKSON's National Fuels and Energy Act.

One calls for an intensive research and development program to produce a clean, quiet, economical, and energy-efficient alternative to the internal combustion engine, which now consumes—wastefully and at an enormous cost in air pollution—incredible amounts of scarce petroleum.

The other will require manufacturers to label major energy-consuming products with data on energy consumption and dollar-and-cent operating costs. Experts believe this requirement will spur manufacturers to produce appliances that are one-third to one-half more energy efficient than present wasteful models.

Both measures, incidentally, were proposed long before the energy crunch made itself felt. So were the others, by Senator JACKSON and other colleagues who have done so much to awaken the Nation to the dimensions of the crisis.

I am not arguing that any of these measures will instantly resolve our difficulties. I am arguing that we have taken some important and specific steps.

FUEL ALLOCATION

Our pressure also has had an effect in bringing some rationality into the administration's chaotic mismanagement of the fuel allocation program.

It was only after many of us forcefully demanded some priorities that the administration's energy policymakers began to make some sense out of the confusion.

We insisted and won priority status for agriculture, for mass public transit, and for essential municipal services such as police and fire protection.

Nonetheless, the allocation program remains in disarray, and we will be paying the bill for months, even years, to come.

Specifically, the present regulations:

Put agriculture in a secondary priority category for middle distillates. Agriculture should have top allocation priority and should be given a quarterly or annual base period.

Restrict middle distillates for emergency services and sanitation to monthly fuel use in 1972, without regard to population increases.

Place utilities in a secondary category for residual fuel.

Require a 10-percent cutback by industry in propane and certain other petroleum products.

All of these could prove economically disastrous.

What of the future? No one can trace with certainty the hardships and the social and economic dislocations ahead. I believe they could be more severe than we have allowed ourselves to think, and almost certainly far more intense than the administration has led us to believe.

Let us meet the energy crisis with the hard-headed realism, the sacrifice, the determination the crisis demands.

But let us not discard the values we all share or the goals that we in the Senate have worked so hard to achieve.

Let us not, for example, panic into degrading and destroying our land, our water, and our air out of some misguided belief that panic will somehow solve our problems.

Let us design solutions that distribute whatever hardships are involved among all sectors of our economy and on the shoulders of the wealthy as well as working people.

And finally, let us resolve to talk clearly and plainly to the American people, where the administration has refused; and let us seek to provide the leadership, where the administration has failed.

ENVIRONMENT

We will face difficult choices where we find environmental values in conflict with our energy needs.

We have the largest coal reserves of any country in the world, and the Senate has approved important safeguards to control the way we get that coal.

Surely a nation capable of conquering space and of developing awesome weapons of destruction has the technology and the will to secure needed resources without irreparably devastating our physical environment. In recent years, a score of laws have been carefully drafted to protect our natural resources from air, water, and noise pollution. Some revision in these laws may be necessary, but we should exercise caution and good sense before acting on any changes.

But let us also act to protect a person's living and working environment—his job, his home, his schools and hospitals, the essential services such as police and fire protection that are his right.

The U.S. Geological Survey has estimated that there are nearly 500 billion barrels of oil onshore and offshore of the United States.

Accordingly, I am introducing a bill to ensure that the acceleration of offshore oil and gas production will be done with maximum safety and protection against blowouts and spillages.

The technology to do this has improved vastly since the Santa Barbara disaster of 1969, but the legislation I am introducing will require constant use of the best available technology in offshore drilling and prohibits drilling in geologically unstable and unsafe areas. It also provides for government and industry efforts to speed the pace of research and development of better safety equipment.

The bill also provides for upgrading of the inspection and enforcement functions of the Interior Department, to insure that every offshore well adheres to the most rigorous safety standards.

Finally, to provide economic inducements for safety, the bill will slap stiff fines on companies which violate safety regulations, or allow oil spillages, and make companies strictly liable for damages resulting from any oil spills.

DISTRIBUTING THE BURDEN

In dealing with the energy crisis, our policies must be evenhanded. We must not ask the average working family to carry the entire burden of sacrifice and in effect subsidize the affluent and the wealthy. And we must recognize geographical differences—the relative lack of public transit in some areas, for example—in our policies.

Unpalatable as it may be, I believe gas rationing—gas rationing that is fair and equitable—is inevitable.

Some have suggested that higher gasoline prices and higher gas taxes alone will act as an effective rationing scheme and serve as a brake on fuel consumption.

I believe we must reject that solution. It is regressive. It would penalize middle- and lower-income earners who depend on personal transportation for their livelihoods. It would permit the wealthy in their gas guzzlers to consume as much fuel as they wish without hardship.

Instead, I believe we must make a basic allotment based in part on the availability of public transportation to all Americans, regardless of income. Extra needed supplies could be bought at a higher price, with the revenues going to a special energy fund for research, development, mass transit, and the like.

A fair gas rationing plan should base a national, intermediate allocation system on historical gasoline consumption patterns. Californians, for example, in the first 3 months of 1973, consumed 15 percent of the Nation's gasoline. The supply of gasoline made available to California drivers in the first 3 months of 1974, were rationing in effect, should equal 15 percent of the estimated national gasoline supply for that period. In general, each State should receive an allocation equal to its proportional share of national consumption for the equivalent period in the previous year.

High priority users must be supplied first of all: police, fire protection, and other vital public services.

I believe a rationing plan should:

Recognize the differential availability of public transportation, and provide incentives for increasing public transit.

Assure that all licensed drivers will have access to a minimum supply of gasoline at reasonable prices.

Provide access to additional gasoline for anyone willing to pay the going rate for ration tickets.

Provide the States with additional revenue to offset the loss of state gasoline taxes.

Minimize the regressive effects of price or tax rationing while retaining the flexibility of market allocation and avoiding the perils of massive bureaucracy.

Lend itself to implementation without a long and wasteful delay.

Finally, we must seek to provide the leadership in this national crisis that has not been forthcoming from those the people traditionally look to for leadership.

That task will require all of us—in the Congress, in the State capitols, in the city halls, in the board rooms of industry and the meeting halls of labor. It will require imagination and the bold application of science and technology. It will require sacrifice and cooperation. It will require uncommon courage.

The American people always have pulled together in times of crisis. Given straight talk, policies that are fair and policies that deserve their confidence, they will pull together now.

The alternative is wrenching crisis for years to come in our time, and leaving our planet drained of resources and the knowledge and the means of securing new resources for future generations.

Mr. President, the State Assembly of California has done an outstanding job of analyzing the effect of the energy shortage in California. I ask unanimous consent that the report of the Assembly Office of Research, "The Winding Down of the West," be printed in the RECORD.

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

THE WINDING DOWN OF THE WEST—WHAT THE ENERGY CRISIS MEANS TO CALIFORNIA

(By R. William Hauck)

CALIFORNIA LEGISLATURE,
Sacramento, Calif., December 3, 1973.

Hon. BOB MORETTI,
Speaker of the Assembly,
Sacramento, Calif.

DEAR MR. SPEAKER: At your request, the Assembly Office of Research has prepared the enclosed report. The report indicates the current impact of fuel shortages on different parts of the state's economy. In addition, the report summarizes the reserve and production picture, and provides information on the impact of the Mideast embargo in California. Sources for this report include the U.S. Department of Interior, the California Resources Agency, the State Division of Oil and Gas, the Rand Corporation, and the *National Journal Reports*.

Hopefully, this commentary will be useful to you as you consider energy issues in the days and weeks ahead.

Sincerely,

R. WILLIAM HAUCK,
Director.

THE IMPACT OF SHORTAGES

*A. Agriculture in California**

Gasoline

1969–70—58,117,000 gallons.
1970–71—56,732,000 gallons.
1971–72—56,234,000 gallons.
1972–73—38,897,000 gallons.

The above chart concerning gasoline is very similar to figures concerning diesel fuel. The importance of the chart is that if a national allocation program is implemented in California as written, our agriculture fuel allocations will be based on the 1972–73 figure. Because of exceptional weather conditions that existed in 1972–73, fuel consumption was only 68.2% of the 1971–72 figure.

California agriculture is very machine intensive. The harvest requires considerable heavy machinery which figures indicate is underused.

For example: A rice combine on a national average should be able to harvest 400 acres. Figures for California indicate that rice combines harvest about 200 acres per year. The reason for this is that the California rice farmer harvests his rice in a very short period of time and this demands a great deal of very expensive equipment. The farmer has devoted 80% of the net gross to product expenses. Should a fuel shortage occur at harvest time of the farmer's crop, the margin is so narrow that his economic viability can be destroyed very quickly.

According to models prepared by graduate students at the University of California at Davis, a fuel cut to the farmer of 25% would mean a production loss in a particular crop of 5%. Considering his expenses, the farmer would be in a very difficult situation in terms of making a living. If there is a 50% cut of fuel (direct to the farmer) there would be a 15% loss of production. This would almost represent an impossible situation in terms of survival of the farmer.

The most serious area affected to date by energy shortages is in the area of transportation from the field to the processor. The trucks used in this operation consume on the average of 1 gallon of gasoline for every 4.5 miles driven. Extreme shortages exist now in different parts of the state and truckers agree the situation is becoming worse. In the opinion of experts in Davis, there is a tremendous waste of energy in the transportation of products from the field to the processor.

CROP STATISTICS

Crop and year	California, total acreage	Harvest period
Wheat:		
1972	483,000	
1973	575,000	June 15 to Aug. 15.
Corn:		
1972	58,000	
1973	412,000	Sept. 15 to Dec. 1.
Sorghum:		
1972	242,000	
1973	290,000	Sept. 15 to Nov. 20.
Rice:		
1972	331,000	
1973	403,000	Apr. 10 to May 1; Sept. 1 to Oct. 31.
Cotton:		
1972	863,000	
1973	935,000	Oct. 1 to Nov. 30.
Tomatoes:		
1973	(1)	Continuous harvesting.

[1] Figures indicate 42 percent increase over 1972.

Note: Other crops in California stayed about the same in acreage.

OBSERVATION

The rapid increase in acreage indicates a significant increase in demand for fuels. This situation, coupled with the available resources (under the national fuel allocations program) indicates that a crisis will occur in agriculture caused by fuel shortages of very serious proportions.

Current Impact:

The mid-distillate allocation program is administered at the state level by the Oil and Gas Division. The Division reports that it receives 2–300 calls per day from farmers unable to secure needed fuel. The Division reports that these farmers have been satisfied to date by direct requests of the Division to distributors and suppliers for reallocation of fuels between customers.

The Division also reports that the impact on western refineries of the mideast embargo is beginning to be felt. Both Standard and Phillips report cutbacks in refinery runs because of lack of crude.

The Division predicts that serious shortages in fuel to Agriculture can be expected at once. The effect of this situation if not remedied will be as follows:

1. Failure to harvest crops will increase at a dramatic rate.

2. In January farmers will decide on what crops to plant for harvest in Spring. Vegetables and perishable crop decisions are made at this time. It can be expected that farmers will opt for crops that have longer harvest periods. Consequently, the fuel shortage now could dramatically and adversely affect vegetable and other perishable crops.

B. The impact of shortages on the utilities in California *

Owing to a 1971 decision by the Federal Power Commission curtailing use of natural gas as a boiler fuel for electricity generation and an embargo on gas exports by the Canadian Energy Board, the California utilities have been scrambling to convert their facilities to burn oil and to find oil to burn. As of November 1, the utilities were reporting the following conditions:

1974 TOTALS (ALL IN MILLIONS OF BARRELS)

	Oil requirement	Firm contracts, negotiations and probable	Storage drawdown	Deficiency	Deficiency with storage refill
P.G. & E.	45	36	[1] 5.9	4	19.6
LADWP	28	21	[1] .4	6	6.8
SCE	63	54	2.9	6	6.0
S.D.G. & E.	13	13	(.4)	0	0
Total				16	32.4

[1] To zero storage.

These figures are somewhat misleading since the "deficiency" includes only oil for which the utilities have been able to find absolutely *no* source of supply. A substantial portion of the figures in the second column represents oil which may not materialize either because negotiations fail or Mideast supplies are cut off. LADWP has half of its oil listed above now in doubt because of the Mideast situation. To interpret these concerns, consider the following:

SHORTAGE DATE (1974)

	Total Mideast cutoff	Partial restoration by February	Total known supplies
P.G. & E.	April	June	September.
LADWP	March	July	October.
SCE	June	August	Do.
S.D.G. & E.	December	No problem.	No problem.

Note: SMUD is not included in these figures because their resources are almost totally hydroelectric; only 2½ percent of their capacity depends on oil and is purchased from P.G. & E.

*Division of Oil and Gas.

*Assembly Planning and Land Use Committee.

Analyses are also being prepared for industry, transportation, education, and the automotive industry.

*C. Transportation**

The largest user of energy resources and the sector to feel the energy squeeze most severely will be transportation. This sector also affects every other sector of the economy thereby causing spin-off losses when supplies dwindle.

The shortage in fuel has been created by a cutoff of some 170,000 barrels per day of Mideast oil. However, some shortage would have occurred had the Mideast oil continued to flow because of a shortage of refining capacity. Gasoline will fall 12 to 15% below demand and diesel fuel will fall 10 to 12% below demand.

Monthly sample	1972	1973
Gasoline sales (total 1972, 10,040,176,808 gallons): [1]		
August	904,561,975	935,960,962
July	852,301,302	909,151,553
June	870,644,578	876,970,959
Diesel fuel sales (total 1972, 694,236,983 gallons): [2]		
June	75,919,214	82,955,314
May	53,523,643	63,904,899
April	50,754,957	59,318,113

[1] Does not account for approximately 300,000,000 gallons not subject to motor vehicle tax. Shortage of 12 to 15 percent by January 1974.
[2] Shortage of 10 to 20 percent by December 1973.

Diesel fuel is particularly critical to California's economy. Under the mid-distillate allocation program of the federal government, the users of mid-distillate (including diesel and jet fuel) will be held to their 1972 usage levels. This creates a severe problem for transit districts, agriculture, and the trucking industry which have all experienced a significant increase in demand or production.

Under the federal mid-distillate allocation program, the state has 10% of the 1972 total to use on its priority basis. This program is administered by the Division of Oil and Gas within the Resources Agency. However, because of the great increase in demand over 1972 the state's share has been reduced 3 to 4 percent.

APPROXIMATE FUEL USED BY TRANSPORTATION MODES

Railroads

Southern Pacific (California only):
Total fuel used (system-wide): 10 million barrels/year.
Cost increase: 10 to 14 cents—37%.
Traffic increase: 5%.
1972 allocation level will be 5% short this year.

Santa Fe:
Total fuel used (system-wide): 1 million gallons/day.
Cost increase: There has recently been a 35% increase.
Shortage of 3 million gallons/month expected within the next four months.

Western Pacific:
Total fuel used (system-wide): 27 million gallons/year.
1972 allocation level will be 10% short and suppliers have only 90% of the 1972 level.

Union Pacific: (No figures yet available.)

Air Carriers

(Intrastate)

Air California: Total 1972 fuel used: 18,837,713 gallons.
Sample Month: August, 1972—1,775,476, and 1973—1,980,313.
Shortage: 8 to 10%. Shortage will result in a reduction of service.

Pacific Southwest:
Total 1972 fuel used: Approximately 149,000,000 gallons.
PSA uses approximately 11.5 million gallons/month.
1972 allocation will be 10 million gallons/month.
Cost increase: 2 cents/gallon—estimated by Spring 1972, 7 to 8 cents/gallon.
Fuel shortage will force a reduction of service.

Transit districts

Alameda-Contra Costa Transit: 1972 allocation will mean the following shortages:

Shortage of fuel by month if limited to 1972

November—28,000 gallons.
December—31,000 gallons.
January—57,000 gallons.
February—2,700 gallons.
March—17,000 gallons.
April—75,000 gallons.
May—102,000 gallons.
Fuel cost increase: 50 to 100%.
Cost now 12 cents/gallon; will increase to 18 cents/gallon.
Shortage will mean a reduction in routes or cuts in days of operation.

Southern California Rapid Transit District: 1972 allocation will mean a shortage of fuel by the following amounts:
December—120,000 gallons.
January—160,000 gallons.
February—116,000 gallons.
Cost has increased from 12 cents/gallon to 19.5 cents/gallon.
Shortage will mean service cutbacks, fewer routes, and perhaps a discontinuance of weekend service.

Santa Clara Transit District (Did not exist last year):
Use: 30,000 gallons/month—propane and 45,000 gallons/month—diesel.
Allocation of propane will force severe cuts in service.

Sacramento Regional Transit District:
1972 Fuel Used: 70,000 gallons/month.
1973 Fuel Used: 100,000 gallons/month.
Contract with Shell Oil expires next month. If held to 1972 level, reduction of service will occur.

Trucks

There are no detailed figures on the fuel use level of trucks or the amount of any shortages. However, individual trucking companies have reported shortages of up to 25%. Many lines are being held to 1972 fuel usage levels and yet their business has increased by as much as 40%.

Buses

Greyhound:
1972 Total Fuel Used: 13,290,552 gallons.
Total miles driven for 1973 is remaining approximately the same due to some cuts made in unprofitable runs.
Standard Oil has cut their fuel allotment by 5% and they are forced to buy at retail levels.
In addition, due to the impending closure of gas stations on Sundays, the level of service may have to increase to accommodate recreational traffic.

Continental: Figures are in process of compilation.

Automobiles

Fuel shortages in the automobile sector are also difficult to assess. The shortage figures range from 10 to 15%. The shortages are also sporadic. Many retail gasoline stations are being held to their monthly 1972 consumption levels. However, new roads, such as Interstate 5, have created demand where little had existed previously. Therefore, it will often happen that stations along new freeways will be out of gasoline and stations away from the roads will have more than sufficient supply.

*D. Industry**

The industrial sector will not only feel the fuel shortage in terms of oil, but will also have to contend with a shortage of natural gas. Many large industrial firms, chemical, fiberglass, metals, utilities, etc., use natural gas to fire their boilers. Those that use over 200 million cubic feet/day are called "interruptibles." There are customers that will be cut off from natural gas in the event of a shortage. Such a cutoff has already occurred in Pacific Gas & Electric's service area this year.

Since they can be cut off from natural gas these firms have a capacity to burn either diesel fuel or heating oil (both mid-distillates). Both these fuels are in increasingly short supply.

These "interruptibles" account for over half the natural gas load in California. Natural gas shipments from El Paso Natural Gas were cut back last year and the cutback has increased this year. This has resulted in increased curtailment of natural gas to interruptible users:

Curtailment 1972: 809 million cubic feet.
Curtailment 1973: 1 billion 633 million cubic feet.

The largest percentage of this cutback will be borne by electric utilities which will be forced to use oil as boiler fuel.

Firm customers are primarily residential customers. This group will not feel the effect of the shortage until 1982 when, if no new sources of supply are found, Southern California will experience a shortage in this sector. However, new sources are expected from Alaska and Canada, but these sources must be available by 1978.

The following figures illustrate the extent of the shortage for both firm and interruptible customers.

1972–73 MMCF/D—million cubic feet per day

Northern California:	
Total supplies	2,746.4
Total firm requirements	1,082.9
Total interruptible requirements	1,889.8
Total demand	2,972.7
Curtailment: Interruptible	226.3
Level of service: Interruptible as percent	88%
Southern California:	
Total supplies	2,669.8
Total firm requirements	1,617.2
Total interruptible requirements	1,889.8
Total demand	4,077.1
Curtailment: Interruptible	1,407.3
Level of service: Interruptible as percent	43%
Total California:	
Total supplies	5,416.2
Total firm requirements	2,700.1
Total interruptible requirements	4,349.8
Total demand	7,049.8
Curtailment: interruptible	1,633.6
Level of service as percent	62%

Natural gas shortage 1977–78—MMCF/D

Northern California:	
Total supply	2,003.9
Total firm requirements	1,281.1
Total interruptible requirements	1,890.2
Total demand	3,171.3
Curtailment—firm	1,167.4
Curtailment—Interruptible level of service as percent	38%

* Senate Public Utilities and Corporations Committee.

Southern California:

Total supply	1,986.2
Total firm requirements	1,774.5
Total interruptible requirements	3,283.8
Total demand	5,058.3
Curtailment—firm	3,072.1
Curtailment—Interruptible level of service as percent	6%

Total California:

Total supply	3,990.1
Total firm requirements	3,055.6
Total interruptible requirements	5,174.0
Total demand	8,229.6
Curtailment—firm	4,239.5
Curtailment—interruptible level of service as percent	18%

BACKGROUND—RESOURCES AND PRODUCTION

A. California

1. *Oil*

California dominates District 5[1] in production and refining (35 of the 45 refineries in District 5 are in California) of oil. In addition, imports to California are chiefly from Asia, the Mideast, and certain Western South American countries. Washington and Oregon receive imports chiefly from Canada.

(a) California Production:

Since 1968, production has declined rapidly at about 3% per year. The Department of Conservation predicts that if current trends continue, production will drop by 50% by 1985.

Average daily oil production in California[2]

[Millions of barrels]

1962	0.81
1963	.82
1964	.81
1965	.86
1966	.94
1967	.98
1968	1.2
1969	1.0
1970	.96
1971	.89
1972	.88

(b) California Reserves:

Enormous reserves of petroleum exist in California. According to a 1973 report by the Resources Agency, it is estimated that there are 36.345 billion barrels of petroleum resource left in California. Only 5.2 billion of this amount is currently recoverable under active operations. 700 million barrels of proven reserve are in state and federal lands offshore. It is estimated that there may be as much as 4 billion barrels of oil extracted offshore.

Another, perhaps more realistic, way of looking at the California crude picture can be suggested. At the current rate of production we have enough crude supply of proven reserves in existing fields to last for 15 years. If these same fields are technologically stimulated, we gain another three years. In addition, it is estimated that we have 88 years of crude available in undiscovered reserves presumed to exist due to favorable geology.[3]

Although California has a large potential reserve of oil and gas, there has been a drastic decline in exploratory well drilling since 1964. Geophysical exploration has also been on the decline. Since exploratory efforts are needed to make discoveries, it is easy to understand why there have been no significant oil discoveries in California in recent years. Thirty-one percent of the oil was discovered prior to 1910 and 91 percent prior to 1940. The oil companies explain this situation by arguing that the price of crude is too low to justify exploration. Consequently, foreign sources and markets have been developed.

2. *Natural Gas in California*

A parallel situation with the oil picture exists for California natural gas reserves.

3. *Coal*[4]

Coal occurrences have been reported in 43 counties in California, but only at a few locations is the coal of sufficient quantity and quality to warrant consideration for commercial development. Most of the coal beds in California are apparently of limited extent, and few seams have been traced more than a few square miles. By comparison, coal fields in the eastern United States and in the Rocky Mountains are known to underlie hundreds and even thousands of square miles.

4. *Geothermal*[4]

In 1970, this source accounted for 0.3 percent of the total energy used in the state. At present the real nature of the resource is not well known; also, to what ultimate extent it can be exploited is unknown. In the one productive geothermal area (The Geysers) the electrical generating capacity in 1970 was 82.5 megawatts; by 1985, California's total capacity, assuming technical difficulties will be overcome, might be 5,000 megawatts, or about 3 percent of the total energy needed.

5. *Hydroelectric*[4]

In 1970, hydropower accounted for nine percent of the total energy supply required in the state. Production of hydroelectricity is expected to increase in the future at almost a negligible amount (8.2% over present amounts by 1985) because of the scarcity of available sites and a rapid decline of imported electricity from this source.

6. *Nuclear Fuel*[4]

Uranium is the principal fuel used in the nuclear generation of electric power. Currently all this fuel is imported from other states. In 1970, it supplied 0.7 percent of the total energy requirements of the state and 3.0 percent of the electric utility market. By 1985 nuclear power may furnish as much as 13 percent of the total energy demand and 40 percent of the electric utility market.

7. *Miscellaneous*

Other sources of energy discussed nationally include tar sands and oil shale. Little of these resources have been found in California.

New types of energy, particularly solar energy, could be exploited in California.

8. *Imports*[5]

District 5 during the four-week period ending October 19th had a domestic production rate of 1,126,000 bbls/day. This represents a decline of 24,000 bbls/day from the same period in 1972. Total imports (crude and products) increased from 804,000 bbls/day in 1972 to 1,133,000 bbls/day in 1973. Combined available crude and foreign products in District 5 during this period in 1973 was 2,259,000 bbls/day.

Imported crude to California refineries originates throughout the world, but chiefly comes from Indonesia (200,000 bbls/day) and the Arab countries[6] (150,000 bbls/day). Thus, Mideast input to California refineries represents about 7% of total supplies; Indonesia, nearly 9%.

Looking to the future, we can expect from 1.2 to 1.6 million bbls/day to arrive from Alaska in California by perhaps as early as 1977. Similarly, production off-shore in California could produce up to 750,000 bbls/day by 1980. The Elk Hills reserve could be brought into production of up to 200,000 bbls/day for a limited time within six months.

The impact of the current Mideast crisis on California should be viewed as a warning of difficult problems ahead. Beside Mideast oil, California is now receiving 200,000 bbls/day from Indonesia, 75,000 bbls/day from Equador, 60,000 bbls/day from Iran, etc. Unforeseen events in any of these countries can have serious repercussions in California in terms of supply for current legitimate demands.

B. National reserves and production[7]

1. *Reserves*

U.S. proven reserves are enormous:

Crude oil: 50 billion barrels.
Natural gas: 290.7 trillion cubic feet.
Coal: 390 billion tons.
Oil shale: 80 billion barrels of oil.
Uranium: 250 million tons.

Estimated U.S. ultimate reserves are much larger:

Crude oil: 3,033 billion barrels.
Natural gas: 7,070 trillion cubic feet.
Coal: 3,200 billion tons.
Oil shale: 26,050 billion barrels of oil.
Uranium: 1,600 million tons.

If we use existing technology, the recoverable amounts of fuels from the ultimate reserves are as follows:

Crude oil: 617 billion barrels.
Natural gas: 2,740 trillion cubic feet.
Coal: 1,600 billion tons.
Tar sands: 16 billion barrels of oil.
Uranium: 750 million tons.

2. *Production*[8]

(a) Oil:

Consumption of oil in the U.S. is currently running at about 17 million barrels per day. The U.S. produces domestically between 14 and 15 million barrels of oil per day. From 2 to 3 million barrels per day are imported. It has been estimated that if current trends continue, domestic production will drop to 43% of consumption by 1985.

(b) Natural Gas:

While domestic production of natural gas has been increasing, its rate of increase has dropped alarmingly in the last few years while imports to meet consumption have increased.

[In billion cubic feet]

Year	Domestic production	Net imports	Total consumption
1967	18,358	483	18,841
1968	19,332	558	19,890
1969	20,636	679	21,315
1970	21,816	794	22,610
1971	21,923	980	22,903

It is estimated that by 1985, if existing trends continue, domestic production will meet only 53% of total demand.

(c) Coal:

Total demand for U.S. coal, in the 15-year period since 1956 has increased from 531 million tons to 569 million tons. Domestic consumption declined each year between 1956 and 1961; however, consumption has increased steadily, as electric utility demand for coal increased rapidly. Exports of coal in recent years has been relatively stable, ranging between 50 to 70 million tons. Total

[1] District 5 includes Alaska, Arizona, California, Nevada, Oregon, Washington, and Hawaii.
[2] Division of Oil and Gas.
[3] Senate Office of Research.
[4] Resources Agency.
[5] American Petroleum Statistics and the Rand Corporation.
[6] Does not include Iran. Iran imports to California about 60,000 bbls/day.
[7] U.S. Department of Interior
[8] U.S. Department of Interior.

demand for coal is expected to increase from 569 million tons in 1971 to 980 million tons by 1985. Electric utility demand and production of synthetic gas by then, it is estimated will account for 71 percent of total coal demand.

(d) Miscellaneous:

Extraction of petroleum from oil shale and tar sands is insignificant at the moment. Further research in methods of extraction is required.

Uranium production continues on an "as needed" basis for domestic use.

3. *International Reserves of Petroleum* [9]

The proven crude oil reserves in the world are as follows:

[In billions of barrels]

U.S.A	39
Canada	8
Mexico	3
North America	49
Venezuela	14
Equador	6
Miscellaneous	5
South America	25

The Arab embargo countries acting as a unit have decided that their primary objective in global politics is to isolate Israel from its supporters in order to force Israel to discuss a permanent peace in the Mideast.

The method developed is the embago or partial embargo of petroleum or petroleum products. The direct and complete embargo method has been applied to the U.S., Holland, South Africa, and Portugal. This approach is reinforced by complex computer systems that not only track crude oil distribution from Arab fields, but also track indirect shipments through European and Asian refineries.

An equally effective tool is the limited reduction of supplies to nations considered neutral (i.e. the rest of Europe excluding France, and Japan). The objective here is to force these allies of the U.S. to employ pressure to change attitudes in the U.S. This method has been successful to the point that even the threat of further reductions sends diplomats scurrying to U.S. embassies asking for relaxation of our pro-Israel position.

The latest manifestation of this method was reported on November 25th when reliable sources said that Japan had been told that it must break diplomatic and economic relations with Israel or face "severe consequences." (In 1972, 83.5% of energy needs were supplied by foreign imports. Of this amount 81% of the oil requirements came from the Mideast.)

Europe and Japan have responded to the shortages (not entirely caused by Mideast cutbacks) with severe cutback of consumption steps. Seven nations in Europe have banned Sunday driving; Holland is about to start gas rationing; Italy has banned television transmission after 10:45 p.m., closed bars and restaurants at midnight, and will ban Sunday driving December 1st; and Japan by December 31st will reduce allocations of fuel to industry by 10%, impose a 50 mile-per-hour speed limit, close 43,000 gasoline stations on weekends, cut domestic flights by 10% and overseas flights by 50%. (As a result, it is estimated that steel production will drop 20% and paper production 18%.)

As documented earlier, the U.S. is suffering from about a 17% shortfall of needed petroleum, with a little over 50% of this amount expected from the Mideast. In the West, our loss of Mideast oil amounts to about 7% of our daily requirements (daily imports from the Mideast are about 170,000 bbls/day) [10] most of which is refined in California.

Should the Arab states decide to invoke other sanctions, either in conjunction with or in addition to petroleum embargos or reductions, other important possibilities exist.[11]

Over the next ten years, a handful of oil-producing nations will earn more money than they can spend.

The huge oil revenues of producers could create chronic global balance-of-payments disequilibrium, imposing a severe strain on the international monetary system and adjustment process. This problem would be heightened because the normal working of the adjustment process would increase rather than decrease imbalances.

The prospect of huge payments deficits could touch off destructive competition among consuming countries to boost export earnings through subsidies.

Large balancing flows of investment funds from producer countries back to consumer countries could raise the spectre of foreign control of crucial domestic industries. Estimates of the excess revenue which Saudi Arabia alone might have available for investment in 1980 range as high as $47 billion, nearly enough to buy all the shares traded on the American Stock Exchange.

A final danger is that excess revenues of Arab producers might be used to finance a resumption of military conflict in the Middle East, a conflict which could divide the consuming countries and jeopardize everyone's access to oil.

[9] Source: The National Journal Reports, p. 1546.

[10] Rand Corporation.

[11] The National Journal Reports.

WILLIAM SAXBE

Mr. GRIFFIN. Mr. President, the Senate as a whole and each of us individually will experience a deep loss when our friend and colleague, BILL SAXBE, leaves us to become Attorney General of the United States.

While we are proud that this recognition has come to one of our Members, we are all sorry to see him go for our own selfish reasons. In the 5 years, come January, that he has served in this body, he has demonstrated a keenness of mind, a sense of fairness and an independence of spirit that have contributed greatly to the effective work of the Senate.

Without question BILL has the ability and experience to step in and get on with the work of the Nation's chief law enforcement officer. For 5 years—from 1963 to 1968—he was Attorney General of Ohio, and we know he will meet the challenge of the larger responsibilities he is to assume.

We wish him well and we know that as Attorney General, as he has in the Senate, he will continue to exercise what the poet Robert Burns extolled as "the glorious privilege of being independent."

ORDER FOR RECOGNITION OF SENATORS AND TRANSACTION OF ROUTINE MORNING BUSINESS 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, Mr. MATHIAS, Mr. THURMOND, and Mr. HARRY F. BYRD, JR., be recognized, each for not to exceed 15 minutes and in the order stated, at the conclusion of which there be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited to 2 minutes.

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

PROGRAM

Mr. MANSFIELD. Mr. President, after the conclusion of the morning business tomorrow, for which there will be, I assume, about 15 minutes, it is the intention at that time to call up the conference report on the Northeast railroad bill; following that the conference report on the supplemental appropriation bill; following that, H.R. 11333, the so-called social security bill; and following that, when available, the conference report on the energy bill.

That, insofar as I know, will conclude the business of the Senate for this session; but whether or not we can get out tomorrow night remains to be seen. I devoutly hope so.

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

Mr. MANSFIELD. I yield.

Mr. CASE. Mr. President, I ask the majority leader whether we might assume there would not be any rollcall vote until about 10:30 in the morning?

Mr. MANSFIELD. I could not say. It will be a tough day, and if any Senator wants to ask for a rollcall, of course the leadership has no control of it. I would doubt it. I cannot say definitely.

Mr. CASE. The Senator's doubt is as good as my fear.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 8:30 a.m. tomorrow.

The motion was agreed to; and at 5:39 p.m. the Senate adjourned until Friday, December 21, 1973, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, December 20, 1973:

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Alfred, Shelby G., [redacted]
Arnaldo, Ernest C., [redacted]
Binkley, George W., [redacted]
Bogolub, Milton, [redacted]
Bradley, James E., [redacted]
Brant, Charles E., [redacted]
Burch, Donald H., [redacted]
Burner, David M., [redacted]
Caron, John A., [redacted]
Carroll, James L., [redacted]
Cate, George H. Jr., [redacted]
Chandler, Thomas V., [redacted]
Clapp, Edward D., [redacted]
Cowey, Felix F. Jr., [redacted]
Davidson, Jules L. Jr., [redacted]
Fleissner, Louis F., [redacted]
Forslin, Eric E., [redacted]
Hargrove, Keith L., [redacted]
Head, Jimmy H., [redacted]

Jones, Richard L., Jr., xxx-xx-xxxx
Jones, Ted L., xxx-xx-xxxx
Keene, Richard C., xxx-xx-xxxx
Mendez, Frank S., xxx-xx-xxxx
Miller, James D., xxx-xx-xxxx
Miyasaki, Shuichi, xxx-xx-xxxx
Morana, Nicholas J., xxx-xx-xxxx
Morgan, Keith A., xxx-xx-xxxx
Morris, Lawrence W., xxx-xx-xxxx
Moss, William W., xxx-xx-xxxx
Myers, Robert E., xxx-xx-xxxx
Neideigh, Robert G., xxx-xx-xxxx
Oswalt, Barney L., xxx-xx-xxxx
Pittman, Jerold F., xxx-xx-xxxx
Rodriguez, Balinas A., xxx-xx-xxxx
Rucker, Talmadge R., xxx-xx-xxxx
Teeters, Jack E., xxx-xx-xxxx
Todd, Carl H., xxx-xx-xxxx
Van Horn, Edward J., xxx-xx-xxxx
Walton, Walter W., Jr., xxx-xx-xxxx
Whisnant, Charles J., xxx-xx-xxxx
Wilson, Dale E., xxx-xx-xxxx
Wilson, Theodore D., xxx-xx-xxxx
Worcester, Ronald D., xxx-xx-xxxx

CHAPLAIN

To be colonel

Stuebben, George H., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Baker, Eugene M., Jr., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Joye, Milbourne L., xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3366, 3367, and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, Don T., xxx-xx-xxxx
Adkins, James S., xxx-xx-xxxx
Adler, Manfred, xxx-xx-xxxx
Agee, James D., xxx-xx-xxxx
Aiken, William R., Jr., xxx-xx-xxxx
Anderson, Henry, xxx-xx-xxxx
Anderson, John T., xxx-xx-xxxx
Anderson, Robert N., xxx-xx-xxxx
Andrews, Joseph K., xxx-xx-xxxx
Annette, William H., xxx-xx-xxxx
Arcuri, Rosario V., xxx-xx-xxxx
Arledge, R. R., Jr., xxx-xx-xxxx
Arlook, Martin M., xxx-xx-xxxx
Armstrong, Richard, xxx-xx-xxxx
Arnold, Peter E., xxx-xx-xxxx
Atwell, Charles A., xxx-xx-xxxx
Aviles, Dionel E., xxx-xx-xxxx
Axe, Norman G., xxx-xx-xxxx
Bachus, Littleton J., xxx-xx-xxxx
Badger, Daniel D., xxx-xx-xxxx
Bailey, Paul F., xxx-xx-xxxx
Baird, Robert L., xxx-xx-xxxx
Baird, Walter B., xxx-xx-xxxx
Banks, Hartley G., Jr., xxx-xx-xxxx
Banks, Robert C., xxx-xx-xxxx
Banks, William F., xxx-xx-xxxx
Banta, George C., xxx-xx-xxxx
Barclift, Robert W., xxx-xx-xxxx
Barker, George E., xxx-xx-xxxx
Barlow, Anthony H., xxx-xx-xxxx
Barnes, Carl A., xxx-xx-xxxx
Barrett, Billy G., xxx-xx-xxxx
Barringer, John L., xxx-xx-xxxx
Barton, William C., xxx-xx-xxxx
Bauersfeld, V. L., Jr., xxx-xx-xxxx
Baylor, James B., xxx-xx-xxxx
Beaver, Newton J., Jr., xxx-xx-xxxx
Becker, John A., xxx-xx-xxxx
Beers, Ray Jr., xxx-xx-xxxx
Begeman, Arthur L., xxx-xx-xxxx
Behnke, Ervin F., xxx-xx-xxxx
Bender, Robert M., xxx-xx-xxxx
Bengtson, Donald W., xxx-xx-xxxx
Bernard, Richard T., xxx-xx-xxxx
Bernick, Herbert J., xxx-xx-xxxx
Berry, David A., xxx-xx-xxxx
Berryman, William C., xxx-xx-xxxx
Bess, Carl F., xxx-xx-xxxx
Bess, Frederick G., xxx-xx-xxxx
Betts, Thomas M., Jr., xxx-xx-xxxx
Bice, Jack G., xxx-xx-xxxx
Bielen, Joseph M., xxx-xx-xxxx
Bishop, Lawrence H., xxx-xx-xxxx
Bishop, Ronald E., xxx-xx-xxxx
Black, Robert R., Jr., xxx-xx-xxxx
Blanchfield, Thomas, xxx-xx-xxxx
Blodget, David P., xxx-xx-xxxx
Bluestone, Allan B., xxx-xx-xxxx
Bobo, William S., Jr., xxx-xx-xxxx
Bottomley, Ernest, xxx-xx-xxxx
Bourgeois, G. J., xxx-xx-xxxx
Bove, Charles A., xxx-xx-xxxx
Bowling, Rodney I., xxx-xx-xxxx
Bowman, Thomas M., xxx-xx-xxxx
Bradley, W. G., Jr., xxx-xx-xxxx
Braund, Richard I., xxx-xx-xxxx
Brick, Ralph P., xxx-xx-xxxx
Brinkley, Carson M., xxx-xx-xxxx
Bronocco, Dick, xxx-xx-xxxx
Brough, Charles W., xxx-xx-xxxx
Broughton, Herbert, xxx-xx-xxxx
Brower, Madison Z., xxx-xx-xxxx
Brown, Charles C., xxx-xx-xxxx
Brown, Harold, xxx-xx-xxxx
Brown, James R., xxx-xx-xxxx
Brown, Leonard S., Jr., xxx-xx-xxxx
Brown, Robert A., xxx-xx-xxxx
Brown, Stephen M., xxx-xx-xxxx
Brubaker, William, xxx-xx-xxxx
Bryant, James C., xxx-xx-xxxx
Bryant, Rudolph V., xxx-xx-xxxx
Buchan, James D., xxx-xx-xxxx
Buckles, Barton B., xxx-xx-xxxx
Buggy, Clair B., xxx-xx-xxxx
Burchill, Kenneth Q., xxx-xx-xxxx
Burgess, Robert C., xxx-xx-xxxx
Burke, Bernard J., xxx-xx-xxxx
Burkett, Charles E., xxx-xx-xxxx
Burkett, William E., xxx-xx-xxxx
Burnett, Edwin E., Jr., xxx-xx-xxxx
Burnette, Luther, xxx-xx-xxxx
Burson, John H., III, xxx-xx-xxxx
Busaker, Earl F., xxx-xx-xxxx
Butler, Thomas P., Jr., xxx-xx-xxxx
Buxton, Howard R., xxx-xx-xxxx
Byrd, Robert G., xxx-xx-xxxx
Cahill, Gerard M., Jr., xxx-xx-xxxx
Caldwell, Allen C., xxx-xx-xxxx
Caldwell, Darrol D., xxx-xx-xxxx
Caldwell, John B., xxx-xx-xxxx
Calhoun, Evans C., xxx-xx-xxxx
Campbell, Alex B., xxx-xx-xxxx
Campbell, Glenden D., xxx-xx-xxxx
Campbell, James W., xxx-xx-xxxx
Canby, Steven L., xxx-xx-xxxx
Cannon, Douglas C., III, xxx-xx-xxxx
Cantrall, Murray E., xxx-xx-xxxx
Capellen, Earle M. V., xxx-xx-xxxx
Carew, William L., xxx-xx-xxxx
Carlton, Mason G., xxx-xx-xxxx
Carney, Charles, xxx-xx-xxxx
Carpenter, Donald B., xxx-xx-xxxx
Carr, John W., xxx-xx-xxxx
Carroll, Raymond L., xxx-xx-xxxx
Carrol, Robert D., xxx-xx-xxxx
Carson, Jack R., xxx-xx-xxxx
Carter, John L., xxx-xx-xxxx
Carville, Linwood L., xxx-xx-xxxx
Casaleggio, Carl, xxx-xx-xxxx
Case, Caleb B., xxx-xx-xxxx
Casey, Patrick A., xxx-xx-xxxx
Cautero, Gerard S., xxx-xx-xxxx
Cauthen, M. B., Jr., xxx-xx-xxxx
Cawley, William O., xxx-xx-xxxx
Chalmers, William G., xxx-xx-xxxx
Chamberlain, Ray W., xxx-xx-xxxx
Chamberlain, Robert, xxx-xx-xxxx
Chandler, Carl E., xxx-xx-xxxx
Chase, Frank N., xxx-xx-xxxx
Cherberg, Clyde R., xxx-xx-xxxx
Chesnutt, John L., xxx-xx-xxxx
Chin, Thomas, xxx-xx-xxxx
Cieslik, Charles R., xxx-xx-xxxx
Clardy, William B., xxx-xx-xxxx
Clark, Gerald S., xxx-xx-xxxx
Clark, Richard L., xxx-xx-xxxx
Clark, Wendell P., xxx-xx-xxxx
Clark, William L., Jr., xxx-xx-xxxx
Cleghorn, Harold H., xxx-xx-xxxx
Clement, Daniel, Jr., xxx-xx-xxxx
Clement, Donald N., xxx-xx-xxxx
Clements, Erwin F., xxx-xx-xxxx
Clemmons, Joel T., xxx-xx-xxxx
Cline, Dexter V., xxx-xx-xxxx
Clorman, Irving M., xxx-xx-xxxx
Clysdale, Edward G., xxx-xx-xxxx
Codino, Albert F., xxx-xx-xxxx
Cofino-Perez, Thomas, xxx-xx-xxxx
Cohen, Victor L., xxx-xx-xxxx
Coker, Ralph G., xxx-xx-xxxx
Coldren, James R., xxx-xx-xxxx
Cole. John C., xxx-xx-xxxx
Coleman, Vance, xxx-xx-xxxx
Coles, Bruce O., xxx-xx-xxxx
Collins, Philip J., xxx-xx-xxxx
Collins, Thomas E., xxx-xx-xxxx
Coltrin, Byron R., xxx-xx-xxxx
Conaway, Kenneth E., xxx-xx-xxxx
Concannon, W. L., xxx-xx-xxxx
Conley, Robert H., xxx-xx-xxxx
Connell, Robert M., xxx-xx-xxxx
Cook, William A., xxx-xx-xxxx
Cooper, John A., xxx-xx-xxxx
Coristine, Thomas F., xxx-xx-xxxx
Coruthers, John M., xxx-xx-xxxx
Couture, Bertrand L., xxx-xx-xxxx
Cowan, Donald, xxx-xx-xxxx
Crair, Morton L., xxx-xx-xxxx
Cretecos, George A., xxx-xx-xxxx
Croak, Francis R., xxx-xx-xxxx
Crofoot, Warren R., xxx-xx-xxxx
Cronin, John D., xxx-xx-xxxx
Cross, Howard P., xxx-xx-xxxx
Cross, Julian F., xxx-xx-xxxx
Cuddy, John P., xxx-xx-xxxx
Culmer, James D., xxx-xx-xxxx
Culver, Joseph H., xxx-xx-xxxx
Cummings, David W., xxx-xx-xxxx
Cummings, Jeff R., xxx-xx-xxxx
Curry, Glenn H., xxx-xx-xxxx
Dale, Clifford H., xxx-xx-xxxx
Daly, Jeremiah F., xxx-xx-xxxx
Damon, William B., xxx-xx-xxxx
Daniels, Tolbert A., xxx-xx-xxxx
Danko, John G., Jr., xxx-xx-xxxx
Davis, Charles D., xxx-xx-xxxx
Davis, Ollie, Jr., xxx-xx-xxxx
Dechambeau, James H., xxx-xx-xxxx
Decker, David W., xxx-xx-xxxx
Dehlinger, Robert J., xxx-xx-xxxx
DelGianni, James L., xxx-xx-xxxx
Detjen, James E., xxx-xx-xxxx
Devine, Donald P., xxx-xx-xxxx
Dewalt, Harry A., Jr., xxx-xx-xxxx
DiFiore, John M., Jr., xxx-xx-xxxx
Dilts, Robert L., xxx-xx-xxxx
Dimke, Robert L., xxx-xx-xxxx
Dimmick, Paul V., Jr., xxx-xx-xxxx
Dines, Gerald A., xxx-xx-xxxx
Dixon, Cloyce I., Jr., xxx-xx-xxxx
Dixon, Jeremiah D., xxx-xx-xxxx
Dollar, Jerry L., xxx-xx-xxxx
Dollard, Robert L., xxx-xx-xxxx
Donald, Robert G., xxx-xx-xxxx
Donner, Arvin N., Jr., xxx-xx-xxxx
Donohue, Donald J., Jr., xxx-xx-xxxx
Dooling, Francis D., xxx-xx-xxxx
Doty, Kie O., xxx-xx-xxxx
Douthit, Floyd, xxx-xx-xxxx
Dowling, James W., Jr., xxx-xx-xxxx
Doyle, John R., xxx-xx-xxxx
Drews, Frederick R., xxx-xx-xxxx
Dubois, Dean C., xxx-xx-xxxx
Durham, Courtney B., xxx-xx-xxxx
Dwyer, Eugene M., xxx-xx-xxxx
Dye, Melvin C., xxx-xx-xxxx
Dykes, Glenn M., Jr., xxx-xx-xxxx
Earnshaw, David G., xxx-xx-xxxx
Eaton, John L., xxx-xx-xxxx
Eickhoff, Leo E., Jr., xxx-xx-xxxx
Elam, John G., Jr., xxx-xx-xxxx
Elias-Caballe, Angel, xxx-xx-xxxx
Ellis, Carl T., Jr., xxx-xx-xxxx
Ellis, James V., Jr., xxx-xx-xxxx
Ellis, John H., Jr., xxx-xx-xxxx
Ellis, Roy H., xxx-xx-xxxx
Ellis, William E., xxx-xx-xxxx
Engelmeier, Paul C., xxx-xx-xxxx
Engle, Robert B., xxx-xx-xxxx
Enos, Warren B., xxx-xx-xxxx

Ent, John W., xxx-xx-xxxx
Epstein, Sanford J., xxx-xx-xxxx
Erdman, Anthony W., xxx-xx-xxxx
Erlandson, Dale L., xxx-xx-xxxx
Evans, Raymond E., xxx-xx-xxxx
Evans, Thomas J., xxx-xx-xxxx
Farmer, Robert P., xxx-xx-xxxx
Fase, Robert E., xxx-xx-xxxx
Fasolino, Rosario P., xxx-xx-xxxx
Fauntleroy, H. E., Jr., xxx-xx-xxxx
Feir, Larry E., xxx-xx-xxxx
Feldt, Robert J., xxx-xx-xxxx
Fellinger, P. J., xxx-xx-xxxx
Ferguson, James T., xxx-xx-xxxx
Ferreira, Clarence, xxx-xx-xxxx
Ferroli, Robert J., xxx-xx-xxxx
Ficken, Harry A., Jr., xxx-xx-xxxx
Field, Thomas F., xxx-xx-xxxx
Figueroa, Jose R., xxx-xx-xxxx
Fink, David H., xxx-xx-xxxx
Finn, John J., xxx-xx-xxxx
Fisher, Edward S., xxx-xx-xxxx
Fitz, Loren E. M., xxx-xx-xxxx
Fleming, Bill A., xxx-xx-xxxx
Foley, Robert P., xxx-xx-xxxx
Fong, Albert C., xxx-xx-xxxx
Fontanilla, James E., xxx-xx-xxxx
Foster, Perry G., Jr., xxx-xx-xxxx
Franklin, Chester A., xxx-xx-xxxx
Freeman, Darold R., xxx-xx-xxxx
Frey, Julius M., xxx-xx-xxxx
Frink, Frank M., xxx-xx-xxxx
Frye, William V., xxx-xx-xxxx
Fuller, Frank B., Jr., xxx-xx-xxxx
Fullerton, Ralph O., xxx-xx-xxxx
Funk, Raymond R., xxx-xx-xxxx
Gabriel, Anthony J., xxx-xx-xxxx
Galbreath, Bobby N., xxx-xx-xxxx
Galik, Michael, xxx-xx-xxxx
Gansereit, Ernest J., xxx-xx-xxxx
Gant, Daryal T., xxx-xx-xxxx
Gay, Donald J., xxx-xx-xxxx
Gaydos, Theodore, xxx-xx-xxxx
Geraci, Joseph T., xxx-xx-xxxx
Gile, Rexford R., xxx-xx-xxxx
Gillard, Richard C., xxx-xx-xxxx
Ginn, Hal G., xxx-xx-xxxx
Gladin, Collier B., xxx-xx-xxxx
Glasscock, Loren T., xxx-xx-xxxx
Goebel, Werner W., xxx-xx-xxxx
Goedde, William R., xxx-xx-xxxx
Gonzalez, Carlos, xxx-xx-xxxx
Gonzalez, Jose, xxx-xx-xxxx
Gonzalez, Silvestre, xxx-xx-xxxx
Gooskos, Daniel, xxx-xx-xxxx
Governale, Russell, xxx-xx-xxxx
Gray, Edward R., xxx-xx-xxxx
Gray, Joe E., xxx-xx-xxxx
Greco, Gerard F., xxx-xx-xxxx
Greco, Leonard C., xxx-xx-xxxx
Green, Glenn H., xxx-xx-xxxx
Greene, Duane E., xxx-xx-xxxx
Greenwell, William C., xxx-xx-xxxx
Grens, Edward A., II, xxx-xx-xxxx
Greve, Einar, xxx-xx-xxxx
Grey, James W., xxx-xx-xxxx
Grier, Julian J., xxx-xx-xxxx
Griffin, Hal C., xxx-xx-xxxx
Griffing, John A., Jr., xxx-xx-xxxx
Grimmett, Robert G., xxx-xx-xxxx
Grunfeld, Frederic, xxx-xx-xxxx
Gucker, Richard A., xxx-xx-xxxx
Gunn, Robert L., xxx-xx-xxxx
Gutierrez, Benito, xxx-xx-xxxx
Haas, Wolfgang, xxx-xx-xxxx
Hadley, Robert V., xxx-xx-xxxx
Hall, David H., xxx-xx-xxxx
Hall, Roscoe M., Jr., xxx-xx-xxxx
Hallett, Albert F. E., xxx-xx-xxxx
Hamel, Francis G., xxx-xx-xxxx
Hansen, Joe B., xxx-xx-xxxx
Hanser, Harold F., xxx-xx-xxxx
Harden, Richard W., xxx-xx-xxxx
Hardy, Morris S., xxx-xx-xxxx
Haronian, Howard R., xxx-xx-xxxx
Harral, Williard R., xxx-xx-xxxx
Harrington, David E., xxx-xx-xxxx
Harris, Bobby L., xxx-xx-xxxx
Harris, David A., xxx-xx-xxxx
Harris, Jack A., xxx-xx-xxxx
Harris, Joe N., xxx-xx-xxxx
Harrison, Eddie E., xxx-xx-xxxx
Hart, John N., xxx-xx-xxxx
Hartig, Alvin E., xxx-xx-xxxx
Hass, John C., xxx-xx-xxxx
Hassler, John M., Jr., xxx-xx-xxxx
Hauffe, Paul O., xxx-xx-xxxx
Haugen, Raymond C., xxx-xx-xxxx
Haugh, Harold H., xxx-xx-xxxx
Haverly, Harry C., xxx-xx-xxxx
Hawk, Mervin C., xxx-xx-xxxx
Hawke, Wilmer M., xxx-xx-xxxx
Haygood, J. R., xxx-xx-xxxx
Hays, William L., xxx-xx-xxxx
Hazen, Robert D., xxx-xx-xxxx
Headrick, Brian S., xxx-xx-xxxx
Hemerling, Harry W., xxx-xx-xxxx
Henderson, Charles, xxx-xx-xxxx
Henderson, Hernon, xxx-xx-xxxx
Hennigan, Leonard W., xxx-xx-xxxx
Henry, Charles L., xxx-xx-xxxx
Herndon, Paul R., Jr., xxx-xx-xxxx
Herrick, Robert T., xxx-xx-xxxx
Heyward, James R., xxx-xx-xxxx
Hill, James D., xxx-xx-xxxx
Hill, Robert L., xxx-xx-xxxx
Hinkel, Vernon W., xxx-xx-xxxx
Hoar, Joseph V., xxx-xx-xxxx
Hockman, John R., xxx-xx-xxxx
Hoelscher, James E., xxx-xx-xxxx
Hoffman, William H., xxx-xx-xxxx
Hoidal, Lars R., xxx-xx-xxxx
Holland, Herbert, xxx-xx-xxxx
Hollstein, Elmer J., xxx-xx-xxxx
Holmes, Robert A., xxx-xx-xxxx
Holzgruber, Alfred, xxx-xx-xxxx
Hood, Charles F., Jr., xxx-xx-xxxx
Hopkins, James B., xxx-xx-xxxx
Horan, Robert P., xxx-xx-xxxx
Howard, George J., xxx-xx-xxxx
Howard, Lawrence, xxx-xx-xxxx
Hromas, Ernest L., xxx-xx-xxxx
Hubbard, William S., xxx-xx-xxxx
Huddleston, C. R., xxx-xx-xxxx
Hudson, William R., xxx-xx-xxxx
Huestis, Charles D., xxx-xx-xxxx
Huff, Hugh M., III, xxx-xx-xxxx
Hunter, James H., xxx-xx-xxxx
Hurlebaus, John F., xxx-xx-xxxx
Hutchinson, George, xxx-xx-xxxx
Hynes, James R., xxx-xx-xxxx
Ikeda, Moss M., xxx-xx-xxxx
Irvin, Robert J., xxx-xx-xxxx
Ivy, Billy C., xxx-xx-xxxx
Jackola, Arthur S., xxx-xx-xxxx
Jackson, Bobby J., xxx-xx-xxxx
Jackson, John R., xxx-xx-xxxx
James, Charles D., xxx-xx-xxxx
Janas, Edward M., xxx-xx-xxxx
Japp, Jack W., xxx-xx-xxxx
Jarvis, Joe D., xxx-xx-xxxx
Jenkins, Edwin K., II, xxx-xx-xxxx
Jenkins, Robert D., xxx-xx-xxxx
Jennison, Dick M., xxx-xx-xxxx
Jensen, Donald E., xxx-xx-xxxx
Jensen, Ronald S., xxx-xx-xxxx
Jenson, Richard M., xxx-xx-xxxx
Jent, William P., Jr., xxx-xx-xxxx
Johnson, Arthur J., xxx-xx-xxxx
Johnson, Leo P., xxx-xx-xxxx
Johnson, Mark A., xxx-xx-xxxx
Johnson, Richard L., xxx-xx-xxxx
Johnson, Samuel L., xxx-xx-xxxx
Johnston, Dale E., xxx-xx-xxxx
Johnston, Donald A., xxx-xx-xxxx
Jones, Charles S., Jr., xxx-xx-xxxx
Jones, Edsel G., xxx-xx-xxxx
Jones, Fred R., xxx-xx-xxxx
Jones, Hershel G., xxx-xx-xxxx
Jones, Louis C., Jr., xxx-xx-xxxx
Jones, Robert G., xxx-xx-xxxx
Jones, Ronald R., xxx-xx-xxxx
Jones, Stanley C., xxx-xx-xxxx
Jones, Thomas R., Jr., xxx-xx-xxxx
Jones, Vernon R., xxx-xx-xxxx
Jones, Walter R., xxx-xx-xxxx
Jones, William D., xxx-xx-xxxx
Jung, James G., xxx-xx-xxxx
Jung, Lincoln, xxx-xx-xxxx
Jurgens, Hilary W., xxx-xx-xxxx
Kaelin, Billy J., xxx-xx-xxxx
Kaiser, Clarence J., xxx-xx-xxxx
Kane, John J., xxx-xx-xxxx
Kano, Clarence K., xxx-xx-xxxx
Kaplan, Robert L., xxx-xx-xxxx
Kawaguchi, Masaru, xxx-xx-xxxx
Keckeissen, Joseph, xxx-xx-xxxx
Keene, Marcus L., xxx-xx-xxxx
Kellogg, Jimmy R., xxx-xx-xxxx
Kelly, Samuel P., xxx-xx-xxxx
Kendall, James J., xxx-xx-xxxx
Kessler, Joseph F., xxx-xx-xxxx
Kilbourne, John W., xxx-xx-xxxx
Killen, Donald J., xxx-xx-xxxx
King, Donald B., xxx-xx-xxxx
King, Dwight E., xxx-xx-xxxx
King, Peter C., xxx-xx-xxxx
King, Richard P., xxx-xx-xxxx
Kirchner, Harry F., xxx-xx-xxxx
Kirkland, Wesley R., xxx-xx-xxxx
Kirkpatrick, Joseph, xxx-xx-xxxx
Koenigsmark, Edward, xxx-xx-xxxx
Koster, Leslie N., xxx-xx-xxxx
Kozak, Walter P., xxx-xx-xxxx
Kreutzer, Robert H., xxx-xx-xxxx
Kubala, Lowell M., xxx-xx-xxxx
Kuhnel, Edward E., xxx-xx-xxxx
Kunioka, Robert T., xxx-xx-xxxx
Lambertson, John P., xxx-xx-xxxx
Lamphere, Howard W., xxx-xx-xxxx
Lander, James A., xxx-xx-xxxx
Lane, Marion A., xxx-xx-xxxx
Lanier, Jack D., xxx-xx-xxxx
Larkin, Donald J., xxx-xx-xxxx
Larrabee, Robert W., xxx-xx-xxxx
Laskoe, Robert, xxx-xx-xxxx
Latterell, Gerald W., xxx-xx-xxxx
Lau, William K., xxx-xx-xxxx
Lavin, Richard P., xxx-xx-xxxx
Lawrence, G. T., IV, xxx-xx-xxxx
Layman, Jackie J., xxx-xx-xxxx
Lechner, Charles D., xxx-xx-xxxx
Lee, Robert C., xxxx
Leek, William A., Jr., xxx-xx-xxxx
LeGrand, Talmadge M., xxx-xx-xxxx
Leong, Richard W. Y., xxx-xx-xxxx
Lewis, Jackie L., xxx-xx-xxxx
Lewis, Kenneth E., xxx-xx-xxxx
Lewis, Richard M., xxx-xx-xxxx
Libertine, Rocco W., xxx-xx-xxxx
Lindeman, Jack E., xxx-xx-xxxx
Lingenfelter, George, xxx-xx-xxxx
Lockhart, Jack C., xxx-xx-xxxx
Lohr, Atwell C., xxx-xx-xxxx
Lombardo, Anthony H., xxx-xx-xxxx
Lowell, James B., Jr., xxx-xx-xxxx
Lucas, Clarence A., xxx-xx-xxxx
Lundberg, Leonard V., xxx-xx-xxxx
Lundgren, John A., xxx-xx-xxxx
Luttinen, Sidney R., xxx-xx-xxxx
Luzier, William H., xxx-xx-xxxx
Lytton, Victor H., xxx-xx-xxxx
Mackay, Raymond G., xxx-xx-xxxx
Mackenzie, Charles, xxx-xx-xxxx
MacMillan, R. H., Jr., xxx-xx-xxxx
Macon, David R., xxx-xx-xxxx
MacPherson, George, xxx-xx-xxxx
Maddox, Milton E., xxx-xx-xxxx
Malcolm, John B., Jr., xxx-xx-xxxx
Maldonado, Edwin G., xxx-xx-xxxx
Maloney, Joseph T., xxx-xx-xxxx
Manbert, Rush M., xxx-xx-xxxx
Mangham, John H., xxx-xx-xxxx
Mann, James E., xxx-xx-xxxx
Mannel, William M., xxx-xx-xxxx
Manthey, Philip S., xxx-xx-xxxx
Marks, Richard E., xxx-xx-xxxx
Marotta, Francis X., xxx-xx-xxxx
Marr, Clayton E., xxx-xx-xxxx
Marshall, Harry P., xxx-xx-xxxx
Martin, Bobby J., xxx-xx-xxxx
Martin, Emmor G., Jr., xxx-xx-xxxx
Massengale, A. E., Jr., xxx-xx-xxxx
Mayo, Ollie K., Jr., xxx-xx-xxxx
McAlerney, John K., xxx-xx-xxxx
McCafferty, Orland, xxx-xx-xxxx
McCann, William L., xxx-xx-xxxx
McCarty, John E., xxx-xx-xxxx
McCoy, James L., Jr., xxx-xx-xxxx
McCubbin, Thomas L., xxx-xx-xxxx
McCutcheon, James E., xxx-xx-xxxx
McFarlane, James A., xxx-xx-xxxx
McFee, Alfred F., xxx-xx-xxxx

McGarr, Elbert L., xxx-xx-xxxx
McGoffin, James L., xxx-xx-xxxx
McGrath, Edward P., xxx-xx-xxxx
McIntosh, Gordon Y., xxx-xx-xxxx
McIntyre, Bruce H., xxx-xx-xxxx
McKinney, W. M., III, xxx-xx-xxxx
McKinnon, Charles M., xxx-xx-xxxx
McMullen, Michael W., xxx-xx-xxxx
McNair, Edward P., xxx-xx-xxxx
McNeese, Maurice W., xxx-xx-xxxx
McRee, Griffith J., Jr., xxx-xx-xxxx
McSweeney, Arthur P., xxx-xx-xxxx
Meissner, Martin C., xxx-xx-xxxx
Merchant, Donald N., xxx-xx-xxxx
Michaud, Ted C., xxx-xx-xxxx
Middleton, P. G., Jr., xxx-xx-xxxx
Miller, Jimmie J., xxx-xx-xxxx
Miller, John K., xxx-xx-xxxx
Mills, Jerry O., Jr., xxx-xx-xxxx
Minchin, Gerald R., xxx-xx-xxxx
Mitchell, James K., xxx-xx-xxxx
Mitchell, Joe F., xxx-xx-xxxx
Mohr, George R., xxx-xx-xxxx
Monahan, Neil F., xxx-xx-xxxx
Monsen, Monrad H., xxx-xx-xxxx
Montgomery, John W., xxx-xx-xxxx
Moore, Carl G., xxx-xx-xxxx
Moore, James R., xxx-xx-xxxx
Moore, Jere N., Jr., xxx-xx-xxxx
Moore, Malcom E., xxx-xx-xxxx
Moore, William D., xxx-xx-xxxx
Morris, James R., xxx-xx-xxxx
Morton, Sanford B., xxx-xx-xxxx
Muchow, Ray H., xxx-xx-xxxx
Mueller, Gene W., xxx-xx-xxxx
Mulkey, Dick E. S., xxx-xx-xxxx
Mura, Ronald A., xxx-xx-xxxx
Murakami, Roy K., xxx-xx-xxxx
Murfee, James T., III, xxx-xx-xxxx
Myers, Harry G., xxx-xx-xxxx
Nardone, Arthur S., xxx-xx-xxxx
Neale, Robert K., xxx-xx-xxxx
Neel, Billy W., xxx-xx-xxxx
Negus, Sidney S., Jr., xxx-xx-xxxx
Nelligan, Peter, xxx-xx-xxxx
Nelson, Earl L., Jr., xxx-xx-xxxx
Newell, Robert W., xxx-xx-xxxx
Newman, Wesley W., xxx-xx-xxxx
Nicholson, James R., xxx-xx-xxxx
Nicosia, John W., xxx-xx-xxxx
Nix, James E., xxx-xx-xxxx
Nolan, John J., xxx-xx-xxxx
Nolley, Edwin F., xxx-xx-xxxx
Norman, Bethel A., xxx-xx-xxxx
Norton, James W., xxx-xx-xxxx
Norton, Neville G., xxx-xx-xxxx
O'Connor Robert D., xxx-xx-xxxx
Ogden, Seward J., Jr., xxx-xx-xxxx
Ohlman, Kenneth H., xxx-xx-xxxx
Oliver, Michael W., xxx-xx-xxxx
Oppler, Edward P., xxx-xx-xxxx
Orr, Joseph L., xxx-xx-xxxx
Overdank, Louis, xxx-xx-xxxx
Owen, Richard H., xxx-xx-xxxx
Owens, Wamul R., xxx-xx-xxxx
Ownby, Robert G., xxx-xx-xxxx
Ozawa, Gordon I., xxx-xx-xxxx
Padget, Heber N., xxx-xx-xxxx
Panchuk, Stephen L., xxx-xx-xxxx
Pandure, Joseph F., xxx-xx-xxxx
Parker, Charles D., xxx-xx-xxxx
Parks, John R., xxx-xx-xxxx
Patrick, Robert A., xxx-xx-xxxx
Patrick, William S., xxx-xx-xxxx
Patsis, Nicholas M., xxx-xx-xxxx
Pavlow, George, xxx-xx-xxxx
Payne, William G., xxx-xx-xxxx
Payte, Roy F., xxx-xx-xxxx
Pearce, Oscar J., Jr., xxx-xx-xxxx
Pearl, Jason E., xxx-xx-xxxx
Pearson, John C., xxx-xx-xxxx
Peery, William D., xxx-xx-xxxx
Pellegrino, Vincent, xxx-xx-xxxx
Penberthy, James F., xxx-xx-xxxx
Penwright, Bill M., xxx-xx-xxxx
Perry, Charles R., xxx-xx-xxxx
Peterfy, Frank A., xxx-xx-xxxx
Peters, Grover C., Jr., xxx-xx-xxxx
Peterson, Harold D., xxx-xx-xxxx
Peterson, Richard W., xxx-xx-xxxx
Petillo, Ralph J., xxx-xx-xxxx
Petrover, Lothar L., xxx-xx-xxxx
Petty, James E., xxx-xx-xxxx
Pfaff, David H., xxx-xx-xxxx
Phillips, Weldon H., xxx-xx-xxxx
Pickard, Thomas J., xxx-xx-xxxx
Pitcher, James R., xxx-xx-xxxx
Ploetz, Raymond C., xxx-xx-xxxx
Poche, John E., xxx-xx-xxxx
Politano, Pascal R., xxx-xx-xxxx
Polito, Dominic R., xxx-xx-xxxx
Popovich, Walter M., xxx-xx-xxxx
Porter, George W., xxx-xx-xxxx
Poshusta, Allyn D., xxx-xx-xxxx
Post, John L., xxx-xx-xxxx
Potter, Mark W., Jr., xxx-xx-xxxx
Powers, Robert M., xxx-xx-xxxx
Pratt, Marion E., xxx-xx-xxxx
Presswood, John K., xxx-xx-xxxx
Price, Gerald L., xxx-xx-xxxx
Prince, William R., xxx-xx-xxxx
Protheroe, Maurice, xxx-xx-xxxx
Pulda, Joseph A., xxx-xx-xxxx
Pulsipher, Guy R., xxx-xx-xxxx
Purtle, Herbert G., xxx-xx-xxxx
Qua, George F., II, xxx-xx-xxxx
Radaker, Herbert E., xxx-xx-xxxx
Rarig, David A., xxx-xx-xxxx
Rayburn, Bruce A., xxx-xx-xxxx
Read, James W., Jr., xxx-xx-xxxx
Reasoner, Robert R., xxx-xx-xxxx
Redditt, Robert H. S., xxx-xx-xxxx
Reed, John H., xxx-xx-xxxx
Reese, Irving L., xxx-xx-xxxx
Reeves, Robert L., xxx-xx-xxxx
Reilly, Paul G., Jr., xxx-xx-xxxx
Renwick, Allen B., xxx-xx-xxxx
Reynolds, Edward A., xxx-xx-xxxx
Reynolds, Ralph E., xxx-xx-xxxx
Rhodes, Alfred H., xxx-xx-xxxx
Richardson, George, xxx-xx-xxxx
Richey, Clinton B., xxx-xx-xxxx
Richiardi, Robert L., xxx-xx-xxxx
Richmond, Henry J., xxx-xx-xxxx
Rickett, William F., xxx-xx-xxxx
Riddle, James M., xxx-xx-xxxx
Rist, John C., xxx-xx-xxxx
Ritter, Kenneth R., xxx-xx-xxxx
Rivera, Jesus M., xxx-xx-xxxx
Roach, Charles T., xxx-xx-xxxx
Roark, Richard D., xxx-xx-xxxx
Roberts, Richard C., xxx-xx-xxxx
Robichaud, Paul R., xxx-xx-xxxx
Robilotti, L. J., xxx-xx-xxxx
Robinson, Fred E., xxx-xx-xxxx
Robinson, James B. J., xxx-xx-xxxx
Robinson, William C., xxx-xx-xxxx
Rogers, James R., Jr., xxx-xx-xxxx
Rohena, Santos, Jr., xxx-xx-xxxx
Rome, Lloyd, xxx-xx-xxxx
Rorie, Euell R., xxx-xx-xxxx
Rosenblatt, David H., xxx-xx-xxxx
Ross, Sanford A., xxx-xx-xxxx
Rost, James W., xxx-xx-xxxx
Rothaus, William J., xxx-xx-xxxx
Rothleitner, Milton, xxx-xx-xxxx
Roukous, Maurice L., xxx-xx-xxxx
Row, Lathe B., xxx-xx-xxxx
Rowley, Alford H., xxx-xx-xxxx
Rugheimer, E. W., Jr., xxx-xx-xxxx
Rung, John P., xxx-xx-xxxx
Runken, Roy G., xxx-xx-xxxx
Ruple, Robert E., xxx-xx-xxxx
Rusk, Edward E., xxx-xx-xxxx
Russell, Christopher, xxx-xx-xxxx
Russell, George R., xxx-xx-xxxx
Russell, Gordon C., xxx-xx-xxxx
Russell, Oscar G., xxx-xx-xxxx
Russo, Richard S., xxx-xx-xxxx
Ryan, Herbert F., xxx-xx-xxxx
Salamy, Henry G., xxx-xx-xxxx
Sanders, Robert J., xxx-xx-xxxx
Sanderson, Don N., xxx-xx-xxxx
Sands, Laverne C., xxx-xx-xxxx
Sanford, Robert A. T., xxx-xx-xxxx
Sappington, Frederick, xxx-xx-xxxx
Sato, George M., xxx-xx-xxxx
Saunier, Robert M., xxx-xx-xxxx
Savwoir, Richard A., xxx-xx-xxxx
Scaringi, Louis T., xxx-xx-xxxx
Scent, Richard K., xxx-xx-xxxx
Schaffer, Donald D., xxx-xx-xxxx
Schrowang, Augustus, xxx-xx-xxxx
Schulman, Ellsworth, xxx-xx-xxxx
Schultz, Jackson K., xxx-xx-xxxx
Schwab, Harold D., xxx-xx-xxxx
Schwartz, R. K., xxx-xx-xxxx
Scott, Frank W., xxx-xx-xxxx
Scott, George L., xxx-xx-xxxx
Scott, Harold T., xxx-xx-xxxx
Seaver, William R., xxx-xx-xxxx
Seidel, Walter R., xxx-xx-xxxx
Sessions, Jerrald M., xxx-xx-xxxx
Shafferman, Frederick, xxx-xx-xxxx
Sheehan, Howard P., xxx-xx-xxxx
Sheffer, William F., xxx-xx-xxxx
Shideler, J. H., Jr., xxx-xx-xxxx
Shields, Allan L., xxx-xx-xxxx
Shim, Casey N. E., xxx-xx-xxxx
Shroyer, Terry W., xxx-xx-xxxx
Sieg, Reno S., xxx-xx-xxxx
Siembor, Eugene T., xxx-xx-xxxx
Sigler, Bernard J., xxx-xx-xxxx
Silverman, Melvin, xxx-xx-xxxx
Simons, Charles J., xxx-xx-xxxx
Sims, Ernest T., Jr., xxx-xx-xxxx
Sisson, Phillip R., xxx-xx-xxxx
Slocum, Donald H., xxx-xx-xxxx
Slocum, William F., xxx-xx-xxxx
Smith, Carroll D., xxx-xx-xxxx
Smith, Fletcher B. J., xxx-xx-xxxx
Smith, Gary S., xxx-xx-xxxx
Smith, James L., xxx-xx-xxxx
Smith, Raymond D., xxx-xx-xxxx
Smith, Richard M., xxx-xx-xxxx
Snider, Howard A., xxx-xx-xxxx
Snow, James A., xxx-xx-xxxx
Snyder, Gardiner W., xxx-xx-xxxx
Snyder, Russell A., xxx-xx-xxxx
Sohn, Russell L., xxx-xx-xxxx
Spak, Michael I., xxx-xx-xxxx
Spradlin, Billie C., xxx-xx-xxxx
Squire, Edward C., xxx-xx-xxxx
Stejskal, Allen G., xxxx
Stemmons, Perry W., xxx-xx-xxxx
Stephens, Carl M., Jr., xxx-xx-xxxx
Sterr, Ronald M., xxx-xx-xxxx
Stewart, Arthur L., xxx-xx-xxxx
Stewart, William H., xxx-xx-xxxx
Stickles, Milton J., xxx-xx-xxxx
Stickney, James H., xxx-xx-xxxx
Stiles, Donald J., xxx-xx-xxxx
Stobie, Harry D., xxx-xx-xxxx
Stonisch, Jerry A., xxx-xx-xxxx
Strain, Joseph F., xxx-xx-xxxx
Struss, Herbert E., xxx-xx-xxxx
Stucker, Robert B., xxx-xx-xxxx
Sullivan, James E., xxx-xx-xxxx
Surber, Darrell B., xxx-xx-xxxx
Swan, John G., Jr., xxx-xx-xxxx
Swedenburg, Clifford, xxx-xx-xxxx
Sweeney, Daniel J., xxx-xx-xxxx
Sweet, Robert G., xxx-xx-xxxx
Szaj, Arnold P., xxx-xx-xxxx
Talbow, William T., xxx-xx-xxxx
Tavarez, Luis A., xxx-xx-xxxx
Taylor, Doyle D., xxx-xx-xxxx
Taylor, John M., xxx-xx-xxxx
Taylor, Robert P., xxx-xx-xxxx
Tenori, Serafino B., xxx-xx-xxxx
Terry, Albert L., xxx-xx-xxxx
Thames, Lee D., xxx-xx-xxxx
Thomas, David L., xxx-xx-xxxx
Thompson, Earl N., xxx-xx-xxxx
Thompson, James D. J., xxx-xx-xxxx
Thrash, Melvin C., xxx-xx-xxxx
Todd, Clarence E., xxx-xx-xxxx
Tomlinson, James L., xxx-xx-xxxx
Toporowski, Stanley, xxx-xx-xxxx
Trenchard, Kendall, xxx-xx-xxxx
Truitt, George W., xxx-xx-xxxx
Turner, Murray N., xxx-xx-xxxx
Turney, John L., xxx-xx-xxxx
Turnipseed, Ned L., xxx-xx-xxxx
Tutchton, Joseph T., xxx-xx-xxxx
Tryra, Thomas O., xxx-xx-xxxx
Ungs, Duane C., xxx-xx-xxxx
Unverricht, Hellmut, xxx-xx-xxxx
Uram, Peter, xxx-xx-xxxx
Urruela, Mario L., xxx-xx-xxxx
Uttech, Ralph O., xxx-xx-xxxx
Vaccarino, Isadore, xxx-xx-xxxx
Vanderstraeten, Vincent, xxx-xx-xxxx

Vanhart, David C., xxx-xx-xxxx
Vanhoozer, William, xxx-xx-xxxx
Vankeuren, Charles, xxx-xx-xxxx
Vankirk, Marvin L., xxx-xx-xxxx
Vaught, Thomas M., III, xxx-xx-xxxx
Veach, Colin B., xxx-xx-xxxx
Vidal-Delgado, David, xxx-xx-xxxx
Viner, Myron P., xxx-xx-xxxx
Vorpahl, Donald B., xxx-xx-xxxx
Vroman, Hugh E., xxx-xx-xxxx
Wahlgren, Harold E., xxx-xx-xxxx
Walker, Ceasar A., xxx-xx-xxxx
Walker, Jack W., xxx-xx-xxxx
Walker, Paul D., xxx-xx-xxxx
Wallace, George N., xxx-xx-xxxx
Wallace, Marsh, Jr., xxx-xx-xxxx
Wallace, Robert T., xxx-xx-xxxx
Wallis, Thomas W., xxx-xx-xxxx
Walsh, Paul R., xxx-xx-xxxx
Walters, John F., II, xxx-xx-xxxx
Walton, Kirk D., xxx-xx-xxxx
Ward, Billy J., xxx-xx-xxxx
Ward, Don D., xxx-xx-xxxx
Ward, John J., Jr., xxx-xx-xxxx
Ware, Archie L., Jr., xxx-xx-xxxx
Warfield, Melvin P., xxx-xx-xxxx
Wark, William J., xxx-xx-xxxx
Waterman, Robert M., xxx-xx-xxxx
Watling, Robert C., xxx-xx-xxxx
Weaver, Byron E., xxx-xx-xxxx
Webb, Kenneth R., xxx-xx-xxxx
Weber, Andrew E., xxx-xx-xxxx
Webster, John J., xxx-xx-xxxx
Weckstein, Donald T., xxx-xx-xxxx
Weinberg, William A., xxx-xx-xxxx
Werthan, George B., xxx-xx-xxxx
West, Lowry L., xxx-xx-xxxx
Whitaker, Howard M., xxx-xx-xxxx
White, Raymond E., xxx-xx-xxxx
Whittemore, Olin S., xxx-xx-xxxx
Wickizer, Charles D., xxx-xx-xxxx
Widener, Larry E., xxx-xx-xxxx
Widrig, Frank C., Jr., xxx-xx-xxxx
Wiebke, Eugene F., xxx-xx-xxxx
Wiegand, Francis P., xxx-xx-xxxx
Wilfong, Vernon E., xxx-xx-xxxx
Wilkerson, Lonnie O., xxx-xx-xxxx
Wilkie, Richard L., xxx-xx-xxxx
Willer, Donald E., xxx-xx-xxxx
Willey, William W., xxx-xx-xxxx
Williams, Lynn L., xxx-xx-xxxx
Williams, Quay, xxx-xx-xxxx
Williams, Stanley A., xxx-xx-xxxx
Willis, Alvie J., xxx-xx-xxxx
Willman, William J., xxx-xx-xxxx
Wilson, James E., xxx-xx-xxxx
Wilson, Robert A., xxx-xx-xxxx
Wilson, Robert O., xxx-xx-xxxx
Wire, Donald C., xxx-xx-xxxx
Wise, Russell E., xxx-xx-xxxx
Witcher, Len O., xxx-xx-xxxx
Witten, James M., xxx-xx-xxxx
Wolf, David B., xxx-xx-xxxx
Wong, Robert L., xxx-xx-xxxx
Wood, Richard A., xxx-xx-xxxx
Wood, Richard J., xxx-xx-xxxx
Woodward, Leigh S., xxx-xx-xxxx
Woodward, Richard B., xxx-xx-xxxx
Woollen, James M., xxx-xx-xxxx
Woywod, George M., xxx-xx-xxxx
Wren, Nelson E., Jr., xxx-xx-xxxx
Wrenn, Charles P., xxx-xx-xxxx
Yamashiro, Isao, xxx-xx-xxxx
Yates, Iva C., Jr., xxx-xx-xxxx
Young, James M., xxx-xx-xxxx
Zacharakis, A. C., xxx-xx-xxxx
Zachos, John K., xxx-xx-xxxx
Zachritz, Roger N., xxx-xx-xxxx
Zane, Lawrence, xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Anderson, Harold E., xxx-xx-xxxx
Bohannon, Kenneth L., xxx-xx-xxxx
Byrne, William T., xxx-xx-xxxx
Calato, Joseph J., xxx-xx-xxxx
Campbell, David A., xxx-xx-xxxx
Dunn, Billy D., xxx-xx-xxxx
Eastham, Frederick, xxx-xx-xxxx
Epps, Bryan C., xxx-xx-xxxx
Fagan, Walter G., xxx-xx-xxxx
Fields, George D., Jr., xxx-xx-xxxx
Flathmann, H. K. G., xxx-xx-xxxx
Hallanger, F. T., xxx-xx-xxxx
Hansen, Paul R., xxx-xx-xxxx
Hyatt, James T., xxx-xx-xxxx
Jaeger, James C., xxx-xx-xxxx
Jones, John P., xxx-xx-xxxx
Keefe, Francis L., xxx-xx-xxxx
Lantz, Donald L., xxx-xx-xxxx
Leath, James A., Jr., xxx-xx-xxxx
Lowery, Frederick C., xxx-xx-xxxx
Malone, Robert A., xxx-xx-xxxx
McGuire, Charles L., xxx-xx-xxxx
Nesko, Milan A., xxx-xx-xxxx
Sharp, James C., xxx-xx-xxxx
Smith, Ralph L., Jr., xxx-xx-xxxx
Stadtmauer, Murray, xxx-xx-xxxx
Uhl, Edward G., xxx-xx-xxxx
Verseput, Theodore, xxx-xx-xxxx
White, Edward O., xxx-xx-xxxx

WOMENS ARMY CORPS

To be lieutenant colonel

Freytag, Elizabeth, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Lude, John C., XXXX

MEDICAL CORPS

To be lieutenant colonel

Busch, George J., xxx-xx-xxxx
Giulian, Karl A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Clardy, Monroe F., Jr., xxx-xx-xxxx
Dumont, Roland R., xxx-xx-xxxx
Josehart, Harold E., xxx-xx-xxxx
Kicklighter, John D., xxx-xx-xxxx
Rosenthal, Charles, xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Keagy, Richard H., xxx-xx-xxxx

The following named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

MEDICAL CORPS

To be lieutenant colonel

Nunn, Stewart L., xxx-xx-xxxx
Strain, James R., xxx-xx-xxxx

The following-named officers for appointment in the Army of the United States, under the provisions of Title 10, U.S.C., Section 3494:

MEDICAL CORPS

To be lieutenant colonel

Bergom, Ronald O., xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Barnthouse, William R., xxx-xx-xxxx
Damewood, Thomas C., xxx-xx-xxxx
Holloway, Balfour, Jr., xxx-xx-xxxx
Jackson, Curtis H., xxx-xx-xxxx
Keeling, John O., Jr., xxx-xx-xxxx
Kneip, James F., xxx-xx-xxxx
Leverett, Lewis C., Jr., xxx-xx-xxxx
Pearson, Homer G., xxx-xx-xxxx
Price, Gerald F., xxx-xx-xxxx
Shoob, Stuart J., xxx-xx-xxxx
Verbeck, Karl C., xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

Ashley, Alvin K., xxx-xx-xxxx
Bennett, John H., Jr., xxx-xx-xxxx
Bowden, Reuben L., xxx-xx-xxxx
Bryan, Curtis H., Jr., xxx-xx-xxxx
Bryant, William F., xxx-xx-xxxx
Burkett, William E., xxx-xx-xxxx
Carlone, Frank L., xxx-xx-xxxx
Cole, Marion B., xxx-xx-xxxx
Collins, Paul G., xxx-xx-xxxx
Demers, Norman R., xxx-xx-xxxx
Episcopo, Leonard M., xxx-xx-xxxx
Fisher, Glenn A., xxx-xx-xxxx
Ford, Howard F., xxx-xx-xxxx
Fuller, Louis W., Jr., xxx-xx-xxxx
Hallmark, Estle H., xxx-xx-xxxx
Hansen, Harry S., Jr., xxx-xx-xxxx
Hennelly, William P., Jr., xxx-xx-xxxx
Herbert, Curtis B., III, xxx-xx-xxxx
Holmsen, Raymond H., Jr., xxx-xx-xxxx
Hooper, Johnnie P., xxx-xx-xxxx
Hullum, Douglas F., xxx-xx-xxxx
Kale, Donald W., xxx-xx-xxxx
Kinon, Marion H., xxx-xx-xxxx
Layton, Gary E., xxx-xx-xxxx
Lopez, Marcelino, xxx-xx-xxxx
Maskell, William L., xxx-xx-xxxx
McCain, William D., Jr., xxx-xx-xxxx
McKinney, Charles R., xxx-xx-xxxx
Mitchell, James L., xxx-xx-xxxx
Paul, James R., xxx-xx-xxxx
Reid, Benjamin H., xxx-xx-xxxx
Russell, Lee V., III, xxx-xx-xxxx
Schultz, Joseph W., xxx-xx-xxxx
Smith, Jerald G., xxx-xx-xxxx
Tarrant, Joseph W., Jr., xxx-xx-xxxx
Thalhofer, Joseph J., xxx-xx-xxxx
Waters, William H., xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Thursday, December 20, 1973*

The House met at 10:30 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Fear not: for behold, I bring you good tidings of great joy, which shall be to all people.—Luke 2: 10.

O Thou who art the source of light and life and the inspiration of every noble endeavor, draw us into a deeper unity of spirit as we lift our hearts unto Thee and as we seek to serve our country by doing Thy will.

During this time which calls for greatness save us from littleness of mind and poverty of spirit which makes us unwilling to pay the price of better things for the best values.

By the light of a shining star, by the song of the heavenly host, by the lure of a child in a manger make known to us the unworthy pride that inflates our little selves and give to us the genuine spirit which enables us to love mercy, to do justly, and to walk humbly with Thee.

So may we play our full part in lifting the world to the higher ground of faith in Thee, hope for the future and good will among men: to the glory of Thy holy name. 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.